

1 AN ACT relating to the Kentucky Public Pensions Authority.

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

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

- 4 (1) There is created an eight (8) member Kentucky Public Pensions Authority whose
5 purpose shall be to administer and operate:
- 6 (a) A single personnel system for the staffing needs of the Kentucky Retirement
7 Systems and the County Employees Retirement System;
 - 8 (b) A system of accounting that is developed by the Authority for the Kentucky
9 Retirement Systems and the County Employees Retirement System;
 - 10 (c) Day-to-day administrative needs of the Kentucky Retirement Systems and the
11 County Employees Retirement System, including but not limited to:
 - 12 1. Benefit counseling and administration;
 - 13 2. Information technology and services, including a centralized website for
14 the Authority, the Kentucky Retirement Systems, and the County
15 Employees Retirement System;
 - 16 3. Legal services;
 - 17 4. Employer reporting and compliance;
 - 18 5. Processing and distribution of benefit payments, and other financial,
19 investment administration, and accounting duties as directed by the
20 Kentucky Retirement Systems board of trustees or the County
21 Employees Retirement System board of trustees;
 - 22 6. All administrative actions, orders, decisions, and determinations
23 necessary to carry out benefit functions required by the Kentucky
24 Retirement Systems and the County Employees~~[Employment]~~
25 Retirement System statutes, including but not limited to administration
26 of reduced and unreduced retirement benefits, disability retirement,
27 reemployment after retirement, service purchases, computation of sick-

- 1 leave credit costs, correction of system records, qualified domestic
2 relations orders, and pension spiking determinations; and
- 3 7. Completing and compiling financial data and reports;
- 4 (d) Any jointly held assets used for the administration of the Kentucky
5 Retirement Systems and the County Employees Retirement System, including
6 but not limited to real estate, office space, equipment, and supplies;
- 7 (e) The hiring of a single actuarial consulting firm who shall serve both the
8 Kentucky Retirement Systems and the County Employees Retirement System;
- 9 (f) The hiring of a single external certified public accountant who shall perform
10 audits for both the Kentucky Retirement Systems and the County Employees
11 Retirement System;
- 12 (g) The promulgation of administrative regulations as an authority or on behalf of
13 the Kentucky Retirement Systems and the County Employees Retirement
14 System, individually or collectively, provided such regulations are not
15 inconsistent with the provisions of this section and KRS 16.505 to 16.652,
16 61.505, 61.510 to 61.705, and 78.510 to 78.852, necessary or proper in order
17 to carry out the provisions of this section and duties authorized by KRS
18 16.505 to 16.652 and 61.510 to 61.705;
- 19 (h) A system of contracting management for administrative services; and
- 20 (i) Other tasks or duties as directed solely or jointly by the boards of the
21 Kentucky Retirement Systems or the County Employees Retirement System.
- 22 (2) The eight (8) member Kentucky Public Pensions Authority shall be composed of
23 the following individuals:
- 24 (a) The chair of the Kentucky Retirement Systems board of trustees;
- 25 (b) The chair of the County Employees Retirement System board of trustees;
- 26 (c) The investment committee chair of the Kentucky Retirement Systems board
27 of trustees, unless the investment committee chair is also the chair of the

1 board of trustees in which case the chair of the Kentucky Retirement Systems
2 shall appoint an individual who serves on the investment committee;

3 (d) The investment committee chair of the County Employees Retirement System
4 board of trustees, unless the investment committee chair is also the chair of
5 the County Employees Retirement System board of trustees in which case the
6 chair of the County Employees Retirement System shall appoint an individual
7 who serves on the investment committee;

8 (e) Two additional (2) trustees of the Kentucky Retirement Systems board of
9 trustees selected by the chair of the Kentucky Retirement Systems board of
10 trustees of which one (1) shall be a trustee who was elected by the
11 membership of one (1) of the systems administered by Kentucky Retirement
12 Systems and one (1) shall be a trustee of Kentucky Retirement Systems who
13 was appointed by the Governor; and

14 (f) Two additional (2) trustees of the County Employees Retirement System
15 board of trustees selected by the chair of the County Employees Retirement
16 System board of trustees of which one (1) shall be a trustee who was elected
17 by the membership of the County Employees Retirement System and one (1)
18 shall be a trustee of the County Employees Retirement System who was
19 appointed by the Governor.

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

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

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

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

26 (d) To carry out the obligations of the Authority subject to KRS Chapters 45,
27 45A, 56, and 57;

- 1 (e) To purchase fiduciary liability insurance; and
- 2 (f) The Kentucky Public Pensions Authority shall reimburse any Authority
3 member, officer, or employee for any legal expense resulting from a civil
4 action arising out of the performance of his or her official duties. The hourly
5 rate of reimbursement for any contract for legal services under this paragraph
6 shall not exceed the maximum hourly rate provided in the Legal Services
7 Duties and Maximum Rate Schedule promulgated by the Government
8 Contract Review Committee established pursuant to KRS 45A.705, unless a
9 higher rate is specifically approved by the secretary of the Finance and
10 Administration Cabinet or his or her designee.
- 11 (4) Any vacancy which may occur in an appointed position on the Kentucky Public
12 Pensions Authority shall be filled in the same manner which provides for the
13 selection of the particular member of the Authority. No person shall serve in more
14 than one (1) position as a member of the Authority and if a person holds more than
15 one (1) position as a member of the Authority, he or she shall resign a position.
- 16 (5) (a) Membership on the Authority shall not be incompatible with any other office
17 unless a constitutional incompatibility exists. No Authority member shall
18 serve in more than one (1) position as a member of the Authority.
- 19 (b) An Authority member shall be removed from office upon conviction of a
20 felony or for a finding of a violation of any provision of KRS 11A.020 or
21 11A.040 by a court of competent jurisdiction.
- 22 (c) A current or former employee of the County Employees Retirement System,
23 Kentucky Retirement Systems, or the Kentucky Public Pensions Authority
24 shall not be eligible to serve as a member of the Authority.
- 25 (6) Kentucky Public Pensions Authority members who do not otherwise receive a
26 salary from the State Treasury shall receive a per diem of eighty dollars (\$80) for
27 each day they are in session or on official duty, and they shall be reimbursed for

1 their actual and necessary expenses in accordance with state administrative
2 regulations and standards, except that the members shall not receive a per diem or
3 receive reimbursements on the same day they receive a per diem or reimbursements
4 for service to the Kentucky Retirement Systems board of trustees or County
5 Employees Retirement Systems board of trustees.

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

- 1 3. All bylaws, policies, or procedures adopted or ratified by the Authority;
2 and
3 4. A listing of the members of the Authority and membership on each
4 committee established by the Authority.
- 5 (8) (a) The Kentucky Public Pensions Authority shall appoint or contract for the
6 services of an executive director and a chief~~[an internal]~~ auditor and fix the
7 compensation and other terms of employment for these positions without
8 limitation of the provisions of KRS Chapter 18A, 45A, and KRS 64.640. The
9 executive director shall be the chief administrative officer of the Authority,
10 the Kentucky Retirement Systems board of trustees, and the County
11 Employees Retirement System board of trustees. The chief~~[internal]~~ auditor
12 shall report directly to the ~~[trustees of the]~~ Kentucky Public Pensions
13 Authority members to perform internal audit functions as directed by the
14 Authority. The executive director and chief~~[internal]~~ auditor shall work
15 cooperatively with the chief executive officers of the Kentucky Retirement
16 Systems and the County Employees Retirement System. The Authority shall
17 annually conduct a performance evaluation of the executive director and
18 chief~~[internal]~~ auditor.
- 19 (b) The Kentucky Public Pensions Authority shall authorize the executive
20 director, or the chief~~[internal]~~ auditor in the case of employees under the
21 direct supervision of the chief~~[internal]~~ auditor, to appoint the employees
22 deemed necessary to transact the duties of the Authority for the purposes
23 outlined in subsection (1) of this section. After April 14, 2022, approval by
24 the Authority shall be required for a petition to the secretary of the Personnel
25 Cabinet for the creation of any new unclassified position pursuant to KRS
26 18A.115(1)(e), (g), (h), and (i).
- 27 (c) Effective April 1, 2021, the Kentucky Public Pensions Authority shall assume

1 responsibility of administering the staff of the Kentucky Retirement Systems
2 in order to provide the services established by this section.

- 3 (d) 1. All employees of the Kentucky Public Pensions Authority, except for
4 the executive director, the chief auditor, and no more than six (6)
5 unclassified employees of the Office of Investments employed pursuant
6 to KRS 18A.115(1)(e), (g), (h), and (i), shall be subject to the state
7 personnel system established pursuant to KRS 18A.005 to 18A.204 and
8 shall have their salaries determined by the secretary of the Personnel
9 Cabinet.
- 10 2. The employees exempted from the classified service under this
11 paragraph shall not be subject to the salary limitations specified in KRS
12 64.640(2) and (3).
- 13 3. The Kentucky Public Pensions Authority shall adopt a written salary and
14 classification plan fixing a range of compensation and written terms of
15 employment for any of the unclassified employees of the Office of
16 Investments it authorizes under this paragraph. The Authority shall
17 authorize the executive director to appoint up to six (6) unclassified
18 employees of the Office of Investments subject to the compensation
19 ranges and terms of employment the Authority has established. The
20 Authority may amend the written salary and classification plan adopted
21 under this paragraph at any time.
- 22 (e) The Authority shall annually review, approve, and submit a report to the
23 Public Pension Oversight Board detailing the number of employees of the
24 Authority, the salary paid to each employee, and the change in the salaries of
25 each individual employed by the Authority over the prior year.
- 26 (f) The Authority shall require the executive director and the employees as it
27 thinks proper to execute bonds for the faithful performance of their duties

1 notwithstanding the limitations of KRS Chapter 62.

2 (g) Notwithstanding any other provision of statute to the contrary, including but
3 not limited to any provision of KRS Chapter 12, the Governor shall have no
4 authority to change any provision of this section by executive order or action,
5 including but not limited to reorganizing, replacing, amending, or abolishing
6 the membership of the Kentucky Public Pensions Authority.

7 (9) All employees of the Authority shall serve during its will and pleasure.
8 Notwithstanding any statute to the contrary, employees shall not be considered
9 legislative agents under KRS 6.611.

10 (10) The Attorney General, or an assistant designated by him or her, may attend each
11 meeting of the Authority and may receive the agenda, board minutes, and other
12 information distributed to Authority members upon request. The Attorney General
13 may act as legal adviser and attorney for the Authority, and the Authority may
14 contract for legal services, notwithstanding the limitations of KRS Chapter 12 or
15 13B.

16 (11) (a) 1. All expenses incurred by or on behalf of the Kentucky Public Pensions
17 Authority shall be paid by the systems administered by the Kentucky
18 Retirement Systems or the County Employees Retirement System and
19 shall be prorated, assigned, or allocated to each system as determined by
20 Kentucky Public Pensions Authority.

21 2. Until June 30, 2024, any additional initial costs determined by the
22 Authority to be attributable solely to establishing a separate County
23 Employees Retirement System board and the Kentucky Public Pensions
24 Authority as provided by this section and KRS 78.782 shall be paid by
25 the County Employees Retirement System. Until June 30, 2024, any
26 additional ongoing annual administrative and investment expenses that
27 occur after the establishment of a separate County Employees

1 Retirement System board and the Kentucky Public Pensions Authority
2 that are determined by the Authority to be a direct result of establishing
3 a separate County Employees Retirement System board and the
4 Kentucky Public Pensions Authority shall be paid by the County
5 Employees Retirement System. Beginning on and after July 1, 2024, any
6 annual administrative and investment expenses shall be prorated,
7 assigned, or allocated to each system as determined by the Kentucky
8 Public Pensions Authority as provided by subparagraph 1. of this
9 paragraph but without attribution to the establishment of a separate
10 County Employees Retirement System board and the Kentucky Public
11 Pensions Authority.

12 3. In order to evaluate the results of establishing a separate County
13 Employees Retirement System board and the Kentucky Public Pensions
14 Authority, on or before November 15, 2022, and on or before November
15 15 following the close of each successive fiscal year, the Kentucky
16 Public Pensions Authority shall report to the Public Pension~~[Pensions]~~
17 Oversight Board the annual administrative and investment expenses of
18 the Kentucky Retirement Systems and the County Employees
19 Retirement System. The report shall include but not be limited to the
20 process or manner the Authority used to prorate, assign, or allocate to
21 each system its share of the expenses, the amount of expenses prorated,
22 assigned, or allocated to each system itemized by category, and any
23 efforts by the systems or the Authority to reduce administrative costs
24 and staffing needs.

25 (b) Any other statute to the contrary notwithstanding, authorization for all
26 expenditures relating to the administrative operations of the Kentucky Public
27 Pensions Authority, the Kentucky Retirement Systems, and the County

1 Employees Retirement System shall be contained in the biennial budget unit
2 request, branch budget recommendation, and the financial plan adopted by the
3 General Assembly pursuant to KRS Chapter 48. The Kentucky Public
4 Pensions Authority shall approve the biennial budget unit request prior to its
5 submission by the Authority. The request from the Kentucky Public Pensions
6 Authority shall include any specific administrative expenses requested by the
7 Kentucky Retirement Systems board of trustees or the County Employees
8 Retirement System board of trustees pursuant to KRS 61.645(13) or
9 78.782(13), as applicable, that are not otherwise expenses specified by
10 paragraph (a) of this subsection.

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

- 14 1. In good faith;
- 15 2. On an informed basis; and
- 16 3. In a manner he or she honestly believes to be in the best interest of the
17 County Employees Retirement System and the Kentucky Retirement
18 Systems, as applicable.

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

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

- 27 1. One (1) or more officers or employees of the Authority whom the

- 1 Authority member honestly believes to be reliable and competent in the
2 matters presented;
- 3 2. Legal counsel, public accountants, actuaries, or other persons as to
4 matters the Authority member honestly believes are within the person's
5 professional or expert competence; or
- 6 3. A committee of the Authority of which he or she is not a member if the
7 Authority member honestly believes the committee merits confidence.
- 8 (d) An Authority member shall not be considered as acting in good faith if he or
9 she has knowledge concerning the matter in question that makes reliance
10 otherwise permitted by paragraph (c) of this subsection unwarranted.
- 11 (e) Any action taken as a member of the Authority, or any failure to take any
12 action as an Authority member, shall not be the basis for monetary damages
13 or injunctive relief unless:
- 14 1. The Authority member has breached or failed to perform the duties of
15 the member's office in compliance with this section; and
- 16 2. In the case of an action for monetary damages, the breach or failure to
17 perform constitutes willful misconduct or wanton or reckless disregard
18 for human rights, safety, or property.
- 19 (f) A person bringing an action for monetary damages under this section shall
20 have the burden of proving by clear and convincing evidence the provisions of
21 paragraph (e)1. and 2. of this subsection, and the burden of proving that the
22 breach or failure to perform was the legal cause of damages suffered by the
23 Kentucky Retirement Systems or County Employees Retirement System, as
24 applicable.
- 25 (g) In discharging his or her administrative duties under this section, an Authority
26 member shall strive to administer the systems in an efficient and cost-
27 effective manner for the taxpayers of the Commonwealth of Kentucky and

1 shall take all actions available under the law to contain costs for the trusts,
2 including costs for participating employers, members, and retirees.

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

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

- 5 (1) "System" means the State Police Retirement System created by KRS 16.505 to
6 16.652;
- 7 (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- 8 (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its
9 successor;
- 10 (4) "Current service" means the number of years and completed months of employment
11 as an employee subsequent to July 1, 1958, for which creditable compensation was
12 paid by the employer and employee contributions deducted except as otherwise
13 provided;
- 14 (5) "Prior service" means the number of years and completed months of employment as
15 an employee prior to July 1, 1958, for which creditable compensation was paid to
16 the employee by the Commonwealth. Twelve (12) months of current service in the
17 system are required to validate prior service;
- 18 (6) "Service" means the total of current service and prior service;
- 19 (7) "Accumulated contributions" at any time means the sum of all amounts deducted
20 from the compensation of a member and credited to his or her individual account in
21 the member's account, including employee contributions picked up after August 1,
22 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts
23 as provided in KRS 16.505 to 16.652, and any other amounts the member shall
24 have contributed, including interest credited. For members who begin participating
25 on or after September 1, 2008, "accumulated contributions" shall not include
26 employee contributions that are deposited into accounts established pursuant to 26
27 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, as

1 prescribed by KRS 61.702(3)(b);

2 (8) "Creditable compensation":

3 (a) Except as provided by paragraph (b) or (c) of this subsection, means all salary
4 and wages, including payments for compensatory time, paid to the employee
5 as a result of services performed for the employer or for time during which the
6 member is on paid leave, which are includable on the member's federal form
7 W-2 wage and tax statement under the heading "wages, tips, other
8 compensation," including employee contributions picked up after August 1,
9 1982, pursuant to KRS 16.545(4);

10 (b) Includes:

- 11 1. Lump-sum bonuses, severance pay, or employer-provided payments for
12 purchase of service credit, which shall be averaged over the employee's
13 total service with the system in which it is recorded if it is equal to or
14 greater than one thousand dollars (\$1,000);
- 15 2. Lump-sum payments for creditable compensation paid as a result of an
16 order of a court of competent jurisdiction, the Personnel Board, or the
17 Kentucky Commission on Human Rights, or for any creditable
18 compensation paid in anticipation of settlement of an action before a
19 court of competent jurisdiction, the Personnel Board, or the Kentucky
20 Commission on Human Rights, including notices of violations of state
21 or federal wage and hour statutes or violations of state or federal
22 discrimination statutes, which shall be credited to the fiscal year during
23 which the wages were earned or should have been paid by the employer.
24 This subparagraph shall also include lump-sum payments for reinstated
25 wages pursuant to KRS 61.569, which shall be credited to the period
26 during which the wages were earned or should have been paid by the
27 employer;

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

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

8 (c) Excludes:

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

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

13 3. Any salary or wages paid to an employee for services as a Kentucky
14 State Police school resource officer as defined by KRS 158.441;

15 (9) "Final compensation" means:

16 (a) For a member who begins participating before September 1, 2008, the
17 creditable compensation of a member during the three (3) fiscal years he or
18 she was paid at the highest average monthly rate divided by the number of
19 months of service credit during the three (3) year period, multiplied by twelve
20 (12); the three (3) years may be fractional and need not be consecutive. If the
21 number of months of service credit during the three (3) year period is less than
22 twenty-four (24), one (1) or more additional fiscal years shall be used; or

23 (b) For a member who begins participating on or after September 1, 2008, but
24 prior to January 1, 2014, the creditable compensation of the member during
25 the three (3) complete fiscal years he or she was paid at the highest average
26 monthly rate divided by three (3). Each fiscal year used to determine final
27 compensation must contain twelve (12) months of service credit. If the

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

6 (10) "Final rate of pay" means the actual rate upon which earnings of a member were
7 calculated during the twelve (12) month period immediately preceding the
8 member's effective retirement date, including employee contributions picked up
9 after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the
10 system by the employer and the following equivalents shall be used to convert the
11 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
12 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-
13 1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve
14 (12) months, or one (1) year;

15 (11) "Retired member" means any former member receiving a retirement allowance or
16 any former member who has filed the necessary documents for retirement benefits
17 and is no longer contributing to the retirement system;

18 (12) "Retirement allowance" means the retirement payments to which a retired member
19 is entitled;

20 (13) "Actuarial equivalent" means a benefit of equal value when computed upon the
21 basis of actuarial tables adopted by the board. In cases of disability retirement, the
22 options authorized by KRS 61.635 shall be computed by adding ten (10) years to
23 the age of the member, unless the member has chosen the Social Security
24 adjustment option as provided for in KRS 61.635(8), in which case the member's
25 actual age shall be used. For members who began participating in the system prior
26 to January 1, 2014, no disability retirement option shall be less than the same option
27 computed under early retirement;

- 1 (14) "Authorized leave of absence" means any time during which a person is absent
2 from employment but retained in the status of an employee in accordance with the
3 personnel policy of the Department of Kentucky State Police;
- 4 (15) "Normal retirement date" means:
- 5 (a) For a member who begins participating before September 1, 2008, the first
6 day of the month following a member's fifty-fifth birthday, except that for
7 members over age fifty-five (55) on July 1, 1958, it shall mean January 1,
8 1959; or
- 9 (b) For a member who begins participating on or after September 1, 2008, the
10 first day of the month following a member's sixtieth birthday;
- 11 (16) "Disability retirement date" means the first day of the month following the last day
12 of paid employment;
- 13 (17) "Dependent child" means a child in the womb and a natural or legally adopted child
14 of the member who has neither attained age eighteen (18) nor married or who is an
15 unmarried full-time student who has not attained age twenty-two (22). Solely in the
16 cases where a member dies as a direct result of an act in line of duty as defined in
17 this section, dies as a result of a duty-related injury as defined in KRS 61.621,
18 becomes totally and permanently disabled as a direct result of an act in line of duty
19 as defined in this section, or becomes disabled as a result of a duty-related injury as
20 defined in KRS 61.621 and is eligible for the benefits provided by KRS
21 61.621(5)(a), "dependent child" also means a naturally or legally adopted disabled
22 child of the member, regardless of the child's age, if the child has been determined
23 to be eligible for federal Social Security disability benefits or is being claimed as a
24 qualifying child for tax purposes due to the child's total and permanent disability;
- 25 (18) "Optional allowance" means an actuarially equivalent benefit elected by the
26 member in lieu of all other benefits provided by KRS 16.505 to 16.652;
- 27 (19) "Act in line of duty" means:

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

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

- 1 (31) "Objective medical evidence" means reports of examinations or treatments; medical
2 signs which are anatomical, physiological, or psychological abnormalities that can
3 be observed; psychiatric signs which are medically demonstrable phenomena
4 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
5 or contact with reality; or laboratory findings which are anatomical, physiological,
6 or psychological phenomena that can be shown by medically acceptable laboratory
7 diagnostic techniques, including but not limited to chemical tests,
8 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 9 (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the
10 following June 30, which shall also be the plan year. The "fiscal year" shall be the
11 limitation year used to determine contribution and benefit limits established by 26
12 U.S.C. sec. 415;
- 13 (33) "Participating" means an employee is currently earning service credit in the system
14 as provided in KRS 16.543;
- 15 (34) "Month" means a calendar month;
- 16 (35) "Membership date" means the date upon which the member began participating in
17 the system as provided by KRS 16.543;
- 18 (36) "Participant" means a member, as defined by subsection (21) of this section, or a
19 retired member, as defined by subsection (11) of this section;
- 20 (37) "Qualified domestic relations order" means any judgment, decree, or order,
21 including approval of a property settlement agreement, that:
- 22 (a) Is issued by a court or administrative agency; and
23 (b) Relates to the provision of child support, alimony payments, or marital
24 property rights to an alternate payee;
- 25 (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
26 participant, who is designated to be paid retirement benefits in a qualified domestic
27 relations order;

- 1 (39) "Accumulated employer credit" means the employer pay credit deposited to the
2 member's account and interest credited on such amounts as provided by KRS
3 16.583;
- 4 (40) "Accumulated account balance" means:
- 5 (a) For members who began participating in the system prior to January 1, 2014,
6 the member's accumulated contributions; or
- 7 (b) For members who began participating in the system on or after January 1,
8 2014, in the hybrid cash balance plan as provided by KRS 16.583, the
9 combined sum of the member's accumulated contributions and the member's
10 accumulated employer pay credit; and
- 11 (41) "Monthly average pay" means:
- 12 (a) In the case of a member who dies as a direct result of an act in line of duty as
13 defined in this section or who dies as a result of a duty-related injury as
14 defined in KRS 61.621, the higher of the member's monthly final rate of pay
15 or the average monthly creditable compensation earned by the deceased
16 member during his or her last twelve (12) months of employment; or
- 17 (b) In the case where a member becomes totally and permanently disabled as a
18 direct result of an act in line of duty as defined in this section or becomes
19 disabled as a result of a duty-related injury as defined in KRS 61.621 and is
20 eligible for the benefits provided by KRS 61.621(5)(a), the higher of the
21 member's monthly final rate of pay or the average monthly creditable
22 compensation earned by the disabled member during his or her last twelve
23 (12) months of employment prior to the date the act in line of duty or duty-
24 related injury occurred.
- 25 ➔Section 3. KRS 16.652 is repealed, reenacted, and amended to read as follows:
- 26 (1) For members who begin participating in the State Police Retirement System prior to
27 January 1, 2014, it is hereby declared that in consideration of the contributions by

1 the member, and in further consideration of benefits received by the state from the
2 member's employment, KRS 16.510 to 16.645 shall, except as provided in KRS
3 6.696, constitute an inviolable contract of the Commonwealth, and the benefits
4 provided therein shall not be subject to reduction or impairment by alteration,
5 amendment or repeal, ~~except:~~

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

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

10 (2) (a) For members who begin participating in the State Police Retirement System
11 on or after January 1, 2014, the General Assembly reserves the right to
12 amend, suspend, or reduce the benefits and rights provided under KRS 16.505
13 to 16.652 if, in its judgment, the welfare of the Commonwealth so demands,
14 except that the amount of benefits the member has accrued at the time of
15 amendment, suspension, or reduction shall not be affected.

16 (b) For purposes of this subsection, the amount of benefits the member has
17 accrued at the time of amendment, suspension, or reduction shall be limited to
18 the accumulated account balance the member has accrued at the time of
19 amendment, suspension, or reduction.

20 (c) The provisions of this subsection shall not be construed to limit the General
21 Assembly's authority to change any other benefit or right specified by KRS
22 16.505 to 16.652, for members who begin participating in the State Police
23 Retirement System on or after January 1, 2014, except the benefits specified
24 by paragraph (b) of this subsection.

25 (3) The provisions of this section shall not be construed to limit the General Assembly's
26 authority to amend, reduce, or suspend the benefits and rights of members of the
27 State Police Retirement System as provided by KRS 16.505 to 16.652 that the

1 General Assembly had the authority to amend, reduce, or suspend, prior to July 1,
2 2013.

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

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

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

1 or any former employee whose membership has not been terminated under KRS
2 61.535;

3 (9) "Service" means the total of current service and prior service as defined in this
4 section;

5 (10) "Current service" means the number of years and months of employment as an
6 employee, on and after July 1, 1956, except that for members, officers, and
7 employees of the General Assembly this date shall be January 1, 1960, for which
8 creditable compensation is paid and employee contributions deducted, except as
9 otherwise provided, and each member, officer, and employee of the General
10 Assembly shall be credited with a month of current service for each month he or
11 she serves in the position;

12 (11) "Prior service" means the number of years and completed months, expressed as a
13 fraction of a year, of employment as an employee, prior to July 1, 1956, for which
14 creditable compensation was paid; except that for members, officers, and
15 employees of the General Assembly, this date shall be January 1, 1960. An
16 employee shall be credited with one (1) month of prior service only in those months
17 he or she received compensation for at least one hundred (100) hours of work;
18 provided, however, that each member, officer, and employee of the General
19 Assembly shall be credited with a month of prior service for each month he or she
20 served in the position prior to January 1, 1960. Twelve (12) months of current
21 service in the system are required to validate prior service;

22 (12) "Accumulated contributions" at any time means the sum of all amounts deducted
23 from the compensation of a member and credited to his or her individual account in
24 the members' account, including employee contributions picked up after August 1,
25 1982, pursuant to KRS 61.560(4), together with interest credited, on such amounts
26 and any other amounts the member shall have contributed thereto, including interest
27 credited thereon. For members who begin participating on or after September 1,

1 2008, "accumulated contributions" shall not include employee contributions that are
2 deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the
3 funds established in KRS 16.510 and 61.515, as prescribed by KRS 61.702(3)(b);

4 (13) "Creditable compensation":

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

16 (b) Includes:

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

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

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

17 (c) Excludes:

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

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

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

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

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

21 (c) For a member who begins participating before September 1, 2008, who is
22 employed in a hazardous position, as provided in KRS 61.592, the creditable
23 compensation of the member during the three (3) fiscal years he or she was
24 paid at the highest average monthly rate divided by the number of months of
25 service credit during that three (3) year period multiplied by twelve (12). The
26 three (3) years may be fractional and need not be consecutive. If the number
27 of months of service credit during the three (3) year period is less than twenty-

1 four (24), one (1) or more additional fiscal years shall be used;

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

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

23 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
24 calculated during the twelve (12) month period immediately preceding the
25 member's effective retirement date, including employee contributions picked up
26 after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the
27 system by the employer and the following equivalents shall be used to convert the

1 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
2 workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour
3 workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months,
4 one (1) year;

5 (16) "Retirement allowance" means the retirement payments to which a member is
6 entitled;

7 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
8 basis of the actuarial tables that are adopted by the board. In cases of disability
9 retirement, the options authorized by KRS 61.635 shall be computed by adding ten
10 (10) years to the age of the member, unless the member has chosen the Social
11 Security adjustment option as provided for in KRS 61.635(8), in which case the
12 member's actual age shall be used. For members who began participating in the
13 system prior to January 1, 2014, no disability retirement option shall be less than
14 the same option computed under early retirement;

15 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless
16 otherwise provided in KRS 61.510 to 61.705;

17 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
18 following June 30, which shall also be the plan year. The "fiscal year" shall be the
19 limitation year used to determine contribution and benefit limits as established by
20 26 U.S.C. sec. 415;

21 (20) "Officers and employees of the General Assembly" means the occupants of those
22 positions enumerated in KRS 6.150. The term shall also apply to assistants who
23 were employed by the General Assembly for at least one (1) regular legislative
24 session prior to July 13, 2004, who elect to participate in the retirement system, and
25 who serve for at least six (6) regular legislative sessions. Assistants hired after July
26 13, 2004, shall be designated as interim employees;

27 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean

1 all positions that average one hundred (100) or more hours per month determined
2 by using the number of months actually worked within a calendar or fiscal year,
3 including all positions except:

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

8 (b) Emergency positions which are positions utilized by the employer during:

9 1. An emergency as determined by the employer for a period not
10 exceeding thirty (30) working days and are nonrenewable; or

11 2. A state of emergency declared by the President of the United States or
12 the Governor of the Commonwealth of Kentucky that are created or
13 filled specifically for addressing the employer's needs during and as a
14 result of the declared emergency;

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

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

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

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

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

- 1 converted to a dollar value for purposes of KRS 61.565(1)(d). Under this method,
2 the percentage of payroll shall be projected to remain constant for all years
3 remaining in the set period of time and the unfunded actuarially accrued liability
4 shall be projected to be fully amortized at the conclusion of the set period of years;
- 5 (29) "Increment" means twelve (12) months of service credit which are purchased. The
6 twelve (12) months need not be consecutive. The final increment may be less than
7 twelve (12) months;
- 8 (30) "Person" means a natural person;
- 9 (31) "Retirement office" means the Kentucky Public Pensions Authority's office
10 building in Frankfort, unless otherwise designated by the Kentucky Public Pensions
11 Authority;
- 12 (32) "Last day of paid employment" means the last date employer and employee
13 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
14 78.615 to the retirement office in order for the employee to receive current service
15 credit for the month. Last day of paid employment does not mean a date the
16 employee receives payment for accrued leave, whether by lump sum or otherwise,
17 if that date occurs twenty-four (24) or more months after previous contributions;
- 18 (33) "Objective medical evidence" means reports of examinations or treatments; medical
19 signs which are anatomical, physiological, or psychological abnormalities that can
20 be observed; psychiatric signs which are medically demonstrable phenomena
21 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
22 or contact with reality; or laboratory findings which are anatomical, physiological,
23 or psychological phenomena that can be shown by medically acceptable laboratory
24 diagnostic techniques, including but not limited to chemical tests,
25 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 26 (34) "Participating" means an employee is currently earning service credit in the system
27 as provided in KRS 61.543;

- 1 (35) "Month" means a calendar month;
- 2 (36) "Membership date" means:
- 3 (a) The date upon which the member began participating in the system as
- 4 provided in KRS 61.543;
- 5 (b) For a member electing to participate in the system pursuant to KRS
- 6 196.167(4) or 311A.022(2) who has not previously participated in the system
- 7 or the Kentucky Teachers' Retirement System, the date the member began
- 8 participating in a defined contribution plan that meets the requirements of 26
- 9 U.S.C. sec. 403(b); or
- 10 (c) For members bound by an educational contract as a conditional employee to
- 11 the state of Kentucky prior to December 31, 2003, the date on which the
- 12 educational contract became effective;
- 13 (37) "Participant" means a member, as defined by subsection (8) of this section, or a
- 14 retired member, as defined by subsection (24) of this section;
- 15 (38) "Qualified domestic relations order" means any judgment, decree, or order,
- 16 including approval of a property settlement agreement, that:
- 17 (a) Is issued by a court or administrative agency; and
- 18 (b) Relates to the provision of child support, alimony payments, or marital
- 19 property rights to an alternate payee;
- 20 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
- 21 participant, who is designated to be paid retirement benefits in a qualified domestic
- 22 relations order;
- 23 (40) "Accumulated employer credit" mean the employer pay credit deposited to the
- 24 member's account and interest credited on such amounts as provided by KRS
- 25 16.583 and 61.597;
- 26 (41) "Accumulated account balance" means:
- 27 (a) For members who began participating in the system prior to January 1, 2014,

1 the member's accumulated contributions; or

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

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

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

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

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

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

24 (45) "Monthly average pay" means:

25 (a) In the case of a member who dies as a direct result of an act in line of duty as
26 defined in KRS 16.505 or who dies as a result of a duty-related injury as
27 defined in KRS 61.621, the higher of the member's monthly final rate of pay

1 or the average monthly creditable compensation earned by the deceased
2 member during his or her last twelve (12) months of employment; or

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

11 (46) "Authority" means the Kentucky Public Pensions Authority as provided by KRS
12 61.505;

13 (47) "Executive director" means the executive director of the Kentucky Public Pensions
14 Authority;~~and~~

15 (48) "Instructional staff" means the employees of a state college or university
16 participating under KRS 61.520 who are:

17 (a) Faculty;

18 (b) Staff responsible for teaching; or

19 (c) Other individuals employed in an administrative position that is eligible for
20 participation in the Teachers' Insurance and Annuity Association (TIAA) of
21 the Teachers' Retirement System;

22 **(49) "Agency reporting official" means the person designated by the participating**
23 **employer who shall be responsible for forwarding all employer and employee**
24 **contributions and a record of the contributions to the system and for performing**
25 **other administrative duties pursuant to KRS 61.510 to 61.705; and**

26 **(50) "Gainful employment" means work in any capacity that is or may be performed**
27 **with regularity and is or may be usually done for pay, whether pay is received or**

1 *not received, including seasonal, volunteer, part-time, and on-call work.*

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

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

- 4 (1) "System" means the County Employees Retirement System *created by KRS 78.510*
5 *to 78.852;*
- 6 (2) "Board" means the board of trustees of the system as provided in KRS 78.782;
- 7 (3) "County" means any county, or nonprofit organization created and governed by a
8 county, counties, or elected county officers, sheriff and his or her employees,
9 county clerk and his or her employees, circuit clerk and his or her deputies, former
10 circuit clerks or former circuit clerk deputies, or political subdivision or
11 instrumentality, including school boards, cities, charter county governments, urban-
12 county governments, consolidated local governments, or unified local governments
13 participating in the system by order appropriate to its governmental structure, as
14 provided in KRS 78.530, and if the board is willing to accept the agency,
15 organization, or corporation, the board being hereby granted the authority to
16 determine the eligibility of the agency to participate;
- 17 (4) "School board" means:
- 18 (a) Any board of education participating in the system by order appropriate to its
19 governmental structure, as provided in KRS 78.530, and if the board is willing
20 to accept the agency or corporation, the board being hereby granted the
21 authority to determine the eligibility of the agency to participate; or
- 22 (b) A public charter school as defined in KRS 160.1590 if the public charter
23 school satisfies the criteria set by the Internal Revenue Service to participate
24 in a governmental retirement plan;
- 25 (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- 26 (6) "Employee" means every regular full-time appointed or elective officer or
27 employee of a participating county and the coroner of a participating county,

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

5 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected
6 officials of a county, or any authority of the county having the power to appoint or
7 elect an employee to office or employment in the county;

8 (8) "Member" means any employee who is included in the membership of the system
9 or any former employee whose membership has not ceased under KRS 78.535;

10 (9) "Service" means the total of current service and prior service as defined in this
11 section;

12 (10) "Current service" means the number of years and months of employment as an
13 employee, on and after July 1, 1958, for which creditable compensation is paid and
14 employee contributions deducted, except as otherwise provided;

15 (11) "Prior service" means the number of years and completed months, expressed as a
16 fraction of a year, of employment as an employee, prior to July 1, 1958, for which
17 creditable compensation was paid. An employee shall be credited with one (1)
18 month of prior service only in those months he or she received compensation for at
19 least one hundred (100) hours of work. Twelve (12) months of current service in the
20 system shall be required to validate prior service;

21 (12) "Accumulated contributions" means the sum of all amounts deducted from the
22 compensation of a member and credited to his or her individual account in the
23 members' account, including employee contributions picked up after August 1,
24 1982, pursuant to KRS 78.610(4), together with interest credited, on the amounts,
25 and any other amounts the member shall have contributed thereto, including interest
26 credited thereon. "Accumulated contributions" shall not include employee
27 contributions that are deposited into accounts established pursuant to 26 U.S.C. sec.

1 401(h) within the fund established in KRS 78.520, as prescribed by KRS
2 78.5536(3)(b);

3 (13) "Creditable compensation":

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

15 (b) Includes:

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

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

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

16 (c) Excludes:

- 17 1. Living allowances, expense reimbursements, lump-sum payments for
18 accrued vacation leave, sick leave except as provided in KRS 78.616(5),
19 and other items determined by the board;
20 2. For employees who begin participating on or after September 1, 2008,
21 lump-sum payments for compensatory time;
22 3. Training incentive payments for city officers paid as set out in KRS
23 64.5277 to 64.5279;
24 4. For employees who begin participating on or after August 1, 2016,
25 nominal fees paid for services as a volunteer; and
26 5. Any salary or wages paid to an employee for services as a Kentucky
27 State Police school resource officer as defined by KRS 158.441;

1 (14) "Final compensation" means:

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

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

21 (c) For a member who begins participating before September 1, 2008, who is
22 employed in a hazardous position, as provided in KRS ~~78.5520-61.5921~~ 78.5520, the
23 creditable compensation of the member during the three (3) fiscal years he or
24 she was paid at the highest average monthly rate divided by the number of
25 months of service credit during that three (3) year period multiplied by twelve
26 (12). The three (3) years may be fractional and need not be consecutive. If the
27 number of months of service credit during the three (3) year period is less than

1 twenty-four (24), one (1) or more additional fiscal years, which may contain
2 less than twelve (12) months of service credit, shall be used;

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

13 (e) For a member who begins participating on or after September 1, 2008, but
14 prior to January 1, 2014, who is employed in a hazardous position as provided
15 in KRS ~~78.5520~~^{61.5921}, the creditable compensation of the member during
16 the three (3) complete fiscal years he or she was paid at the highest average
17 monthly rate divided by three (3). Each fiscal year used to determine final
18 compensation must contain twelve (12) months of service credit. If the
19 member does not have three (3) complete fiscal years that each contain twelve
20 (12) months of service credit, then one (1) or more additional fiscal years,
21 which may contain less than twelve (12) months of service credit, shall be
22 added until the number of months in the final compensation calculation is at
23 least thirty-six (36) months;

24 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
25 calculated during the twelve (12) month period immediately preceding the
26 member's effective retirement date, and shall include employee contributions
27 picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be

- 1 certified to the system by the employer and the following equivalents shall be used
2 to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8)
3 hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-
4 half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks,
5 twelve (12) months, one (1) year;
- 6 (16) "Retirement allowance" means the retirement payments to which a member is
7 entitled;
- 8 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
9 basis of the actuarial tables adopted by the board. In cases of disability retirement,
10 the options authorized by KRS 61.635 shall be computed by adding ten (10) years
11 to the age of the member, unless the member has chosen the Social Security
12 adjustment option as provided for in KRS 61.635(8), in which case the member's
13 actual age shall be used. For members who begin participating in the system prior
14 to January 1, 2014, no disability retirement option shall be less than the same option
15 computed under early retirement;
- 16 (18) "Normal retirement date", unless otherwise provided in KRS 78.510 to 78.852,
17 means:
- 18 (a) For a member with service in a nonhazardous position, the sixty-fifth birthday
19 of a member;
- 20 (b) For a member with service in a hazardous position who begins participating
21 before September 1, 2008, the first day of the month following a member's
22 fifty-fifth birthday; or
- 23 (c) For a member with service in a hazardous position who begins participating
24 on or after September 1, 2008, the first day of the month following a
25 member's sixtieth birthday;
- 26 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
27 following June 30, which shall also be the plan year. The "fiscal year" shall be the

1 limitation year used to determine contribution and benefits limits as set out in 26
2 U.S.C. sec. 415;

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

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

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

18 (b) Emergency positions which are positions utilized by the employer during:
19 1. An emergency as determined by the employer for a period not
20 exceeding thirty (30) working days and are nonrenewable; or
21 2. A state of emergency declared by the President of the United States or
22 the Governor of the Commonwealth of Kentucky that are created or
23 filled specifically for addressing the employer's needs during and as a
24 result of the declared emergency;

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

- 1 (d) Probationary positions which are positions of employment with a participating
2 employer that do not exceed twelve (12) months and that are used uniformly
3 by the participating agency on new employees who would otherwise be
4 eligible for participation in the system. Probationary positions shall not be
5 renewable by the participating employer for the same employee, unless the
6 employee has not been employed with the participating employer for a period
7 of at least twelve (12) months; or
- 8 (e) Part-time positions that are positions that may be permanent in duration, but
9 that require less than a calendar or fiscal year average of one hundred (100)
10 hours of work per month, determined by using the number of months actually
11 worked within a calendar or fiscal year, in the performance of duty, except in
12 case of noncertified employees of school boards, the school term average shall
13 be eighty (80) hours of work per month, determined by using the number of
14 months actually worked in a calendar or school year, in the performance of
15 duty;
- 16 (22) "Alternate participation plan" means a method of participation in the system as
17 provided for by KRS 78.530(3);
- 18 (23) "Retired member" means any former member receiving a retirement allowance or
19 any former member who has on file at the retirement office the necessary
20 documents for retirement benefits and is no longer contributing to the system;
- 21 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
22 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
23 pay. The rate shall be certified by the employer;
- 24 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the
25 member in accordance with KRS 61.542 or 61.705 to receive any available benefits
26 in the event of the member's death. As used in KRS 78.5536, beneficiary shall not
27 mean an estate, trust, or trustee;

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

- 1 (b) Relates to the provision of child support, alimony payments, or marital
2 property rights to an alternate payee;
- 3 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
4 participant, who is designated to be paid retirement benefits in a qualified domestic
5 relations order;
- 6 (37) "Accumulated employer credit" means the employer pay credit deposited to the
7 member's account and interest credited on such amounts as provided by KRS
8 78.5512 and 78.5516;
- 9 (38) "Accumulated account balance" means:
- 10 (a) For members who began participating in the system prior to January 1, 2014,
11 the member's accumulated contributions; or
- 12 (b) For members who began participating in the system on or after January 1,
13 2014, in the hybrid cash balance plan as provided by KRS 78.5512 and
14 78.5516, the combined sum of the member's accumulated contributions and
15 the member's accumulated employer credit;
- 16 (39) "Volunteer" means an individual who:
- 17 (a) Freely and without pressure or coercion performs hours of service for an
18 employer participating in one (1) of the systems administered by Kentucky
19 Retirement Systems or the County Employees Retirement System without
20 receipt of compensation for services rendered, except for reimbursement of
21 actual expenses, payment of a nominal fee to offset the costs of performing
22 the voluntary services, or both; and
- 23 (b) If a retired member, does not become an employee, leased employee, or
24 independent contractor of the employer for which he or she is performing
25 volunteer services for a period of at least twelve (12) months following the
26 retired member's most recent retirement date;
- 27 (40) "Nominal fee" means compensation earned for services as a volunteer that does not

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

6 (41) "Nonhazardous position" means a position that does not meet the requirements of
7 KRS 78.5520 or has not been approved by the board as a hazardous position;

8 (42) "Hazardous position" means a position that meets the requirements of KRS 78.5520
9 and has been approved by the board as hazardous;

10 (43) "Level-percentage-of-payroll amortization method" means a method of determining
11 the annual amortization payment on the unfunded actuarial accrued liability as
12 expressed as a percentage of payroll over a set period of years. Under this method,
13 the percentage of payroll shall be projected to remain constant for all years
14 remaining in the set period and the unfunded actuarially accrued liability shall be
15 projected to be fully amortized at the conclusion of the set period;

16 (44) "Increment" means twelve (12) months of service credit which are purchased. The
17 twelve (12) months need not be consecutive. The final increment may be less than
18 twelve (12) months;

19 (45) "Last day of paid employment" means the last date employer and employee
20 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
21 78.615 to the retirement office in order for the employee to receive current service
22 credit for the month. Last day of paid employment does not mean a date the
23 employee receives payment for accrued leave, whether by lump sum or otherwise,
24 if that date occurs twenty-four (24) or more months after previous contributions;

25 (46) "Objective medical evidence" means reports of examinations or treatments; medical
26 signs which are anatomical, physiological, or psychological abnormalities that can
27 be observed; psychiatric signs which are medically demonstrable phenomena

- 1 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
2 or contact with reality; or laboratory findings which are anatomical, physiological,
3 or psychological phenomena that can be shown by medically acceptable laboratory
4 diagnostic techniques, including but not limited to chemical tests,
5 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 6 (47) "Hazardous disability" as used in KRS 78.510 to 78.852 means a disability which
7 results in an employee's total incapacity to continue as an employee in a hazardous
8 position, but the employee is not necessarily deemed to be totally and permanently
9 disabled to engage in other occupations for remuneration or profit;
- 10 (48) "Act in line of duty" means, for employees in hazardous positions under KRS
11 78.5520:
- 12 (a) A single act occurring which was required in the performance of the principal
13 duties of the hazardous position as defined by the job description; or
- 14 (b) A single act of violence committed against the employee that is found to be
15 related to his or her job duties, whether or not it occurs at his or her job site;
- 16 (49) "Dependent child" means a child in the womb and a natural or legally adopted child
17 of the member who has neither attained age eighteen (18) nor married or who is an
18 unmarried full-time student who has not attained age twenty-two (22). Solely in the
19 case of a member who dies as a direct result of an act in line of duty as defined in
20 this section, dies as a result of a duty-related injury as defined in KRS 61.621,
21 becomes totally and permanently disabled as a direct result of an act in the line of
22 duty as defined in this section, or becomes disabled as a result of a duty-related
23 injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS
24 61.621(5)(a), "dependent child" also means a naturally or legally adopted disabled
25 child of the member, regardless of the child's age, if the child has been determined
26 to be eligible for federal Social Security disability benefits or is being claimed as a
27 qualifying child for tax purposes due to the child's total and permanent disability;

- 1 (50) "Normal retirement age" means the age at which the member meets the
2 requirements for his or her normal retirement date as provided by subsection (18) of
3 this section;
- 4 (51) "Disability retirement date" means the first day of the month following the last day
5 of paid employment;
- 6 (52) "Monthly average pay" means:
- 7 (a) In the case of a member who dies as a direct result of an act in line of duty as
8 defined in KRS 16.505 or who dies as a result of a duty-related injury as
9 defined in KRS 61.621, the higher of the member's monthly final rate of pay
10 or the average monthly creditable compensation earned by the deceased
11 member during his or her last twelve (12) months of employment; or
- 12 (b) In the case where a member becomes totally and permanently disabled as a
13 direct result of an act in line of duty as defined in KRS 16.505 or becomes
14 disabled as a result of a duty-related injury as defined in KRS 61.621 and is
15 eligible for the benefits provided by KRS 61.621(5)(a), the higher of the
16 member's monthly final rate of pay or the average monthly creditable
17 compensation earned by the disabled member during his or her last twelve
18 (12) months of employment prior to the date the act in line of duty or duty-
19 related injury occurred;
- 20 (53) "Authority" means the Kentucky Public Pensions Authority as provided by KRS
21 61.505;~~and~~
- 22 (54) "Executive director" means the executive director of the Kentucky Public Pensions
23 Authority; and
- 24 **(55) "Gainful employment" means work in any capacity that is or may be performed**
25 **with regularity and is or may be usually done for pay, whether pay is received or**
26 **not received, including seasonal, volunteer, part-time, and on-call work.**
- 27 ➔Section 6. KRS 61.525 is amended to read as follows:

1 Membership in the system shall consist of the following:

2 (1) All persons who become employees of a participating department after the date
3 such department first participates in the system;

4 (2) ~~{(a)}~~ All persons who are employees of a department on the date the department
5 first participates in the system, either in service or on authorized leave from service,
6 and who elect within thirty (30) days following the department's participation, or in
7 the case of persons on authorized leave, within thirty (30) days of their return to
8 active service, to become members and thereby agree to make contributions as
9 provided in KRS 61.515 to 61.705;

10 ~~{(b) All persons who are employees of a department who did not elect to
11 participate within thirty (30) days of the date the department first participated
12 in the system or within thirty (30) days of their return to active service and
13 who subsequently elect to participate the first day of a month after the
14 department's date of participation;}~~

15 (3) All persons who are employees of any credit union whose membership was initially
16 limited to employees of state government and their families and which subsequently
17 may have been extended to local government employees and their families;

18 (4) All persons who were professional staff employees of the Council on Postsecondary
19 Education or the Higher Education Assistance Authority and were contributing to
20 the system on the effective date of Executive Order 74-762 or 75-964, respectively,
21 and file a written election of their desire to continue in the system and all
22 administrative and professional staff employees of the Higher Education Assistance
23 Authority who, on or after January 1, 1993, are not participating in another
24 retirement plan sponsored by the Higher Education Assistance Authority;

25 (5) All persons who were professional staff employees of the Kentucky Authority for
26 Educational Television on and after July 1, 1974;

27 (6) All persons who are employees of the Teachers' Retirement System except

1 employees who are required to participate under the Teachers' Retirement System
2 under KRS 161.220(4)(d);

3 (7) Membership in the system shall not include persons who are not eligible to
4 participate in the system as provided by KRS 61.522 or those employees who are
5 simultaneously participating in another state-administered defined benefit plan
6 within Kentucky other than those administered by the Kentucky Retirement
7 Systems, except for employees who have ceased to contribute to one (1) of the
8 state-administered retirement plans as provided in KRS 21.360; and

9 (8) Effective January 1, 1998, employees of the Kentucky Community and Technical
10 College System who were previously contributing members and are not required to
11 participate in the Teachers' Retirement System as a member; employees who were
12 previously contributing members transferred from the former Cabinet for
13 Workforce Development as provided in KRS 164.5805(1)(a) and who have not
14 exercised the option to participate in the new Kentucky Community and Technical
15 College personnel system as provided in KRS 164.5805(1)(e); and new employees
16 as of July 1, 1997, who are not eligible under the Teachers' Retirement System or
17 who are not contributing to an optional retirement plan established by the board of
18 regents for the Kentucky Community and Technical College System.

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

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

25 (2) (a) Upon the member's notification of retirement as prescribed in KRS 16.576 or
26 61.590, the employer shall certify the retiring member's unused, accumulated
27 sick leave balance to the system.

- 1 (b) The member's sick leave balance, expressed in days, shall be divided by the
2 average number of working days per month in the state service and rounded to
3 the nearest number of whole months.
- 4 (c) Except as provided by subsection~~[subsections]~~ (3) ~~and (4)~~ of this section,
5 the member's sick leave balance, expressed in months, shall upon retirement
6 be added to his or her service credit for the purpose of determining his or her
7 annual retirement allowance under KRS 16.505 to 16.652 or 61.510 to 61.705
8 and for the purpose of determining whether the member is eligible to receive a
9 retirement allowance under KRS 16.505 to 16.652 or 61.510 to 61.705.
- 10 (3) For a member who begins participating in the Kentucky Employees Retirement
11 System or the State Police Retirement System on or after September 1, 2008:
- 12 (a) The member shall receive no more than twelve (12) months of service credit
13 upon retirement for accumulated unused sick leave accrued while contributing
14 to the retirement system or systems from which the retirement benefit is to be
15 paid;
- 16 (b) The service credited for accumulated unused sick leave as limited by this
17 section and added to the member's service credit shall be used for purposes of
18 determining the member's annual retirement allowance under KRS 16.505 to
19 16.652 and 61.510 to 61.705; and
- 20 (c) The service credited for accumulated unused sick leave and added to the
21 member's service credit shall not be used to determine whether a member is
22 eligible to receive a retirement allowance under any of the provisions of KRS
23 16.505 to 16.652 and 61.510 to 61.705 or to reduce any applicable actuarial
24 reductions.
- 25 ~~(4) For a member who began participating in the Kentucky Employees Retirement~~
26 ~~System or the State Police Retirement System prior to September 1, 2008, who~~
27 ~~retires on or after July 1, 2023, the service credited for accumulated unused sick~~

1 ~~leave and added to the member's service credit shall not be used to determine~~
 2 ~~whether a member is eligible to receive a retirement allowance under any of the~~
 3 ~~provisions of KRS 16.505 to 16.652 and 61.510 to 61.705 or to reduce any~~
 4 ~~applicable actuarial reductions.~~

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

11 ~~(5)~~~~(6)~~ The provisions of this section shall not apply to a participating agency whose
 12 employees are not employed by the Commonwealth until the agency certifies to the
 13 system that a sick leave program has been formally adopted and is universally
 14 administered within the agency~~, except that any agency participating in the~~
 15 ~~Kentucky Employees Retirement System who has not adopted a sick leave program~~
 16 ~~prior to August 1, 2018, shall not be eligible to adopt a sick leave program under~~
 17 ~~this section].~~

18 ~~(6)~~~~(7)~~ This section shall not apply to members who begin participating in the
 19 systems administered by Kentucky Retirement Systems on or after January 1, 2014.

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

21 (1) Called to Active Duty Military Service. An employee of an employer participating
 22 in the system who is called to active military duty in the Armed Forces of the
 23 United States shall be credited in accordance with 38 U.S.C. sec. 4318 with service
 24 credit, creditable compensation, and in the case of employees participating in the
 25 hybrid cash balance plan, employee contributions, employer credits, and interest
 26 credits, for a period of active military duty of up to six (6) years, provided:

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

1 United States:

2 1. After the employee's membership date~~[he or she began participating]~~ in
 3 the system and provided the employee was on leave of absence from the
 4 employer and did not withdraw his or her accumulated account balance;
 5 or

6 2. Prior to the employee's membership date~~[he or she began participating]~~
 7 in the system and the date the employee terminated employment with
 8 his or her employer;

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

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

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

17 (e) For an employee whose membership date is on or after January 1, 2014,
 18 who is participating in the hybrid cash balance plan under KRS 16.583,
 19 61.597, 78.5512, or 78.5516, the employee pays the employee contributions
 20 on the credited compensation as provided under KRS 16.543, 61.543, and
 21 78.615.

22 For periods of active military duty that meet the requirements of this subsection, the
 23 employer shall pay the employer contributions payable under KRS 61.565, 61.702,
 24 78.5536, and 78.635.

25 (2) (a) Omitted Service. Any person who is entitled to service credit for employment
 26 which was not reported by the employer in accordance with KRS 16.543,
 27 61.543, or 78.615 may obtain credit for the service subject to the provisions of

1 this subsection.

2 (b) Provided the person pays for the omitted service with within six (6) months of
3 notification by the system, the cost of the service shall be equal to the
4 employee contributions that would have been paid if the person had been
5 correctly reported in accordance with KRS 16.543, 61.543, or 78.615.

6 (c) Any employee participating in one (1) of the state-administered retirement
7 systems entitled to service credit under paragraph (a) of this subsection who
8 has not repaid the employee contributions due within six (6) months of
9 notification by the system may purchase the credit after the six (6) months by
10 paying to the system the employee contributions plus interest at the actuarially
11 assumed rate from the date of initial notification under paragraph (b) of this
12 subsection.

13 (d) Omitted service purchased under this subsection shall:

14 1. Be considered service credited under KRS 16.543(1), 61.543(1), or
15 78.615(1) for purposes of determining eligibility for retirement benefits
16 under KRS 78.510 to 78.852; and

17 2. Not be credited to the member's account until the employer
18 contributions due and any interest or penalties on the delinquent
19 employer contributions for the period of omitted service are received by
20 the system.

21 (e) Employees who begin participating on or after January 1, 2014, in the hybrid
22 cash balance plan provided by KRS 16.583 or 61.597 or 78.5512 or 78.5516
23 shall, upon payment of the employee and employer contributions due under
24 this subsection, have their accumulated account balance increased by the
25 employee contributions, employer pay credits, and interest credits that would
26 have been credited to their member's account if the contributions had been
27 paid on time.

- 1 (f) Contributions payable by the employer under this subsection for omitted
2 service shall be considered delinquent from the date the employee should
3 have been reported and received service credit in accordance with KRS
4 16.543, 61.543, and 78.615.
- 5 (3) (a) Recontribution of a Refund. Any employee participating in one (1) of the
6 state-administered retirement systems who has been refunded his or her
7 accumulated account balance under the provisions of KRS 61.625, thereby
8 losing service credit in the system, may regain the credit by paying to the
9 system the amount or amounts refunded by the system with interest at a rate
10 determined by the board. Service purchased under this subsection on or after
11 January 1, 2014, shall not be used to determine the member's
12 membership~~[participation]~~ date in the systems.
- 13 (b) Recontribution of a refund purchased under this subsection shall not be used
14 in determining a retirement allowance until the member has accrued at least
15 six (6) months of service credit in a state-administered retirement system,
16 excluding the service purchased under this subsection. If the member does not
17 accrue at least six (6) months of service credit in a state-administered
18 retirement system, excluding service purchased under this subsection, then the
19 payment plus interest as provided in KRS 16.560, 61.575, or 78.640 shall be
20 refunded upon retirement, death, or written request following termination of
21 employment. The service requirement shall be waived if the member dies or
22 becomes disabled as provided for by KRS 16.582, 61.600, 61.621, 78.5522, or
23 78.5524.
- 24 (4) (a) Summer Months. Any employee participating in one (1) of the state-
25 administered retirement systems who is or has been employed by a school
26 board or community action agency participating in the County Employees
27 Retirement System or a state-operated school under KRS Chapter 167 or an

1 institution of higher learning participating in the Kentucky Employees
2 Retirement System, who receives service credit for less than twelve (12)
3 months each year, may purchase the additional months of service credit
4 needed to total one (1) year of service credit, except the amount purchased for
5 any specific year shall not exceed three (3) months.

6 (b) The cost of the summer months service credit shall be determined by the
7 formula established by subsection (10) of this section and may be purchased
8 by the employee, or the employer on behalf of the employee, or the cost may
9 be paid by both the employer and employee in which case the employer and
10 employee shall each pay fifty percent (50%) of the cost. Service credit shall
11 not be credited to the member's account until both the employer's and
12 employee's payment are received by the system.

13 (c) If the employee has purchased service credit under this subsection based on
14 months reported by the employer for the fiscal year, and an audit of the
15 employee's account reduces the number of months of service credit for which
16 the employee is eligible to no fewer than nine (9) months, the employee shall
17 retain credit for the months purchased unless the employee is ineligible for
18 any service in the fiscal year. The employee shall be eligible to purchase the
19 additional months under this subsection to total one (1) year.

20 (d) This subsection shall not apply to members who began participating in the
21 County Employees Retirement System on or after January 1, 2014.

22 (5) Vested Service Purchases. Any employee who began participating in the County
23 Employees Retirement System, the Kentucky Employees Retirement System, or the
24 State Police Retirement System prior to January 1, 2014, who is vested may
25 purchase service credit for:

26 (a) Past service. "Past service" means periods of employment:

27 1. Between July 1, 1956, in the case of the Kentucky Employees

- 1 Retirement System, or July 1, 1958, in the case of the County
2 Employees Retirement System, and the effective date of participation by
3 the employer; or
- 4 2. ~~[Where the employee did not participate in the system due to the~~
5 ~~employee not electing to participate as provided in KRS 61.525(2) or~~
6 ~~78.540(1); and~~
- 7 3. ~~[~~With a public agency that did not participate in the Kentucky
8 Employees Retirement System but would have been eligible to
9 participate under KRS 61.520 or a political subdivision that did not
10 participate in the County Employees Retirement System but would have
11 been eligible to participate under KRS 78.530, provided the public
12 agency or political subdivision has merged with or been taken over by a
13 participating employer;
- 14 (b) State university service, provided the university does not participate in a state-
15 administered retirement system and the university service being purchased
16 was in a nonteaching position that did not participate in a defined benefit
17 retirement program;
- 18 (c) 1. Up to ten (10) years of out-of-state service. "Out-of-state" means service
19 credited to a state or local government-administered public defined
20 benefit plan in another state that is not a defined benefit plan for
21 teachers.
- 22 2. Up to ten (10) years of out-of-state hazardous service. "Out-of-state
23 hazardous service" means service in a regular full-time position that was
24 credited to a defined benefit retirement plan administered by a state or
25 local government in another state, if the service could be certified as
26 hazardous pursuant to KRS 61.592 or 78.5520, as applicable. The
27 employee may purchase out-of-state hazardous service under this

1 subparagraph provided the employee is vested to receive benefits from
2 the State Police Retirement System or hazardous duty benefits from the
3 Kentucky Employees Retirement System or the County Employees
4 Retirement System.

5 The employee must purchase out-of-state service or out-of-state hazardous
6 service in the system in which he or she is vested based solely upon the
7 service in that system;

8 (d) Active military duty, which means periods of active military duty in the
9 Armed Forces of the United States, provided:

10 1. The employee's military service was terminated in a manner other than
11 as described in 38 U.S.C. sec. 4304; and

12 2. The service has not been credited as free military service under
13 subsection (1) of this section;

14 (e) National Guard service. An employee may purchase one (1) month of service
15 for each six (6) months of service in the National Guard or the military
16 reserves of the United States. The service shall be treated as service earned
17 prior to participation in the system;

18 (f) Federal service. "Federal service" means service with the United States
19 government, that is not service in the Armed Forces;

20 (g) Seasonal, emergency, interim, probationary, or temporary employment or
21 part-time employment as provided by KRS 61.510(21) or 78.510(21)
22 averaging one hundred (100) or more hours of work per month on a calendar
23 or fiscal year basis. If the average number of hours of work is less than one
24 hundred (100) per month, the member may purchase credit for only those
25 months he or she receives creditable compensation for one hundred (100)
26 hours of work;

27 (h) Part-time employment in a noncertified position at a school board prior to the

1 1990-91 school year which averaged eighty (80) or more hours of work per
2 month on a calendar or fiscal year basis. If the average number of hours of
3 work is less than eighty (80) per month, the noncertified employee of a school
4 board shall be allowed to purchase credit only for those months he or she
5 receives creditable compensation for eighty (80) hours of work;

6 (i) Any period of:

- 7 1. Authorized maternity leave without pay or sick leave without pay;
- 8 2. Unpaid leave authorized under the federal Family and Medical Leave
9 Act;
- 10 3. Approved educational leave; and
- 11 4. Agency-approved leave to work for a work-related labor organization if
12 the agency subsequently participated in the County Employees
13 Retirement System, but only if the board receives a favorable private
14 letter ruling from the United States Internal Revenue Service or a
15 favorable opinion letter from the United States Department of Labor;

16 (j) Non-participating employer service, which means periods of employment
17 with the following types of agencies provided the agency does not participate
18 in a state-administered retirement system:

- 19 1. A regional community services program for mental health organized and
20 operated under the provisions of KRS 210.370 to 210.480;
- 21 2. A community action agency created under KRS 273.405 to 273.453.
22 The service provided by this subparagraph shall be purchased in the
23 County Employees Retirement System;
- 24 3. An area development district created pursuant to KRS 147A.050; or
- 25 4. A business development corporation created pursuant to KRS 155.001
26 to 155.230, provided the system receives a favorable private letter ruling
27 from the United States Internal Revenue Service or a favorable opinion

- 1 letter from the United States Department of Labor;
- 2 (k) Urban-county government service, which means employment in an urban-
- 3 county government position that would qualify for hazardous duty coverage
- 4 under KRS 61.592 or 78.5520. The provisions of this paragraph shall only be
- 5 applicable to vested members participating in the State Police Retirement
- 6 System or in a hazardous position in the Kentucky Employees Retirement
- 7 System or the County Employees Retirement System;
- 8 (l) Periods of service as assistants to officers and employees of the General
- 9 Assembly for persons who were unable to acquire service under KRS
- 10 61.510(20) for service performed after January 1, 1960;
- 11 (m) Service as a volunteer in the Kentucky Peace Corps, created by KRS 154.1-
- 12 720; and
- 13 (n) Employment with a vocational technical school in a noncertified part-time
- 14 position averaging eighty (80) or more hours per month, determined by using
- 15 the number of months actually worked within a calendar or fiscal year. The
- 16 service provided by this paragraph shall be purchased in the Kentucky
- 17 Employees Retirement System.
- 18 (6) Non-qualified service. Provided the employee's membership~~[participation]~~ date in
- 19 the system is prior to July 15, 2002, and provided the employee has total service in
- 20 all state-administered retirement systems of at least one hundred eighty (180)
- 21 months of service credit, the employee may purchase a combined maximum total of
- 22 five (5) years of service credit, known as non-qualified service, which is not
- 23 otherwise purchasable under any of the provisions of KRS 16.505 to 16.652, 61.510
- 24 to 61.705, or 78.510 to 78.852. The service purchased under this paragraph shall not
- 25 be used in determining a retirement allowance until the member has accrued at least
- 26 two hundred forty (240) months of service, excluding service purchased under this
- 27 subsection. If the member does not accrue at least two hundred forty (240) months

1 of service, excluding service purchased under this subsection, upon retirement,
2 death, or written request following termination, the payment, plus interest as
3 provided in KRS 16.560, 61.575, or 78.640, as applicable, shall be refunded.

4 (7) For purposes of service purchased under subsections (2) to (6) of this section:

5 (a) Except for subsection (6) of this section, the service must qualify as regular
6 full-time as provided by KRS 61.510 and 78.510;

7 (b) No service credit may be purchased for periods already credited to the system
8 or another public defined benefit retirement fund, including non-qualified
9 service purchased in another state-administered retirement system;

10 (c) Except as provided by paragraph (a)2.a. of subsection (9) of this section, the
11 employee payment for service purchases shall not be picked up, as described
12 in KRS 16.545(4), 61.560(4), or 78.610(4), by the employer;

13 (d) Except for service purchased under subsection (2) or (3) of this section,
14 service purchases made pursuant to this section may be purchased by the
15 entire amount of service available or by increments. Service purchases made
16 pursuant to subsections (2) and (3) of this section shall only be purchased by
17 the entire amount of service available; and

18 (e) Service purchases as provided by subsections (5)(b), ~~+(5)(d)~~ to (f),
19 and~~+(5)(j)1.~~ and (6) of this section may be purchased in any system in
20 which the member has service credit.

21 (8) (a) Employer purchase of past service. Any employer participating in the system
22 may purchase service credit, between July 1, 1956, in the case of the
23 Kentucky Employees Retirement System, or July 1, 1958, in the case of the
24 County Employees Retirement System, and the participation date of the
25 employer, for present employees of the county or department who have
26 elected coverage under KRS 61.525(2) or 78.540(1), provided the employee
27 began participating in the system prior to January 1, 2014.

- 1 (b) A Kentucky Employees Retirement System employer shall pay the cost of the
2 service credit within the fiscal year the election is made to purchase the
3 service credit. A County Employees Retirement System employer may
4 purchase the service, with interest at the rate actuarially assumed by the board,
5 over a period not to exceed ten (10) years.
- 6 (c) If an employer elects to purchase service under the provisions of this
7 subsection, any present employee who would be eligible to receive service
8 credit under the provisions of this subsection and has purchased service credit
9 under subsection (5)(a) of this section shall have his or her payment for the
10 service credit refunded with interest at the rate paid under KRS 61.575 or
11 78.640, ~~and~~
- 12 (d) Any payments made by an employer under this subsection shall be deposited
13 to the retirement allowance account of the system and these funds shall not be
14 considered accumulated contributions of the individual members.
- 15 (9) (a) An employee participating in the system may purchase service credit under
16 any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to
17 78.852 for which he or she is eligible to purchase, or as otherwise required by
18 38 U.S.C. ch. 43, by:
- 19 1. Making a lump-sum payment on a before-tax basis as provided in
20 subparagraph 3. of this paragraph, or on an after-tax basis if the
21 employee is purchasing service credit under subsection (1) or (3) of this
22 section, service available pursuant to 38 U.S.C. ch. 43 not otherwise
23 provided for in this section, or grandfathered service as defined in
24 paragraph (b) of this subsection;
 - 25 2. Entering into an agreement to purchase service credit through an
26 installment purchase of service agreement with the systems as provided
27 by paragraph (c) of this subsection:

- 1 a. On a before-tax basis in which the service is purchased pursuant to
2 the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2); or
3 b. On an after-tax basis if the employee is purchasing service credit
4 under subsection (1) or (3) of this section, service available
5 pursuant to 38 U.S.C. ch. 43 not otherwise provided for in this
6 section, or grandfathered service as defined in paragraph (b) of this
7 subsection; or
8 3. Transferring funds to the system through a direct trustee-to-trustee
9 transfer as permitted under the applicable sections of the Internal
10 Revenue Code and any regulations or rulings issued thereunder, through
11 a direct rollover as contemplated by and permitted under 26 U.S.C. sec.
12 401(a)(31) and any regulations or rulings issued thereunder, or through a
13 rollover of funds pursuant to and permitted under the rules specified in
14 26 U.S.C. secs. 402(c) and 408(d)(3). The system shall accept the
15 transfer or rollover to the extent permitted under the rules specified in
16 the applicable provisions of the Internal Revenue Code and any
17 regulations and rulings issued thereunder.
18 (b) For purposes of this subsection, "grandfathered service" means service
19 purchases for which a member, whose membership date in the system is prior
20 to July 1, 1999, is eligible to purchase under KRS 16.505 to 16.652, 61.510 to
21 61.705, or 78.510 to 78.852, that were available for all members of the system
22 to purchase on August 5, 1997.
23 (c) 1. For service purchased under a before-tax or after-tax installment
24 purchase of service agreement as provided by paragraph (a)2. of this
25 subsection, the cost of the service shall be computed in the same manner
26 as for a lump-sum payment which shall be the principal, except that
27 interest compounded annually at the actuarial rate in effect at the time

- 1 the member elects to make the purchase shall be added for the period
2 that the installments are to be made.
- 3 2. Multiple service purchases may be combined under a single installment
4 agreement, except that no employee may make more than one (1)
5 installment purchase at the same time.
- 6 3. For after-tax installment purchase of service agreements, the employee
7 may elect to stop the installment payments by notifying the system; may
8 have the installment purchase recalculated to add one (1) or more
9 additional service purchases; or may pay by lump sum the remaining
10 principal or a portion of the remaining principal.
- 11 4. Before-tax installment purchase of service agreements shall be
12 irrevocable, and the employee shall not be able to stop installment
13 payments or to pay off the remaining balance of the purchase of service
14 agreement, except upon termination of employment or death.
- 15 5. One (1) year of installment payments shall be made for each one
16 thousand dollars (\$1,000) or any part thereof of the total cost, except
17 that the total period allowed for installments shall not be less than one
18 (1) year and shall not exceed five (5) years.
- 19 6. The employee shall pay the installments by payroll deduction for after-
20 tax purchase of service agreements, and the employer shall pick up
21 installments for before-tax purchase of service agreements. Upon
22 notification by the system, the employer shall report the installment
23 payments monthly continuously over each twelve (12) month period at
24 the same time as, but separate from, regular employee contributions on
25 the forms or by the computer format specified by the board.
- 26 7. The system shall determine how much of the total cost represents
27 payment for one (1) month of the service to be purchased and shall

1 credit one (1) month of service to the member's account each time this
2 amount has been paid. The first service credited shall represent the first
3 calendar month of the service to be purchased and each succeeding
4 month of service credit shall represent the succeeding months of that
5 service.

6 8. If the employee utilizing an installment purchase of service agreement
7 dies, retires, does not continue employment in a position required to
8 participate in the system, or elects to stop an after-tax installment
9 purchase of service agreement, the member, or in the case of death, the
10 beneficiary, shall have sixty (60) days to pay the remaining principal or
11 a portion of the remaining principal of the installment purchase of
12 service agreement by lump sum, subject to the restrictions of paragraph
13 (a)1. of this subsection, or by transfer of funds under paragraph (a)3. of
14 this subsection, except that payment by the member shall be filed with
15 the system prior to the member's effective retirement date. If the
16 member or beneficiary does not pay the remaining cost, the system shall
17 refund to the member or the beneficiary the payment, payments, or
18 portion of a payment that does not represent a full month of service
19 purchased, except as provided by subsection (6) of this section.

20 9. If the employer does not report installment payments on an employee
21 for sixty (60) days for an after-tax installment purchase of service
22 agreement, except in the case of employees on military leave or sick
23 leave without pay, the installment purchase shall cease and the system
24 shall refund to the employee the payment, payments, or portion of a
25 payment that does not represent a full month of service purchased.

26 10. Installment payments of employees on military leave or sick leave
27 without pay shall be suspended during the period of leave and shall

1 resume without recalculation upon the employee's return from leave.

2 11. If payments have ceased under subparagraph 8. or 9. of this paragraph
3 and the member later becomes a participating employee in the County
4 Employees Retirement System, Kentucky Employees Retirement
5 System, or State Police Retirement System, the employee may complete
6 the adjusted original installment purchase by lump sum or installment
7 payments, subject to the restrictions of this subsection. If the employee
8 elects to renew the installment purchase, the cost of the remaining
9 service shall be recalculated in accordance with subsection (10) of this
10 section.

11 (d) Member payments, including interest, properly received pursuant to this
12 subsection, shall be deposited to the member's account and considered as
13 accumulated contributions of the individual member.

14 (10) (a) The cost of purchasing service credit under any provision of this section,
15 except as provided by subsections (1) to (3) of this section, shall be
16 determined by multiplying the higher of the employee's current rate of pay,
17 final rate of pay, or final compensation as of the end of the month in which
18 the purchase is made times the actuarial factor times the number of years of
19 service being purchased. The actuarial factor used to determine the cost of
20 purchasing service credit shall assume the earliest date the member may retire
21 without a reduction in benefits and the cost-of-living adjustments provided to
22 members upon retirement.

23 (b) Service purchased on or after August 1, 2004, under the provisions of KRS
24 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, except for service
25 purchased under subsections (1) to (3) of this section or service purchased as
26 described by paragraph (d) of this subsection, shall not be used to determine
27 eligibility for or the amount of the monthly insurance contribution under KRS

1 61.702 or 78.5536.

2 (c) For a member whose membership date is~~[participation begins]~~ on or after
3 August 1, 2004, service purchased under the provisions of KRS 16.505 to
4 16.652, 61.510 to 61.705, or 78.510 to 78.852, except for service purchased
5 under subsections (1) to (3) of this section or service purchased as described
6 by paragraph (d) of this subsection:

7 1. Shall not be used to determine eligibility for a retirement allowance
8 under disability retirement, early retirement, normal retirement, or upon
9 death of the member under any of the provisions of KRS 16.505 to
10 16.652, 61.510 to 61.705, or 78.510 to 78.852; and

11 2. Shall only be used to determine the amount of the retirement allowance
12 of a member who is eligible for a retirement allowance under disability,
13 early retirement, normal retirement, or upon death of the member under
14 any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or
15 78.510 to 78.852, based on service earned as a participating employee.

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

23 1. A retirement allowance under disability retirement, early retirement,
24 normal retirement, or death under any of the provisions of KRS 16.505
25 to 16.652, 61.510 to 61.705, and 78.510 to 78.852; and

26 2. The monthly insurance contribution under KRS 61.702 or 78.5536.

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

1 (1) **(a) The employer of** a reinstated employee who has been ordered reinstated by
 2 the Personnel Board under authority of KRS 18A.095 or by court order or by
 3 order of the ~~Kentucky~~[Human Rights] Commission **on Human Rights** shall
 4 **deduct from the employee's reinstated creditable compensation and**
 5 **remit**[tender] to the system the member contribution **the employee**[he] would
 6 have paid on the creditable compensation **the employee**[he] would have
 7 earned as defined under KRS 18A.105 had **the employee**[he] not been
 8 dismissed.

9 **(b)** The employer shall pay the employer contributions as defined under KRS
 10 18A.105 on the member's creditable compensation.

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

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

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

16 **1. Review and investigate all employment information and forms**
 17 **submitted by a disability recipient under this section and KRS 61.610;**

18 **and**

19 **2. Report in writing to the Authority the conclusions and**
 20 **recommendations upon all matters referred for review and**
 21 **investigation.**

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

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

6 (b) The system may reduce or discontinue a disability retirement allowance if
 7 the Authority's~~board's~~ medical examiner selected under Section 14 of this
 8 Act or vocational expert selected under this section determines that:

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

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

25 (3)~~(2)~~ The system may reduce or discontinue a disability retirement allowance if
 26 the Authority's~~board's~~ medical examiner determines that a recipient of a disability
 27 retirement allowance is, prior to his or her normal retirement date, no longer

1 incapacitated by the bodily injury, mental illness, or disease for which he or she
 2 receives a disability retirement allowance~~[-, the board may reduce or discontinue the~~
 3 ~~retirement allowance].~~

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

10 **(b)**~~(a)~~ The **Authority**~~[system]~~ shall select **one (1)**~~[a]~~ medical examiner to
 11 evaluate the forms and **employment and** medical information submitted by the
 12 person. **If only employment information is submitted, the Authority may**
 13 **select one (1) vocational expert to evaluate the forms and employment**
 14 **information submitted by the person**. If there is objective medical evidence
 15 of a mental impairment, the medical examiner may request the
 16 **Authority's**~~[board's]~~ licensed mental health professional to assist in
 17 determining the level of the mental impairment.

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

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

23 **2.**~~[1.]~~ If the medical examiner **or vocational expert** recommends that the
 24 disability retirement allowance be continued, the system shall make
 25 retirement payments in accordance with the retirement plan selected by
 26 the person.

27 **3. a.**~~[2.]~~ If the medical examiner **or vocational expert** recommends that the

1 disability retirement allowance be reduced or discontinued, the
2 Authority~~[system]~~ shall send notice of the recommendation by
3 United States first-class mail to the person's last address on file in
4 the retirement office, by electronic mail to the person's last
5 electronic mail address on file in the retirement office, or by other
6 electronic means.

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

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

1 office, or by other electronic means.

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

8 2.~~[(1)]~~ If the medical examiner **or vocational expert** recommends that the
9 disability retirement allowance be continued, the system shall make
10 disability retirement payments in accordance with the retirement plan
11 selected by the person.

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

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

1 ~~c.~~~~b.~~ If the person fails or refuses to appeal the recommendation of the
2 medical examiner or vocational expert~~examiners~~ to reduce or
3 discontinue the disability retirement allowance, his or her
4 retirement allowance shall be discontinued on the first day of the
5 month following the expiration of the period of the sixty (60) days
6 from the day the Authority~~system~~ sent the notice of the
7 recommendation by United States first-class mail to the person's
8 last address on file in the retirement office, by electronic mail to
9 the person's last electronic mail address on file in the retirement
10 office, or by other electronic means.

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

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

26 ~~(h)~~~~(g)~~ A final order of the board shall be based on substantial evidence
27 appearing in the record as a whole and shall set forth the decision of the board

1 and the facts and law upon which the decision is based. If the board orders
2 that the person's disability retirement allowance be discontinued or reduced,
3 the order shall take effect on the first day of the month following the day the
4 system sent the order by United States first-class mail to the person's last
5 address on file in the retirement office, by electronic mail to the person's last
6 electronic mail address on file in the retirement office, or by other electronic
7 means. Judicial review of the final board order shall not operate as a stay and
8 the system shall discontinue or reduce the person's disability retirement
9 allowance as provided in this section.

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

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

22 ~~(5)(4)~~ The board may establish an appeals committee whose members shall be
23 appointed by the chair and who shall have the authority to act upon the
24 recommendations and reports of the hearing officer pursuant to this section on
25 behalf of the board.

26 ~~(6)(5)~~ Any person aggrieved by a final order of the board may seek judicial review
27 after all administrative appeals have been exhausted by filing a petition for judicial

1 review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

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

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

8 (b) If the person has returned to employment with an employer participating in
 9 *the Kentucky Employees Retirement System, State Police Retirement*
 10 *System, or County Employees Retirement System*~~one (1) of the systems~~
 11 ~~administered by Kentucky Retirement Systems],~~ the service and creditable
 12 compensation shall be used in recomputing his or her benefit, except that the
 13 person's final compensation shall not be less than the final compensation last
 14 used in determining his or her retirement allowance;

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

16 (d) 1. The person shall remain eligible for reinstatement of his or her disability
 17 allowance upon reevaluation ~~[by the medical review board]~~ until his or
 18 her normal retirement age. The person shall apply for reinstatement of
 19 disability benefits in accordance with the provisions of this
 20 paragraph~~[section].~~

21 2. An application for reinstatement of disability benefits shall be
 22 administered as an application under KRS 61.600, except:~~[and]~~

23 a. Only the bodily injuries, mental illnesses, diseases, or conditions
 24 for which the person was originally approved for disability
 25 benefits shall be considered. Bodily injuries, mental illnesses,
 26 diseases, or conditions that came into existence after the person's
 27 last day of paid employment shall not be considered as a basis for

1 reinstatement of disability benefits. Bodily injuries, mental
 2 illnesses, diseases, or conditions alleged by the person as being
 3 incapacitating, but which were not the basis for the award of
 4 disability retirement benefits, shall not be considered; ~~and~~

5 **b. A person whose disability allowance was discontinued under**
 6 **subsection (2) of this section, who is still employed in the same**
 7 **position on which his or her disability allowance was**
 8 **discontinued, shall submit with the application employment**
 9 **information detailing the changes to the position evidencing**
 10 **cause for reinstatement;**

11 **c. A person whose disability allowance was discontinued under**
 12 **subsection (3) of this section shall provide with the application**
 13 **new objective medical evidence not previously considered by the**
 14 **Authority's medical examiner; and**

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

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

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

24 ~~(8)~~~~(7)~~ If a disability retirement allowance is reduced or discontinued for a person
 25 who began participating in the system on or after January 1, 2014, the person shall
 26 remain eligible for reinstatement of his or her disability allowance as provided
 27 under subsection ~~(7)~~~~(6)~~(d) of this section.

1 ~~(9)~~(8) No disability retirement allowance shall be reduced or discontinued by the
2 system after the person's normal retirement date except in case of reemployment as
3 provided for by KRS 61.637. If a disability retirement allowance has been reduced
4 or discontinued, except if the person is reemployed as provided for by KRS 61.637,
5 the retirement allowance shall be reinstated upon attainment of the person's normal
6 retirement date to the retirement allowance prior to adjustment. No reinstated
7 payment shall be less than the person is receiving upon attainment of the person's
8 normal retirement date.

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

- 10 (1) (a) Prior to the member's effective retirement date, a member if living, or if not
11 living, his or her designated beneficiary, shall have the right to request a
12 refund of his or her accumulated account balance if the member's
13 employment has been terminated and the member is not participating in the
14 same system.
- 15 (b) Upon the death of a member occurring on or after his or her effective
16 retirement date, the member's beneficiary shall have the right to request a
17 refund of the member's accumulated contributions, reduced by the amount of
18 any retirement allowances previously received.

19 **(c) If a member receives a refund of his or her accumulated account balance in**
20 **error while the member is employed or participating in the same system**
21 **from which the refund was issued in error:**

22 **1. The Authority shall notify the member;**

23 **2. The member shall repay the system the full amount of his or her**
24 **refunded accumulated account balance by lump sum or by**
25 **incremental payments made under an incremental payment agreement**
26 **with the Authority within twelve (12) months of the date the Authority**
27 **sent the notice; and**

1 3. Upon full repayment of the accumulated account balance to the
2 system, the Authority shall reinstate the member's previous
3 membership date and associated service credit and take all other
4 actions necessary to correct the member's records to reflect the
5 reinstated membership date in accordance with Section 15 of this Act.

6 (2) Payments made under this section shall be in lieu of any other benefits due for the
7 period of service under any of the provisions of KRS 16.505 to 16.652, 61.510 to
8 61.705, and 78.510 to 78.852, unless the period of service is regained as provided
9 under KRS 61.552. Payments of taxable distributions made pursuant to this section
10 shall be subject to state and federal tax as appropriate.

11 (3) A refund of contributions of members whose benefits have been terminated
12 pursuant to KRS 6.696 shall be governed by that section.

13 (4) A refund of contributions to members whose benefits have been terminated
14 pursuant to KRS 61.535(3) shall be governed by the provisions of that subsection.

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

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

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

27 (c) A member's failure to pay the full amount of his or her refunded

1 *accumulated account balance as required under this subsection shall be*
2 *treated as an overpayment of benefits under Section 15 of this Act.*

3 ➔Section 12. KRS 61.637 (Effective January 1, 2024) is amended to read as
4 follows:

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

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

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

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

1 reemployment.

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

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

10 1. The retired member's final compensation shall be recomputed using
11 creditable compensation for his or her period of reemployment;
12 however, the final compensation resulting from the recalculation shall
13 not be less than that of the member when his or her retirement allowance
14 was last determined;

15 2. If the retired member initially retired on or subsequent to his or her
16 normal retirement date, his or her retirement allowance shall be
17 recomputed by using the formula in KRS 61.595(1);

18 3. If the retired member initially retired prior to his or her normal
19 retirement date, his or her retirement allowance shall be recomputed
20 using the formula in KRS 61.595(2), except that the member's age used
21 in computing benefits shall be his or her age at the time of his or her
22 initial retirement increased by the number of months of service credit
23 earned for service performed during reemployment;

24 4. The retirement allowance payments resulting from the recomputation
25 under this subsection shall be payable in the month following the
26 termination of reemployment in lieu of payments under subparagraph 3.
27 of this paragraph. The member shall not receive less in benefits as a

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

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

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

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

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

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

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

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

20 (b) A retired member whose disability retirement was discontinued pursuant to
21 KRS 61.615 and who is reemployed in one (1) of the systems administered by
22 the Kentucky Retirement Systems or County Employees Retirement System
23 prior to his or her normal retirement date shall have his or her accounts
24 combined upon termination for determining eligibility for benefits. If the
25 member is eligible for retirement, the member's service and creditable
26 compensation earned as a result of his or her reemployment shall be used in
27 the calculation of benefits, except that the member's final compensation shall

1 not be less than the final compensation last used in determining his or her
2 retirement allowance. The member shall not change beneficiary or payment
3 option designations. This provision shall apply to members reemployed on or
4 after August 1, 1998.

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

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

26 (10) If a member is receiving a retirement allowance, or has filed the forms required for
27 a retirement allowance, and is employed within one (1) month of the member's

1 initial retirement date in a position that is required to participate in the same
2 retirement system from which the member retired, the member's retirement shall be
3 voided and the member shall repay to the retirement system all benefits received.
4 The member shall contribute to the member account established for him or her prior
5 to his or her voided retirement. The retirement allowance for which the member
6 shall be eligible upon retirement shall be determined by total service and creditable
7 compensation.

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

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

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

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

27 (13) If the retirement system determines that the retired member has been employed in a

1 position with the same principal duties as the position from which the member
2 retired:

- 3 (a) The member's retirement allowance shall be suspended during the period that
4 begins on the month in which the member is reemployed and ends six (6)
5 months after the member's termination;
- 6 (b) The retired member shall repay to the retirement system all benefits paid from
7 systems administered by Kentucky Retirement Systems or County Employees
8 Retirement System under reciprocity, including medical insurance benefits,
9 that the member received after reemployment began;
- 10 (c) Upon termination, or subsequent to expiration of the six (6) month period
11 from the date of termination, the retired member's retirement allowance based
12 on his or her initial retirement account shall no longer be suspended, and the
13 member shall receive the amount to which he or she is entitled, including an
14 increase as provided by KRS 61.691;
- 15 (d) Except as provided in subsection (7) of this section, if the position in which a
16 retired member is employed after initial retirement is a regular full-time
17 position, the retired member shall contribute to a second member account
18 established for him or her in the retirement system. Service credit gained after
19 the member's date of reemployment shall be credited to the second member
20 account; and
- 21 (e) Upon termination, the retired member shall be entitled to benefits payable
22 from his or her second retirement account.
- 23 (14) (a) If the retirement system determines that the retired member has not been
24 reemployed in a position with the same principal duties as the position from
25 which he or she retired, the retired member shall continue to receive his or her
26 retirement allowance.
- 27 (b) If the position is a regular full-time position, the member shall contribute to a

1 second member account in the retirement system.

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

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

10 (16) A retired member who is reemployed and contributing to a second member account
11 shall not be eligible to purchase service credit under any of the provisions of KRS
12 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he or she was
13 eligible to purchase prior to his or her initial retirement.

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

19 (a) If a member is receiving a retirement allowance from one (1) of the systems
20 administered by Kentucky Retirement Systems or County Employees
21 Retirement System, or has filed the forms required to receive a retirement
22 allowance from one (1) of the systems administered by Kentucky Retirement
23 Systems or County Employees Retirement System, and is employed in a
24 regular full-time position required to participate in one (1) of the systems
25 administered by Kentucky Retirement Systems or County Employees
26 Retirement System or is employed in a position that is not considered regular
27 full-time with an agency participating in one (1) of the systems administered

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

- 8 1. The member shall contribute to a member account established for him or
9 her in one (1) of the systems administered by Kentucky Retirement
10 Systems or County Employees Retirement System, and employer
11 contributions shall be paid on behalf of the member by the participating
12 employer; and
 - 13 2. Upon subsequent retirement, the member shall be eligible for a
14 retirement allowance based upon total service and creditable
15 compensation, including any additional service or creditable
16 compensation earned after his or her initial retirement was voided;
- 17 (b) If a member is receiving a retirement allowance from one (1) of the systems
18 administered by Kentucky Retirement Systems or County Employees
19 Retirement System and is employed in a regular full-time position required to
20 participate in one (1) of the systems administered by Kentucky Retirement
21 Systems or County Employees Retirement System after a one (1) month
22 period following the member's initial retirement date, the member may
23 continue to receive his or her retirement allowance during the period of
24 reemployment subject to the following provisions:
- 25 1. If a member is reemployed by a participating agency within twelve (12)
26 months of the member's retirement date, the participating agency shall
27 certify in writing on a form prescribed by the Authority that no

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

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

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

25 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
26 except for any retiree employed as a school resource officer as defined
27 by KRS 158.441, the employer shall be required to reimburse the

1 systems for the cost of the health insurance premium paid by the
2 systems to provide coverage for the retiree, not to exceed the cost of the
3 single premium. Effective July 1, 2015, local school boards shall not be
4 required to pay the reimbursement required by this subparagraph for
5 retirees employed by the board for eighty (80) days or less during the
6 fiscal year;

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

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

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

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

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

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

- 1 (e) Notwithstanding any provision of this section, any current or future part-time
2 adjunct instructor for the Kentucky Fire Commission who has not participated
3 in the Kentucky Employees Retirement System prior to retirement, but who is
4 otherwise eligible to retire from the County Employees Retirement System,
5 shall not be:
- 6 1. Required to resign from his or her position as a part-time adjunct
7 instructor for the Kentucky Fire Commission in order to begin drawing
8 benefits from the County Employees Retirement System; or
 - 9 2. Subject to any provision of this section as it relates solely to his or her
10 service as a part-time adjunct instructor for the Kentucky Fire
11 Commission;
- 12 (f) If a member is receiving a retirement allowance from any of the retirement
13 systems administered by the Kentucky Retirement Systems or County
14 Employees Retirement System and enters into a contract or becomes a leased
15 employee of an employer under contract with an employer participating in
16 one (1) of the systems administered by the Kentucky Retirement Systems or
17 County Employees Retirement System:
- 18 1. At any time following retirement, if the Authority determines the
19 employment arrangement does qualify as an independent contractor or
20 leased employee, the member may continue to receive his or her
21 retirement allowance during the period of the contract;
 - 22 2. Within one (1) month following the member's initial retirement date, if
23 the Authority determines the employment arrangement does not qualify
24 as an independent contractor or leased employee, the member's
25 retirement shall be voided in accordance with paragraph (a) of this
26 subsection;
 - 27 3. After one (1) month but within twelve (12) months following the

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

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

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

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

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

1 ➔Section 13. KRS 61.645 is amended to read as follows:

- 2 (1) The Kentucky Employees Retirement System and State Police Retirement System
3 shall be administered by the board of trustees of the Kentucky Retirement Systems
4 composed of nine (9) members, who shall be selected as follows:
- 5 (a) One (1) trustee, who shall be a member or retired from the State Police
6 Retirement System, elected by the members and retired members of the State
7 Police Retirement System;
- 8 (b) Two (2) trustees, who shall be members or retired from the Kentucky
9 Employees Retirement System, elected by the members and retired members
10 of the Kentucky Employees Retirement System;
- 11 (c) Six (6) trustees, appointed by the Governor of the Commonwealth, subject to
12 Senate confirmation in accordance with KRS 11.160 for each appointment or
13 reappointment. Of the six (6) trustees appointed by the Governor, three (3)
14 trustees shall have investment experience and three (3) trustees shall have
15 retirement experience;
- 16 (d) For purposes of paragraph (c) of this subsection, a trustee with "investment
17 experience" means an individual who does not have a conflict of interest, as
18 provided by KRS 61.655, and who has at least ten (10) years of experience in
19 one (1) of the following areas of expertise:
- 20 1. A portfolio manager acting in a fiduciary capacity;
- 21 2. A professional securities analyst or investment consultant;
- 22 3. A current or retired employee or principal of a trust institution,
23 investment or finance organization, or endowment fund acting in an
24 investment-related capacity;
- 25 4. A chartered financial analyst in good standing as determined by the
26 CFA Institute; or
- 27 5. A university professor, teaching investment-related studies; and

- 1 (e) For purposes of paragraph (c) of this subsection, a trustee with "retirement
2 experience" means an individual who does not have a conflict of interest, as
3 provided by KRS 61.655, and who has at least ten (10) years of experience in
4 one (1) of the following areas of expertise:
- 5 1. Experience in retirement or pension plan management;
 - 6 2. A certified public accountant with relevant experience in retirement or
7 pension plan accounting;
 - 8 3. An actuary with relevant experience in retirement or pension plan
9 consulting;
 - 10 4. An attorney licensed to practice law in the Commonwealth of Kentucky
11 with relevant experience in retirement or pension plans; or
 - 12 5. A current or former university professor whose primary area of
13 emphasis is economics or finance.
- 14 (2) The board is hereby granted the powers and privileges of a corporation, including
15 but not limited to the following powers:
- 16 (a) To sue and be sued in its corporate name;
 - 17 (b) To make bylaws not inconsistent with the law;
 - 18 (c) To conduct the business and promote the purposes for which it was formed;
 - 19 (d) Except as provided in KRS 61.650(6), to contract for investment counseling,
20 auditing, medical, and other professional or technical services as required to
21 carry out the obligations of the board subject to KRS Chapters 45, 45A, 56,
22 and 57. Actuarial consulting services shall be provided by a firm hired by the
23 Kentucky Public Pensions Authority;
 - 24 (e) To purchase fiduciary liability insurance;
 - 25 (f) Except as provided in KRS 61.650(6), to acquire, hold, sell, dispose of,
26 pledge, lease, or mortgage, the goods or property necessary to exercise the
27 board's powers and perform the board's duties subject to KRS Chapters 45,

1 45A, and 56; and

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

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

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

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

26 (b) Individuals may be nominated by the retirement system members which are to
27 elect the trustee by presenting to the executive director, not less than four (4)

1 months before a term of office of a trustee is due to expire, a petition, bearing
2 the name, last four (4) digits of the Social Security number, and signature of
3 no less than one-tenth (1/10) of the number voting in the last election by the
4 retirement system members.

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

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

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

20 (f) The eligible voter shall cast his or her ballot by selecting the candidate of his
21 or her choice. He or she shall sign and mail the ballot **or cast the ballot**
22 **online, by telephone, or by any other electronic means made available by the**
23 **Authority**~~[or submit the electronic ballot]~~ at least thirty (30) days prior to the
24 date the term to be filled is due to expire. The latest mailing date, or date **to**
25 **cast telephonic or**~~[of submission in the case of]~~ electronic ballots, shall be
26 provided on the ballot.

27 (g) The board's contracted firm shall report in writing the outcome to the chair of

1 the board of trustees. Cost of an election shall be payable from the funds of
2 the system for which the trustee is elected.

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

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

9 1. Complete an application developed by the retirement systems which
10 shall include but not be limited to a disclosure of any prior felonies and
11 any conflicts of interest that would hinder the individual's ability to
12 serve on the board;

13 2. Submit a resume detailing the individual's education and employment
14 history and a cover letter detailing the member's qualifications for
15 serving as trustee to the board; and

16 3. Authorize the systems to have a criminal background check performed.
17 The criminal background check shall be performed by the Department
18 of Kentucky State Police.

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

24 (5) (a) Any vacancy which may occur in an appointed position during a term of
25 office shall be filled in the same manner which provides for the selection of
26 the particular trustee, and any vacancy which may occur in an elected position
27 during a term of office shall be filled by appointment by a majority vote of the

1 remaining elected trustees with a person selected from the system in which the
2 vacancy occurs; however, any vacancy shall be filled only for the duration of
3 the unexpired term. In the event of a vacancy of an elected trustee during a
4 term of office, Kentucky Retirement Systems shall notify members of the
5 system in which the vacancy occurs of the vacancy and the opportunity to be
6 considered for the vacant position. Any vacancy during a term of office shall
7 be filled within ninety (90) days of the position becoming vacant.

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

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

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

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

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

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

27 (b) The board shall elect a chair and a vice chair. The chair shall not serve more

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

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

8 (9) (a) The board of trustees shall appoint or contract for the services of a chief
9 executive officer and general counsel and fix the compensation and other
10 terms of employment for these positions without limitation of the provisions
11 of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer
12 shall serve as the legislative and executive adviser to the board. The general
13 counsel shall serve as legal adviser to the board. The chief executive officer
14 and general counsel shall work with the executive director of the Kentucky
15 Public Pensions Authority to carry out the provisions of KRS 16.505 to
16 16.652 and 61.510 to 61.705. The executive director of the Kentucky Public
17 Pensions Authority shall be the chief administrative officer of the board.

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

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

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

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

17 (f) Notwithstanding any other provision of statute to the contrary, including but
18 not limited to any provision of KRS Chapter 12, the Governor shall have no
19 authority to change any provision of KRS 16.505 to 16.652 and 61.510 to
20 61.705 by executive order or action, including but not limited to reorganizing,
21 replacing, amending, or abolishing the membership of the Kentucky
22 Retirement Systems board of trustees.

23 (10) Notwithstanding any statute to the contrary, employees shall not be considered
24 legislative agents under KRS 6.611.

25 (11) The Attorney General, or an assistant designated by him or her, may attend each
26 meeting of the board and may receive the agenda, board minutes, and other
27 information distributed to trustees of the board upon request. The Attorney General

1 may act as legal adviser and attorney for the board, and the board may contract for
2 legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

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

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

26 (13) All expenses incurred by or on behalf of the system and the board in the
27 administration of the system during a fiscal year shall be paid from the retirement

1 allowance account, including any administrative expenses for the Kentucky Public
2 Pensions Authority that are assigned to the Kentucky Retirement Systems by KRS
3 61.505. The board shall submit any administrative expenses that are specific to the
4 Kentucky Retirement Systems that are not otherwise covered by KRS
5 61.505(11)(a).

6 (14) Any person adversely affected by a decision of the board, except as provided under
7 subsection (16) of this section or KRS 61.665, involving KRS 16.505 to 16.652 and
8 61.510 to 61.705, may appeal the decision of the board to the Franklin Circuit Court
9 within sixty (60) days of the board action.

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

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

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

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

- 24 1. One (1) or more officers or employees of the Kentucky Retirement
25 Systems whom the trustee honestly believes to be reliable and
26 competent in the matters presented;
- 27 2. Legal counsel, public accountants, actuaries, or other persons as to

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

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

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

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

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

- 19 1. Benefits and benefits administration;
- 20 2. Investment concepts, policies, and current composition and
21 administration of retirement systems investments;
- 22 3. Laws, bylaws, and administrative regulations pertaining to the
23 retirement systems and to fiduciaries; and
- 24 4. Actuarial and financial concepts pertaining to the retirement systems.

25 If a trustee fails to complete the orientation program within one (1) year from
26 the beginning of his or her first term on the board, the retirement systems shall
27 withhold payment of the per diem and travel expenses due to the board

1 member under this section and KRS 16.640 until the trustee has completed the
2 orientation program;

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

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

11 (19) In order to improve public transparency regarding the administration of the systems,
12 the board of trustees shall adopt a best practices model by posting the following
13 information to the Kentucky Public Pensions Authority's website and shall make
14 available to the public:

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

20 (b) The Annual Comprehensive Financial Report with the information as follows:
21 1. A general overview and update on the retirement systems by the
22 executive director;
23 2. A listing of the board of trustees;
24 3. A listing of key staff;
25 4. An organizational chart;
26 5. Financial information, including a statement of plan net assets, a
27 statement of changes in plan net assets, an actuarial value of assets, a

- 1 schedule of investments, a statement of funded status and funding
2 progress, and other supporting data;
- 3 6. Investment information, including a general overview, a list of the
4 retirement system's professional consultants, a total net of fees return on
5 retirement systems investments over a historical period, an investment
6 summary, contracted investment management expenses, transaction
7 commissions, and a schedule of investments;
- 8 7. The annual actuarial valuation report on the pension benefit and the
9 medical insurance benefit; and
- 10 8. A general statistical section, including information on contributions,
11 benefit payouts, and retirement systems' demographic data;
- 12 (c) All external audits;
- 13 (d) All board minutes or other materials that require adoption or ratification by
14 the board of trustees. The items listed in this paragraph shall be posted within
15 **three (3) business days**~~[seventy two (72) hours]~~ of adoption or ratification of
16 the board;
- 17 (e) All bylaws, policies, or procedures adopted or ratified by the board of
18 trustees;
- 19 (f) The retirement systems' summary plan description;
- 20 (g) A document containing an unofficial copy of the statutes governing the
21 systems administered by Kentucky Retirement Systems;
- 22 (h) A listing of the members of the board of trustees and membership on each
23 committee established by the board, including any investment committees;
- 24 (i) All investment holdings in aggregate, fees, and commissions for each fund
25 administered by the board, which shall be updated on a quarterly basis for
26 fiscal years beginning on or after July 1, 2017. The systems shall request from
27 all managers, partnerships, and any other available sources all information

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

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

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

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

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

27 (l) All contracts or offering documents for services, goods, or property purchased

1 or utilized by the systems;

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

4 (n) All proxy vote reports as provided by KRS 61.650(7).

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

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

25 ➔Section 14. KRS 61.665 is amended to read as follows:

26 (1) The Authority shall employ or contract for the services of at least three (3)
27 physicians, licensed in the state and not members of the system, upon terms and

1 conditions it prescribes to serve as medical examiners, whose duty it shall be to
 2 pass upon all medical examinations required under KRS 61.510 to 61.705, 16.505
 3 to 16.652, and 78.510 to 78.852, to investigate all health or medical statements and
 4 certificates made by or in behalf of any person in connection with the payment of
 5 money to the person under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to
 6 78.852, and who shall report in writing to the system the conclusions and
 7 recommendations upon all matters referred to them. The Authority may employ or
 8 contract for the services of one (1) or more licensed mental health professionals in
 9 making recommendations regarding mental impairments.

- 10 (2) (a) Each person requesting disability retirement shall file at the retirement office:
- 11 1. An application for disability retirement and supporting medical
 12 information to report the person's physical and mental condition; ~~The~~
 13 ~~person shall also file at the retirement office]~~
 - 14 2. A complete description of the job and duties from which he or she
 15 received his or her last pay, including ~~as well as~~ information regarding
 16 whether the person has made a request for reasonable accommodation
 17 pursuant to ~~as provided for in~~ 42 U.S.C. sec. 12111(9) and 29 C.F.R.
 18 pt. 1630 or whether reasonable accommodation as provided ~~for~~ in 42
 19 U.S.C. sec. 12111(9) and 29 C.F.R. pt. 1630 has been offered to the
 20 person; and
 - 21 3. A certification ~~. The person shall certify to the retirement office]~~ that
 22 the application for disability retirement and supporting medical
 23 information are ready to be evaluated by the medical examiners in
 24 accordance with ~~paragraph (d) of this]~~ subsection (3) of this section.
- 25 (b) If, after good faith efforts, the person informs the Authority that he or she has
 26 been unable to obtain the employment or medical information, the Authority
 27 shall assist the person in obtaining the records and may use the authority

1 granted pursuant to KRS 61.685(1) to obtain the records. If the person fails to
2 file, at the retirement office within one hundred eighty (180) days of the date
3 the person filed his or her notification of retirement, any of the forms,
4 certifications, or information required by this subsection, the person's
5 application for disability retirement shall be void. Any subsequent filing of an
6 application for disability retirement or supporting medical information shall
7 not be evaluated, except as provided in subsection (3)(g) of this
8 section~~paragraph (f) of this subsection~~ or KRS 61.600(2), 78.5522, or
9 78.5524.

10 ~~(c)~~~~(b)~~ The employer shall file at the retirement office a complete description of
11 the job and duties for which the person was last paid and shall submit a
12 detailed description of any reasonable accommodations attempted.

13 ~~(d)~~~~(e)~~ The cost of medical examinations and the filing of the medical
14 information, reports, or data with the retirement office shall be paid by the
15 person applying for disability retirement.

16 (3) (a)~~(d)~~ The Authority shall select one (1)~~three (3)~~ medical
17 examiner~~examiners~~ to evaluate the medical evidence submitted by the
18 person. The medical examiner~~examiners~~ shall recommend that disability
19 retirement be approved, or that disability retirement be denied. If there is
20 evidence of a mental impairment, the medical examiner~~examiners~~ may
21 request the Authority's licensed mental health professional to assist in
22 determining the level of the mental impairment.

23 ~~(b)~~~~(e)~~ If ~~the~~~~two (2) or more of the three (3)~~ medical examiner selected under
24 paragraph (a) of this subsection recommends~~examiners recommend~~ that
25 the person be approved for disability retirement, the system shall make
26 retirement payments in accordance with the retirement plan selected by the
27 person.

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

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

26 (e) If the second medical examiner selected under paragraph (c) of this
27 subsection recommends that the person be approved for disability

1 retirement, the Authority shall select one (1) medical examiner other than
2 the first and second medical examiners selected under paragraphs (a) and
3 (c) of this subsection to evaluate the medical evidence submitted by the
4 person. The third medical examiner selected under this paragraph shall
5 recommend that disability retirement be approved, or that disability
6 retirement be denied. If there is evidence of a mental impairment, the third
7 medical examiner may request the Authority's licensed mental health
8 professional to assist in determining the level of the mental impairment.

9 (f) If the third medical examiner selected under paragraph (e) of this
10 subsection recommends that the person be approved for disability
11 retirement, the system shall make retirement payments in accordance with
12 the retirement plan selected by the person.

13 (g) If the third medical examiner selected under paragraph (e) of this
14 subsection recommends that the person be denied disability retirement, the
15 Authority shall send notice of this recommendation by United States first-
16 class mail to the person's last address on file in the retirement office, by
17 electronic mail to the person's last electronic mail address on file in the
18 retirement office, or by other electronic means. The person shall have one
19 hundred eighty (180) days from the day that the Authority sent the notice to
20 file at the retirement office additional supporting medical evidence and
21 certify to the retirement office that the application for disability retirement
22 and additional supporting medical evidence are ready to be evaluated under
23 subsection (4) of this section or to appeal his or her denial of disability
24 retirement by filing at the retirement office a request for a formal hearing.

25 (4) (a) The Authority shall select one (1) medical examiner to evaluate the
26 additional supporting medical evidence submitted by the person in
27 accordance with subsection (3)(d) and (g) of this section. The medical

1 examiner selected under this paragraph shall recommend that disability
2 retirement be approved, or that disability retirement be denied. If there is
3 evidence of a mental impairment, the medical examiner may request the
4 Authority's licensed mental health professional to assist in determining the
5 level of the mental impairment.

6 (b) If the first medical examiner selected under paragraph (a) of this subsection
7 recommends that the person be approved for disability retirement, the
8 system shall make retirement payments in accordance with the retirement
9 plan selected by the person.

10 (c) If the first medical examiner selected under paragraph (a) of this subsection
11 recommends that the person be denied disability retirement, the Authority
12 shall select one (1) medical examiner other than the medical examiner
13 selected under paragraph (a) of this subsection to evaluate the additional
14 supporting medical evidence. The second medical examiner selected under
15 this paragraph shall recommend that disability retirement be approved, or
16 that disability retirement be denied. If there is evidence of a mental
17 impairment, the second medical examiner may request the Authority's
18 licensed mental health professional to assist in determining the level of the
19 mental impairment.

20 (d) If the second medical examiner selected under paragraph (c) of this
21 subsection recommends that the person be denied disability retirement, the
22 Authority shall send notice of this recommendation by United States first-
23 class mail to the person's last address on file in the retirement office, by
24 electronic mail to the person's last electronic mail address on file in the
25 retirement office, or by other electronic means. The person shall have one
26 hundred eighty (180) days from the day that the Authority sent the notice to
27 appeal his or her denial of disability retirement by filing at the retirement

1 office a request for a formal hearing.

2 (e) If the second medical examiner selected under paragraph (c) of this
3 subsection recommends that the person be approved for disability
4 retirement, the Authority shall select one (1) medical examiner other than
5 the first and second medical examiners selected under paragraphs (a) and
6 (c) of this subsection to evaluate the additional supporting medical evidence.
7 The third medical examiner selected under this paragraph shall recommend
8 that disability retirement be approved, or that disability retirement be
9 denied. If there is evidence of a mental impairment, the third medical
10 examiner may request the Authority's licensed mental health professional to
11 assist in determining the level of the mental impairment.

12 (f) If the third medical examiner selected under paragraph (e) of this
13 subsection recommends that the person be approved for disability
14 retirement, the system shall make retirement payments in accordance with
15 the retirement plan selected by the person.

16 (g) If the third medical examiner selected under paragraph (e) of this
17 subsection recommends that the person be denied disability retirement, the
18 Authority shall send notice of this recommendation by United States first-
19 class mail to the person's last address on file in the retirement office, by
20 electronic mail to the person's last electronic mail address on file in the
21 retirement office, or by other electronic means. The person shall have one
22 hundred eighty (180) days from the day that the Authority sent the notice to
23 appeal his or her denial of disability retirement by filing at the retirement
24 office a request for a formal hearing~~[(g) — If two (2) or more of the three~~
25 ~~(3) medical examiners recommend that the person be approved for disability~~
26 ~~retirement based upon the evaluation of additional supporting medical~~
27 ~~information in accordance with paragraph (f) of this subsection, the system~~

1 shall make retirement payments in accordance with the retirement plan
2 selected by the person.

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

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

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

20 ~~(7)(3)~~ (a) Any person whose disability benefits have been reduced, discontinued,
21 or denied pursuant to subsection ~~(3)(g)(2)(f)~~ or ~~(4)(g)(2)(h)~~ of this section
22 may file at the retirement office a request for a formal hearing to be conducted
23 in accordance with KRS Chapter 13B. The right to demand a formal hearing
24 shall be limited to a period of one hundred eighty (180) days after the person
25 had notice of the system's determination, as described in subsection
26 ~~(3)(g)(2)(f)~~ or ~~(4)(g)(2)(h)~~ of this section. The request for a formal hearing
27 shall be filed with the executive director, at the retirement office in Frankfort.

1 The request for a formal hearing shall include a short and plain statement of
2 the reasons the denial of disability retirement is being contested.

3 (b) Failure of the person to request a formal hearing within the period of time
4 specified shall preclude the person from proceeding any further with the
5 application for disability retirement, except as provided in KRS 61.600(2),
6 78.5522, or 78.5524. This paragraph shall not limit the person's right to appeal
7 to a court.

8 (c) The system may require the person requesting the formal hearing to submit to
9 one (1) or more medical or psychological examinations. Notice of the time
10 and place of the examination shall be provided to the person or his or her legal
11 representative. The system shall be responsible for the cost of the
12 examination.

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

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

17 ~~(8)~~~~(4)~~ The boards of the Kentucky Retirement Systems and the County Employees
18 Retirement Systems may each establish an appeals committee whose members shall
19 be appointed by the chair and that shall have the authority to act upon the
20 recommendations and reports of the hearing officer pursuant to this section on
21 behalf of each respective board. The boards of the Kentucky Retirement Systems
22 and the County Employees Retirement System may establish a joint appeals
23 committee that shall be authorized to select a chair from among its committee
24 members and to act upon the recommendations and reports of the hearing officer
25 pursuant to this section on behalf of both boards.

26 ~~(9)~~~~(5)~~ Any person aggrieved by a final order of the board may seek judicial review
27 after all administrative appeals have been exhausted by filing a petition for judicial

1 review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

2 ➔Section 15. KRS 61.685 is amended to read as follows:

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

1 conduct is of that nature or that the circumstance exists; and

2 2. "Person" means a natural person, individual, county, city, agency, board
3 or commission, sole proprietorship, partnership, corporation, limited
4 liability company, organization, association, business, trust, or other
5 legal entity. "Person" may be construed as singular or plural.

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

7 1. Submits or causes to be submitted a false or fraudulent claim for the
8 payment or receipt of any benefit provided under KRS 16.505 to 16.652,
9 61.510 to 61.705, and 78.510 to 78.852;

10 2. Makes, uses, or causes to be made or used a false record or statement
11 material to a false or fraudulent claim to obtain benefits provided under
12 KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852;~~or~~

13 3. Possesses or otherwise has custody or control of money, records, or
14 property used or to be used by the Kentucky Public Pensions Authority
15 or the systems it administers and fails to deliver or delivers less than all
16 of the money, records, or property to which the authority or the
17 retirement systems it administers are entitled, including but not limited
18 to member agencies failing to report and remit employer and employee
19 contributions and employment records to the authority; ***or***

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

22 (c) A person found to have committed one (1) or more of the actions under
23 paragraph (b) of this subsection by a preponderance of the evidence in an
24 administrative process before the Authority or in an action before the Franklin
25 Circuit Court in conformity with all due process protections shall be liable for:

26 1. Restitution of any payments ***or other benefits*** received ***that***~~for which~~
27 the person was not entitled to receive ***pursuant to***~~by reason of violation~~

- 1 ~~of~~ KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 and
2 interest at the maximum legal rate pursuant to KRS 360.010 in effect on
3 the date any payment was made for the period from the date payment
4 was made to the date of repayment to the Authority;
- 5 2. A civil payment in an amount up to three (3) times the amount of the
6 excess payments;
- 7 3. A civil payment of five hundred dollars (\$500) for each false or
8 fraudulent claim submitted for the payment of benefits under KRS
9 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852; and
- 10 4. Legal fees and costs of investigation and enforcement of civil remedies,
11 including all attorneys' fees and costs of litigation.
- 12 (d) Upon the written request of the authority, the Attorney General shall
13 investigate and file the necessary actions to enforce civil penalties for
14 violations of this subsection and, if funds are recovered by or on behalf of the
15 authority in any legal action, may recover reasonable costs of litigation as
16 determined by the court as provided by KRS 48.005.
- 17 (e) Civil payments, interest, and costs of investigation and enforcement of civil
18 remedies, including attorneys' fees and other costs not included under
19 paragraph (d) of this subsection, recovered on behalf of the authority under
20 this subsection shall be made payable to the State Treasurer and remitted to
21 the Kentucky Public Pensions Authority for deposit in the affected trusts
22 administered by the Kentucky Public Pension Authority. The affected trusts
23 shall be made whole, and any additional penalties and fees shall be distributed
24 to the trusts as a whole consistent with the methods used to distribute
25 administrative expenses between the trusts.
- 26 (f) The remedies under this section are separate from and cumulative to any other
27 administrative, civil, or criminal remedies available to the authority and the

1 systems it administers under federal or state law or regulation.

2 ➔Section 16. KRS 61.692 is repealed, reenacted, and amended to read as follows:

3 (1) For members who begin participating in the Kentucky Employees Retirement
4 System prior to January 1, 2014, it is hereby declared that in consideration of the
5 contributions by the members and in further consideration of benefits received by
6 the state from the member's employment, KRS 61.510 to 61.705 shall, **except as**
7 **provided in KRS 6.696**, constitute an inviolable contract of the Commonwealth, and
8 the benefits provided therein shall not be subject to reduction or impairment by
9 alteration, amendment, or repeal, ~~except:~~

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

11 ~~(b) The General Assembly reserves the right to amend, reduce, or suspend any~~
12 ~~legislative changes to the provisions of KRS 61.510 to 61.705 that become~~
13 ~~effective on or after July 1, 2018].~~

14 (2) (a) For members who begin participating in the Kentucky Employees Retirement
15 System on or after January 1, 2014, the General Assembly reserves the right
16 to amend, suspend, or reduce the benefits and rights provided under KRS
17 61.510 to 61.705 if, in its judgment, the welfare of the Commonwealth so
18 demands, except that the amount of benefits the member has accrued at the
19 time of amendment, suspension, or reduction shall not be affected.

20 (b) For purposes of this subsection, the amount of benefits the member has
21 accrued at the time of amendment, suspension, or reduction shall be limited to
22 the accumulated account balance the member has accrued at the time of
23 amendment, suspension, or reduction.

24 (c) The provisions of this subsection shall not be construed to limit the General
25 Assembly's authority to change any other benefit or right specified by KRS
26 61.510 to 61.705, except the benefits specified by paragraph (b) of this
27 subsection, for members who begin participating in the Kentucky Employees

1 Retirement System on or after January 1, 2014.

2 (3) The provisions of this section shall not be construed to limit the General Assembly's
3 authority to amend, reduce, or suspend the benefits and rights of members of the
4 Kentucky Employees Retirement System as provided by KRS 61.510 to 61.705 that
5 the General Assembly had the authority to amend, reduce, or suspend, prior to July
6 1, 2013.

7 ➔Section 17. KRS 61.702 is amended to read as follows:

8 (1) For purposes of this section:

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

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

14 2. Any health savings account as permitted by 26 U.S.C. sec. 223 or health
15 reimbursement arrangement or a similar account as may be permitted by
16 26 U.S.C. sec. 105 or 106. Such arrangement or account, at the board's
17 discretion, may reimburse any medical expense permissible under 26
18 U.S.C. sec. 213; or

19 3. A medical insurance reimbursement program established by the board
20 through the promulgation of administrative regulation under which
21 members purchase individual health insurance coverage through a health
22 insurance exchange established under 42 U.S.C. sec. 18031 or 18041;

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

1 (c) "Months of service" means the total months of combined service used to
2 determine benefits under the system, except service added to determine
3 disability benefits or service otherwise prohibited from being used to
4 determine retiree health benefits under KRS 16.505 to 16.652 or 61.510 to
5 61.705 shall not be counted as "months of service." For current and former
6 employees of the Council on Postsecondary Education who were employed
7 prior to January 1, 1993, and who earn at least fifteen (15) years of service
8 credit in the Kentucky Employees Retirement System, "months of service"
9 shall also include vested service in another retirement system other than the
10 Kentucky Teachers' Retirement System sponsored by the Council on
11 Postsecondary Education.

12 (2) (a) 1. The board of trustees of the system shall arrange by appropriate contract
13 or on a self-insured basis to provide a group hospital and medical
14 insurance plan coverage for:
15 a. Present and future recipients of a retirement allowance from the
16 Kentucky Employees Retirement System and the State Police
17 Retirement System; and
18 b. The spouse and each qualified dependent of a recipient who is a
19 former member or the beneficiary, provided the spouse and
20 dependent meet the requirements to participate in the hospital and
21 medical insurance plans established, contracted, or authorized by
22 the system.
23 2. Any recipient who chooses coverage under a hospital and medical
24 insurance plan shall pay, by payroll deduction from the retirement
25 allowance, electronic funds transfer, or by another method, the
26 difference between the premium cost of the hospital and medical
27 insurance plan coverage selected and the monthly contribution rate to

1 which he or she would be entitled under this section.

- 2 (b) 1. For present and future recipients of a retirement allowance from the
3 system who are not eligible for Medicare and for those recipients
4 described in subparagraph 3.b. of this paragraph, the board may
5 authorize these participants to be included in the Kentucky Employees
6 Health Plan as provided by KRS 18A.225 to 18A.2287 and shall provide
7 benefits for recipients in the plan equal to those provided to state
8 employees having the same Medicare hospital and medical insurance
9 eligibility status. Notwithstanding the provisions of any other statute
10 except subparagraph 3.b. of this paragraph, system recipients shall be
11 included in the same class as current state employees for purposes of
12 determining medical insurance policies and premiums in the Kentucky
13 Employees Health Plan as provided by KRS 18A.225 to 18A.2287.
- 14 2. Regardless of age, if a recipient or the spouse or dependent child of a
15 recipient who elects coverage becomes eligible for Medicare, he or she
16 shall participate in the plans offered by the systems for Medicare
17 eligible recipients. Individuals participating in the Medicare eligible
18 plans may be required to obtain and pay for Medicare Part A and Part B
19 coverage, in order to participate in the Medicare eligible plans offered
20 by the system.
- 21 3. The system shall continue to provide the same hospital and medical
22 insurance plan coverage for recipients and qualifying dependents after
23 the age of sixty-five (65) as before the age of sixty-five (65), if:
- 24 a. The recipient is not eligible for Medicare coverage; or
25 b. The recipient would otherwise be eligible for Medicare coverage
26 but is subject to the Medicare Secondary Payer Act under 42
27 U.S.C. sec. 1395y(b) and has been reemployed by a participating

1 agency which offers the recipient a hospital and medical insurance
2 benefit or by a participating agency which is prevented from
3 offering a hospital and medical benefit to the recipient as a
4 condition of reemployment under KRS 70.293, 95.022, or
5 164.952. Individuals who are eligible, pursuant to this subdivision,
6 to be included in the Kentucky Employees Health Plan as provided
7 by KRS 18A.225 to 18A.2287 may be rated as a separate class
8 from other eligible employees and retirees for the purpose of
9 determining medical insurance premiums.

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

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

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

25 (b) 1. Each employer described in paragraph (a) of this subsection shall deduct
26 from the creditable compensation of each member whose membership
27 date begins on or after September 1, 2008, an amount equal to one

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

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

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

22 4. Every member shall be deemed to consent and agree to the deductions
23 made pursuant to this paragraph, and the payment of salary or
24 compensation less the deductions shall be a full and complete discharge
25 of all claims for services rendered by the person during the period
26 covered by the payment, except as to any benefits provided by KRS
27 16.505 to 16.652 or 61.510 to 61.705. No member may elect whether to

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

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

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

25 1. The recipient of a retirement allowance, by payroll deduction from his
26 or her retirement allowance, or by other method;

27 2. The insurance trust fund established under KRS 61.701 or accounts

1 established pursuant to 26 U.S.C. sec. 401(h) within the funds
2 established in KRS 16.510 and 61.515;

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

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

- 1 (b) For a member who began participating in the system prior to July 1, 2003, the
2 monthly contribution rate shall be paid by the system from the funds specified
3 under paragraph (a)2. of this subsection and shall be equal to a percentage of
4 the single premium to cover the retired member as follows:
- 5 1. One hundred percent (100%) of the monthly premium for single
6 coverage shall be paid for a retired member who had two hundred forty
7 (240) months of service or more upon retirement or for a retired member
8 who when he or she was an employee became disabled as a direct result
9 of an act in line of duty as defined in KRS 16.505 or as a result of a
10 duty-related injury as defined in KRS 61.621;
 - 11 2. Seventy-five percent (75%) of the monthly premium for single coverage
12 shall be paid for a retired member who had less than two hundred forty
13 (240) months of service but at least one hundred eighty (180) months of
14 service upon retirement, provided such retired member agrees to pay the
15 remaining twenty-five percent (25%) by payroll deduction from his or
16 her retirement allowance, electronic funds transfer, or by another
17 method;
 - 18 3. Fifty percent (50%) of the monthly premium for single coverage shall be
19 paid for a retired member who had less than one hundred eighty (180)
20 months of service but had at least one hundred twenty (120) months of
21 service upon retirement, provided such retired member agrees to pay the
22 remaining fifty percent (50%) by payroll deduction from his or her
23 retirement allowance, electronic funds transfer, or by another method; or
 - 24 4. Twenty-five percent (25%) of the monthly premium for single coverage
25 shall be paid for a retired member who had less than one hundred twenty
26 (120) months of service but had at least forty-eight (48) months of
27 service upon retirement, provided such retired member agrees to pay the

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

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

- 6 1. Dies as a direct result of an act in line of duty as defined in KRS 16.505
7 or dies as a result of a duty-related injury as defined in KRS 61.621, the
8 monthly premium shall be paid for his or her spouse so long as the
9 spouse remains eligible for a monthly retirement benefit;
- 10 2. Becomes totally and permanently disabled as defined in KRS 16.582 as
11 a direct result of an act in line of duty as defined in KRS 16.505 or
12 becomes disabled as a result of a duty-related injury as defined in KRS
13 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the
14 monthly premium shall be paid for his or her spouse so long as the
15 member and the spouse individually remain eligible for a monthly
16 retirement benefit; and
- 17 3. Dies as a direct result of an act in line of duty as defined in KRS 16.505,
18 dies as a result of a duty-related injury as defined in KRS 61.621,
19 becomes totally and permanently disabled as defined in KRS 16.582 as a
20 direct result of an act in line of duty as defined in KRS 16.505, or
21 becomes disabled as a result of a duty-related injury as defined in KRS
22 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the
23 monthly premium shall be paid for each dependent child as defined in
24 KRS 16.505, so long as the member remains eligible for a monthly
25 retirement benefit, unless deceased, and each dependent child
26 individually remains eligible under KRS 16.505.

27 (d) 1. For a member who began participating in the system prior to July 1,

1 2003, who was determined to be in a hazardous position in the Kentucky
2 Employees Retirement System or in a position in the State Police
3 Retirement System, *or who is receiving a retirement allowance based*
4 *on General Assembly service*, the funds specified under paragraph (a)2.
5 of this subsection shall also pay a percentage of the monthly
6 contribution rate sufficient to fund the premium costs for hospital and
7 medical insurance coverage for the spouse and for each dependent child
8 of a recipient.

9 2. The percentage of the monthly contribution rate paid for the spouse and
10 each dependent child of a recipient who was in a hazardous position *or*
11 *who is receiving a retirement allowance based on General Assembly*
12 *service* in accordance with subparagraph 1. of this paragraph shall be
13 based solely on the member's service in a hazardous position using the
14 formula in paragraph (b) of this subsection.

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

16 1. Participation in the insurance benefits provided under this section shall
17 not be allowed until the member has earned at least one hundred twenty
18 (120) months of service in the state-administered retirement systems,
19 except that for members who begin participating in the system on or
20 after September 1, 2008, participation in the insurance benefits provided
21 under this section shall not be allowed until the member has earned at
22 least one hundred eighty (180) months of service credited under KRS
23 16.543(1) or 61.543(1), or another state-administered retirement system.

24 2. A member who meets the minimum service requirements as provided by
25 subparagraph 1. of this paragraph shall upon retirement be eligible for
26 the following monthly contribution rate to be paid on his or her behalf,
27 *or on behalf of the spouse or dependent of a member with service in a*

- 1 *hazardous position*, from the funds specified under paragraph (a)2. of
2 this subsection:
- 3 a. For members with service in a nonhazardous position, a monthly
4 insurance contribution of ten dollars (\$10) for each year of service
5 as a participating employee in a nonhazardous position;~~and~~
- 6 b. For members with service in a hazardous position or who
7 participate in the State Police Retirement System, a monthly
8 insurance contribution of fifteen dollars (\$15) for each year of
9 service as a participating employee in a hazardous position or the
10 State Police Retirement System; *and*~~and~~
- 11 c. Upon the death of the retired member, the beneficiary, if the
12 beneficiary is the member's spouse, shall be entitled to a monthly
13 insurance contribution of ten dollars (\$10) for each year of service
14 the member attained as a participating employee in a hazardous
15 position.
- 16 3. The minimum service requirement to participate in benefits as provided
17 by subparagraph 1. of this paragraph shall be waived for a member who
18 receives a satisfactory determination of a hazardous disability that is a
19 direct result of an act in line of duty as defined in KRS 16.505, and the
20 member shall be entitled to the benefits payable under this subsection as
21 though the member had twenty (20) years of service in a hazardous
22 position.
- 23 4. The minimum service required to participate in benefits as provided by
24 subparagraph 1. of this paragraph shall be waived for a member who is
25 disabled as a result of a duty-related injury as defined in KRS 61.621
26 and is eligible for the benefits provided by KRS 61.621(5)(b), and the
27 member shall be entitled to the benefits payable under this subsection as

1 though the member had twenty (20) years of service in a nonhazardous
2 position.

3 5. Notwithstanding the provisions of this paragraph, the minimum service
4 requirement to participate in benefits as provided by subparagraph 1. of
5 this paragraph shall be waived for a for a member who dies as a direct
6 result of an act in line of duty as defined in KRS 16.505, who becomes
7 totally and permanently disabled as defined in KRS 16.582 as a direct
8 result of an act in line of duty as defined in KRS 16.505, who dies as a
9 result of a duty-related injury as defined in KRS 61.621, or who
10 becomes disabled as a result of a duty-related injury as defined in KRS
11 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a),
12 and the premium for the member, the member's spouse, and for each
13 dependent child as defined in KRS 16.505 shall be paid in full by the
14 systems so long as the member, member's spouse, or dependent child
15 individually remains eligible for a monthly retirement benefit.

16 6. Except as provided by subparagraph 5. of this paragraph, the monthly
17 insurance contribution amount shall be increased:

18 a. On July 1 of each year by one and one-half percent (1.5%). The
19 increase shall be cumulative and shall continue to accrue after the
20 member's retirement for as long as a monthly insurance
21 contribution is payable to the retired member or beneficiary but
22 shall not apply to any increase in the contribution attributable to
23 the increase specified by subdivision b. of this subparagraph; and

24 b. On January 1 of each year by five dollars (\$5) for members who
25 have accrued an additional full year of service as a participating
26 employee beyond the career threshold, subject to the following
27 restrictions:

- 1 i. The additional insurance contribution provided by this
2 subdivision shall only be applied to the monthly contribution
3 amounts provided under subparagraph 2.a. and b. of this
4 paragraph;
- 5 ii. The additional insurance contribution provided by this
6 subdivision shall only be payable towards the health plans
7 offered by the system to retirees who are not eligible for
8 Medicare or for reimbursements provided to retirees not
9 eligible for Medicare pursuant to subsection (6)(a)2. of this
10 section; and
- 11 iii. In order for the annual increase to occur as provided by this
12 subdivision, the funding level of retiree health benefits for
13 the system in which the employee is receiving the additional
14 insurance contribution shall be at least ninety percent (90%)
15 as of the most recent actuarial valuation and be projected by
16 the actuary to remain ninety percent (90%) for the year in
17 which the increase is provided.
- 18 7. The benefits of this paragraph provided to a member whose participation
19 begins on or after July 1, 2003, shall not be considered as benefits
20 protected by the inviolable contract provisions of KRS 16.652 or
21 61.692. The General Assembly reserves the right to suspend or reduce
22 the benefits conferred in this paragraph if in its judgment the welfare of
23 the Commonwealth so demands.
- 24 8. An employee whose membership date is on or after September 1, 2008,
25 who retires and is reemployed in a regular full-time position required to
26 participate in the system or the County Employees Retirement System
27 shall not be eligible for health insurance coverage or benefits provided

1 by this section and shall take coverage with his or her employing agency
2 during the period of reemployment in a regular full-time position.

3 9. For purposes of this paragraph:

4 a. "Career threshold" for a member with service in a nonhazardous
5 position means twenty-seven (27) years of service credited under
6 KRS 16.543(1), 61.543(1), 78.615(1), or another state-
7 administered retirement system and for a member with service in a
8 hazardous position means the service requirements specified by
9 KRS 16.577(2) or (3) or 16.583(6)(b), as applicable; and

10 b. "Funding level" means the actuarial value of assets divided by the
11 actuarially accrued liability expressed as a percentage that is
12 determined and reported by the system's actuary in the annual
13 actuarial valuation.

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

16 1. The system shall compute the member's combined service, including
17 service credit in another state-administered retirement system, and
18 calculate the portion of the member's premium monthly contribution rate
19 to be paid by the funds specified under paragraph (a)2. of this subsection
20 according to the criteria established in paragraphs (a) to (e) of this
21 subsection. Each state-administered retirement system shall pay
22 annually to the insurance trust fund established under KRS 61.701 the
23 portion of the system's cost of the retiree's monthly contribution for
24 single coverage for hospital and medical insurance plan which shall be
25 equal to the percentage of the member's number of months of service in
26 the other state-administered retirement plan divided by his or her total
27 combined service and in conjunction with the reciprocal agreement

1 established between the system and the other state-administered
2 retirement systems. The amounts paid by the other state-administered
3 retirement plans and by the Kentucky Retirement Systems from funds
4 specified under paragraph (a)2. of this subsection shall not be more than
5 one hundred percent (100%) of the monthly contribution adopted by the
6 respective boards of trustees;

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

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

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

19 (6) (a) The board shall promulgate an administrative regulation to establish a medical
20 insurance reimbursement plan to provide reimbursement for hospital and
21 medical insurance plan premiums of recipients of a retirement allowance who:

22 1. Are not eligible for the same level of hospital and medical benefits as
23 recipients living in Kentucky and having the same Medicare hospital
24 and medical insurance eligibility status; or

25 2. Are eligible for retiree health subsidies as provided by subsection
26 ~~(4)(e)~~[(4)(d)] of this section, except for those recipients eligible for full
27 premium subsidies under subsection (4)(e)5. of this section. The

1 reimbursement program as provided by this subparagraph shall be
2 available to the recipient regardless of the hospital and medical
3 insurance plans offered by the systems.

4 (b) An eligible recipient shall file proof of payment for hospital and medical
5 insurance plan coverage with the retirement office. Reimbursement to eligible
6 recipients shall be made on a quarterly basis. The recipient shall be eligible
7 for reimbursement of substantiated medical insurance premiums for an
8 amount not to exceed the total monthly contribution rate determined under
9 subsection (4) of this section.

10 (c) For purposes of recipients described by paragraph (a)1. of this subsection, the
11 plan shall not be made available if all recipients are eligible for the same
12 coverage as recipients living in Kentucky.

13 ➔Section 18. KRS 61.705 is amended to read as follows:

14 (1) (a) Upon the death of a retired member of the Kentucky Employees Retirement
15 System or State Police Retirement System who was receiving a monthly
16 retirement allowance based on a minimum of forty-eight (48) months of
17 service or whose retirement allowance based on a minimum of forty-eight
18 (48) months was suspended in accordance with KRS 61.637, a death benefit
19 for the beneficiary of five thousand dollars (\$5,000) shall be paid.

20 (b) If the retired member had more than one (1) account in the Kentucky
21 Employees Retirement System or State Police Retirement System, or was
22 eligible for a benefit under KRS 78.5538 from the County Employees
23 Retirement System, the systems shall pay only one (1) five thousand dollar
24 (\$5,000) death benefit to the named beneficiary. Each system's cost shall be
25 prorated between the systems based upon the level of service credit in each
26 system.

27 (c) Application for the death benefit made to the Kentucky Retirement Systems

1 shall include acceptable evidence of death and of the eligibility of the
2 applicant to receive the death benefit~~fact on the deceased retired member's~~
3 ~~behalf~~.

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

13 (b) If the beneficiary designated under this section is a person and that person
14 dies prior to the member, or if the beneficiary was the retired member's
15 spouse and they were divorced on the date of the retired member's death, then
16 the retired member's estate shall become the beneficiary, unless the retired
17 member has filed a subsequent death benefit designation.

18 (c) If a licensed funeral home is designated as beneficiary and the licensed
19 funeral home cannot be reasonably identified or located by Kentucky
20 Retirement Systems at the time of the retired member's death, then the retired
21 member's estate shall become the beneficiary of the death benefit.

22 (3) *The five thousand dollar (\$5,000) death benefit paid to the designated beneficiary*
23 *shall not be subject to garnishment as an asset of the retired member's estate,*
24 *except if:*

25 (a) ~~[[If,]~~At the time of the retired member's death, a debt to the Kentucky
26 Retirement Systems remains on his or her account, the balance owed shall be
27 deducted from the five thousand dollar~~dollars~~ (\$5,000) death benefit;

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

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

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

9 ➔Section 19. KRS 78.530 is amended to read as follows:

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

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

- 24 1. County governments entering the system between April 9, 2002, and
 25 July 1, 2003, under this section shall be excluded from this requirement;
- 26 2. Agencies entering the system on or after April 9, 2002, which were
 27 established by a merger or an interlocal agreement to provide public

1 services shall be excluded from this requirement if any agencies entering
2 into the merger or interlocal agreement had an initial participation date
3 with the system prior to April 9, 2002; and

4 3. Any consolidated emergency services district.

5 (2) Once a county or school board participates, it shall thereafter continue to
6 participate, except as provided in KRS 78.535.

7 (3) (a) Concurrent with the adoption of the appropriate resolution to participate in the
8 system, a county may elect the alternate participation plan which will require
9 the county to purchase on behalf of each employee electing coverage, at the
10 time the county elected to participate in the system as provided under KRS
11 78.540(1)(b)~~and (c)~~, current service credit for employment in regular full-
12 time positions between July 1, 1958, and the participation date of the county.
13 Cities which participate in the system pursuant to subsection (6) of this
14 section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852,
15 or 96.180 shall be required to purchase on behalf of each employee electing
16 coverage only as much service credit as the employee has accumulated in the
17 city-administered plan, up to the participation date of the city. Accumulated
18 service shall include service for which an employee received a refund
19 pursuant to KRS 95.620 or 95.866, if such refund has been repaid. If the
20 employee has not yet repaid the refund, he *or she* may make payment to the
21 system by any method acceptable to the system, and the requirement of five
22 (5) years of continuous reemployment prior to repayment of refunds shall not
23 apply. Upon the employee's repayment, the city shall purchase the associated
24 service credit for the employee. Cost of such service credit over and above
25 that which would be funded within the existing employer contribution rate
26 shall be determined by the board's consulting actuary. The expense of such
27 actuarial service shall be paid by the county.

1 (b) The county shall establish a payment schedule subject to approval by the
2 board for payment of the cost of such service over and above that which
3 would be funded within the existing employer contribution rate. The
4 maximum period allowed in a payment schedule shall be thirty (30) years,
5 with interest at the rate actuarially assumed by the board. A shorter period is
6 desirable and the board may approve any payment schedule provided it is not
7 longer than a thirty (30) year period, except that cities which participate in the
8 system pursuant to subsection (6) of this section, KRS 79.080, 90.400,
9 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 may, at their
10 option, extend the payment schedule to a maximum of thirty (30) years, may
11 choose to make level payments at the interest rate actuarially assumed by the
12 board over the life of the payment schedule chosen, and may retain employer
13 contributions and the earnings thereon attributable to employees electing
14 coverage.

15 (c) A city entering the system under the alternate participation plan, may, by
16 ordinance, levy a special property tax to pay for current service credit
17 purchased for the period between July 1, 1958, and the participation date of
18 the city. The special tax shall be to pay, within a period of no more than
19 fifteen (15) years, for the cost of such service credit over that which would be
20 funded within the existing employer contribution rate, as determined by the
21 board's consulting actuary. The reason for levying the special tax and the
22 disposition of the proceeds shall be part of the ordinance levying the tax. The
23 special tax shall be rescinded when the unfunded prior service liability has
24 been amortized, and shall not be subject to the provisions of KRS 132.017 or
25 132.027. In addition, the city may maintain any tax, the proceeds of which
26 had been devoted to funding pension obligations under the locally
27 administered plan prior to participation in the system, for the purpose of

1 funding current service costs incurred after the date of participation. The city
2 may increase the tax to pay current service costs which exceed the local
3 pension system costs to which the tax had been devoted, but the city shall not
4 collect from the tax more revenues than are necessary to pay current service
5 costs incurred after the date of participation. The city may continue the tax so
6 long as it participates in the system, and the tax shall not be subject to the
7 provisions of KRS 132.017 or 132.027. The city shall not collect either tax
8 authorized by this paragraph if its participation has been terminated pursuant
9 to KRS 78.535.

10 (d) The county may at a later date purchase current service credit from July 1,
11 1958, to the participation date of the county by alternate participation plan for
12 those employees who rejected membership in the system at the time the
13 county first participated. In addition, the employer shall pay the employer
14 contributions on the creditable compensation of the employees who later elect
15 membership from the participation date of the county to the date the member
16 elects participation. The employee shall pay the employee contributions on his
17 or her creditable compensation from the participation date of the county to the
18 date he or she elects membership plus interest at the current actuarial rate
19 compounded annually on the employee and employer contributions. Cost of
20 the service credit over and above that which would be funded within the
21 existing employer contribution rate shall be determined by the board's
22 consulting actuary. The expense of the actuarial service shall be paid by the
23 county. The county shall pay the cost of the service by lump sum or by adding
24 it to the existing payment schedule established under paragraph (b) of this
25 subsection.

26 (e) A county which did not participate by alternate participation may, until July 1,
27 1991, purchase current service credit for those employees who rejected

1 membership in the system at the time the county first participated. The
2 employer shall pay the employer contributions on the creditable compensation
3 of the employees who later elect membership from the participation date of
4 the county to the date the member elects participation. The employee shall
5 pay the employee contributions on his or her creditable compensation from
6 the participation date of the county to the date he or she elects membership
7 plus interest at the current actuarial rate compounded annually on the
8 employee and employer contributions. The county shall pay the cost of the
9 service credit by lump sum or by establishing a payment schedule under
10 paragraph (b) of this subsection.

11 (f) A county which participated in the system but did not elect the alternate
12 participation plan may at a later date elect the alternate participation plan. In
13 this case, the county shall purchase on behalf of each employee participating
14 in the system current service credit for employment in regular full-time
15 positions between July 1, 1958, or a later date selected by the county
16 government, and the participation date of the county. The county shall also
17 purchase, for employees who decide to participate when the county elects the
18 alternate participation plan, current service credit for employment in regular
19 full-time positions between July 1, 1958, or the later date selected by the
20 county government, and the participation date of the county. In addition, the
21 county shall pay the employer contributions on the creditable compensation of
22 the employees who later elect membership from the participation date of the
23 county to the date the member elects participation. The employee shall pay
24 the employee contributions on his or her creditable compensation from the
25 participation date of the county to the date he or she elects membership plus
26 interest at the current actuarial rate compounded annually on the employee
27 and employer contributions. Cost of the service credit over that which would

1 be funded within the existing employer contribution rate shall be determined
2 by the board's consulting actuary. The expense of the actuarial service shall be
3 paid by the county. The county shall pay the cost of the service by lump sum
4 or by a payment schedule established under paragraph (b) of this subsection.

5 (g) Notwithstanding any other provision of the Kentucky Revised Statutes to the
6 contrary, this subsection shall not apply to members who begin participating
7 in the system on or after January 1, 2014, and no county that elects to
8 participate in the system on or after January 1, 2014, shall be eligible to
9 participate under the alternate participation plan.

10 (4) Every school board not participating on June 21, 1974, shall enact a resolution of
11 participation no later than July 1, 1976.

12 (5) The order of the governing body of a county, as provided for in subsection (1) of
13 this section, may exclude from participation in the system hospitals and any other
14 semi-independent agency. Each such excluded agency shall be identified in the
15 order authorizing participation and such excluded agency may participate in the
16 system as a separate agency.

17 (6) (a) After August 1, 1988, except as permitted by KRS 65.156, no local
18 government retirement system shall be created pursuant to KRS 70.580 to
19 70.598 and any local government retirement systems created pursuant to KRS
20 79.080, 90.400, 90.410, 95.768, and KRS Chapter 96 shall be closed to new
21 members. New employees who would have been granted membership in such
22 retirement systems shall instead be granted membership in the County
23 Employees Retirement System. Employees who would have been granted
24 membership in retirement systems created pursuant to KRS 95.768, or any
25 other policemen or firefighters who would have been granted membership in
26 retirement systems created pursuant to KRS 79.080, 90.400, or 90.410, or any
27 such policemen or firefighter members employed on or prior to August 1,

1 1988, who transfer to the County Employees Retirement System, shall be
2 certified by their employers as working in hazardous positions. Each city
3 participating in the County Employees Retirement System pursuant to this
4 subsection shall execute the appropriate order authorizing such participation,
5 shall select the alternate participation plan as described in subsection (3) of
6 this section, and shall pay for the actuarial services necessary to determine the
7 additional costs of alternate participation. Cities which closed their local
8 pension systems to new members and participated in the system prior to July
9 15, 1988, whose employees at the time of transition were given the option to
10 join the system shall not be required to offer said employees a second option
11 to join the system.

12 (b) Notwithstanding any statute to the contrary, after April 9, 2002, the system
13 shall deny the request for participation of any agency which does not have an
14 irrevocable contract with the state Personnel Cabinet for health insurance
15 coverage under KRS 18A.225 to 18A.229 for its active employees, except that
16 agencies entering the system on or after April 9, 2002, which were established
17 by a merger or an interlocal agreement to provide public services shall be
18 excluded from this requirement if all agencies entering into the merger or
19 interlocal agreement had an initial participation date with the system prior to
20 April 9, 2002.

21 (7) Any city which closed a police and firefighter pension plan to new members
22 between January 1, 1988, and July 15, 1988, and participated in the system under
23 the alternate participation plan shall, if its police and firefighters were not covered
24 by Social Security, or any city which operates a pension under KRS 90.400 or
25 90.410, shall be required to certify that its police and firefighters are working in
26 hazardous positions, and shall offer its police and firefighters in service at the time
27 of entry a second option to participate under hazardous duty coverage if they were

1 not offered hazardous duty coverage at the time of their first option. The provisions
2 of subsection (3)(b) of this section notwithstanding, a city affected by this
3 subsection may, at its option, extend its payment schedule to the County Employees
4 Retirement System for alternate participation to thirty (30) years at the rate
5 actuarially assumed by the board.

6 ➔Section 20. KRS 78.540 is amended to read as follows:

7 Membership in the system shall consist of the following:

8 (1) (a) All persons who become employees of a participating county after the date the
9 county first participates in the system, except that:

- 10 1. Mayors and members of city legislative bodies may decline prior to their
11 participation in the system; and
- 12 2. City managers or other appointed local government executives who
13 participate in a retirement system, other than Social Security, may
14 decline prior to their participation in the system;

15 (b) All persons who are employees of a county on the date the county first
16 participates in the system, either in service or on authorized leave from
17 service, and who elect within thirty (30) days next following the county's
18 participation, or in the case of persons on authorized leave, within thirty (30)
19 days of their return to active service, to become members and thereby agree to
20 make contributions as provided in KRS 78.520 to 78.852; **and**

21 (c) ~~[All persons who are employees of a county who did not elect to participate~~
22 ~~within thirty (30) days of the date the county first participated in the system or~~
23 ~~within thirty (30) days of their return to active service and who subsequently~~
24 ~~elect to participate the first day of a month after the county's date of~~
25 ~~participation;~~

26 (d) ~~All persons who declined participation as provided by paragraph (a) of this~~
27 ~~subsection and who later elect to participate. Persons who elect to participate~~

1 ~~under this paragraph may purchase service credit for any prior years in~~
2 ~~accordance with KRS 61.552(5)(a), provided the person began participating in~~
3 ~~the system prior to January 1, 2014. The service shall not be included in the~~
4 ~~member's total service for purposes of determining benefits under KRS~~
5 ~~78.5536; and~~

6 ~~(e)~~—]All persons electing coverage in the system under KRS 78.530(3)(d).

7 (2) The provisions of subsection (1)(a) ***and (b)***~~[(e)]~~ of this section notwithstanding,
8 cities which participate in the CERS and close existing local pension systems to
9 new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621, or
10 95.852 shall not be required to provide membership in the County Employees
11 Retirement System to employees in any employee category not covered by a city
12 pension system at the date of participation.

13 (3) Membership in the system shall not include:

14 (a) Persons who are not eligible to participate in the system as provided by KRS
15 78.535; or

16 (b) Employees who are simultaneously participating in another state-administered
17 defined benefit plan within Kentucky other than those administered by the
18 Kentucky Retirement Systems or the County Employees Retirement System.

19 (4) (a) The membership of any person in the system shall cease:

20 1. Upon withdrawal of his or her accumulated account balance at or any
21 time after termination of employment, regardless of length of service;

22 2. Upon retirement;

23 3. Upon death;

24 4. For persons hired prior to August 1, 2000, upon termination of
25 employment with prejudice, as defined by paragraph (b) of this
26 subsection; or

27 5. For persons hired on or after August 1, 2000, upon conviction of a

1 felony relating to the person's employment as provided in paragraph (c)
2 of this subsection.

3 (b) For purposes of KRS 78.510 to 78.852, termination of employment with
4 prejudice shall mean termination as the result of conviction of the member in
5 a court of competent jurisdiction of embezzlement or larceny of public funds
6 or property or malfeasance in office, or the forcing of a member to make
7 restitution for any funds or property criminally taken by the member at the
8 time of termination of employment.

9 (c) Notwithstanding any provision of law to the contrary, an employee hired on
10 or after August 1, 2000, who participates in the system and who is convicted,
11 in any state or federal court of competent jurisdiction, of a felony related to
12 his or her employment shall forfeit rights and benefits earned under the
13 system, except for the return of his or her accumulated contributions and
14 interest credited on those contributions. The payment of retirement benefits
15 ordered forfeited shall be stayed pending any appeal of the conviction. If the
16 conviction is reversed on final judgment, no retirement benefit shall be
17 forfeited. The employer shall notify the system when an employee is
18 convicted under the provisions of this subsection.

19 (d) When membership ceases, except in the case of retirement, the member shall
20 thereafter lose all right to any retirement allowance or benefits under KRS
21 78.510 to 78.852 arising from service prior to the date of such cessation of
22 membership.

23 ➔Section 21. KRS 78.5528 is amended to read as follows:

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

26 **1. Review and investigate all employment information and forms**
27 **submitted by a disability recipient under this section and KRS 78.5526;**

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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 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 14 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

1 *duties requiring greater residual functional capacity, as the position*
 2 *from which he or she was disabled*~~[, the system may reduce or~~
 3 ~~discontinue the retirement allowance. Each recipient of a disability~~
 4 ~~retirement allowance who is engaged in gainful employment shall notify~~
 5 ~~the Authority of any employment; otherwise, the system shall have the~~
 6 ~~right to recover payments of a disability retirement allowance made~~
 7 ~~during the employment].~~

8 ~~(3)~~~~(2)~~ *The system may reduce or discontinue a recipient's disability allowance* if
 9 the Authority's medical examiner determines that a recipient of a disability
 10 retirement allowance is, prior to his or her normal retirement date, no longer
 11 incapacitated by the bodily injury, mental illness, or disease for which he or she
 12 receives a disability retirement allowance~~[, the system may reduce or discontinue~~
 13 ~~the retirement allowance].~~

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

19 ~~(b)~~~~(a)~~ The Authority shall select *one (1)*~~(a)~~ medical examiner to evaluate the
 20 forms and *employment and* medical information submitted by the person. *If*
 21 *only employment information is submitted, the Authority may select one (1)*
 22 *vocational expert to evaluate the forms and employment information*
 23 *submitted by the person.* If there is objective medical evidence of a mental
 24 impairment, the medical examiner may request the Authority's licensed
 25 mental health professional to assist in determining the level of the mental
 26 impairment.

27 ~~(c)~~~~(b)~~ The medical *examiner or vocational expert*~~(examiners)~~ shall be paid a

1 reasonable amount by the Authority~~[retirement system]~~ for each case
2 evaluated.

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

6 2.~~[1]~~ If the medical examiner or vocational expert recommends that the
7 disability retirement allowance be continued, the system shall make
8 retirement payments in accordance with the retirement plan selected by
9 the person.

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

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

26 c.~~[b]~~ If the person fails or refuses to file at the retirement office the
27 forms, the additional supporting employment information, and

1 current medical information or to appeal the recommendation of
2 the medical examiner or vocational expert~~[examiners]~~ to reduce
3 or discontinue the disability retirement allowance, his or her
4 retirement allowance shall be discontinued on the first day of the
5 month following the expiration of the period of the sixty (60) days
6 from the day the Authority sent~~[mailed]~~ the notice of the
7 recommendation to the person's last address on file in the
8 retirement office, by electronic mail to the person's last electronic
9 mail address on file in the retirement office, or by other
10 electronic means.

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

17 2.~~[(1)]~~ If the medical examiner or vocational expert recommends that the
18 disability retirement allowance be continued, the system shall make
19 disability retirement payments in accordance with the retirement plan
20 selected by the person.

21 3. a.~~[(2)]~~ If the medical examiner recommends that the disability retirement
22 allowance be reduced or discontinued based upon the evaluation of
23 additional supporting employment information and medical
24 information, or if the vocational expert recommends that the
25 disability retirement allowance be reduced or discontinued based
26 upon the evaluation of additional employment information, the
27 Authority shall send notice of this recommendation by United

1 States first-class mail to the person's last address on file in the
 2 retirement office, **by electronic mail to the person's last electronic**
 3 **mail address on file in the retirement office, or by other**
 4 **electronic means.**

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

10 ~~c.[b.]~~ If the person fails or refuses to appeal the recommendation of the
 11 medical ~~examiner or vocational expert~~~~examiners~~ to reduce or
 12 discontinue the disability retirement allowance, his or her
 13 retirement allowance shall be discontinued on the first day of the
 14 month following the expiration of the period of the sixty (60) days
 15 from the day the Authority ~~sent~~~~mailed~~ the notice of the
 16 recommendation to the person's last address on file in the
 17 retirement office, **by electronic mail to the person's last electronic**
 18 **mail address on file in the retirement office, or by other**
 19 **electronic means.**

20 ~~(f)(e)~~ Any person whose disability benefits have been reduced or
 21 discontinued, pursuant to paragraph ~~(d)3.a. or (e)3.a.~~~~(e)2. or (d)2.~~ of this
 22 subsection, may file at the retirement office a request for formal hearing to be
 23 conducted in accordance with KRS Chapter 13B. The right to demand a
 24 formal hearing shall be limited to a period of sixty (60) days after the person
 25 had notice, as described in paragraph~~(e) or~~ (d) **or (e)** of this subsection. The
 26 request for formal hearing shall be filed with the Authority, at the retirement
 27 office in Frankfort. The request for formal hearing shall include a short and

1 plain statement of the reasons the reduction, discontinuance, or denial of
2 disability retirement is being contested.

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

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

19 ~~(i)~~~~(h)~~ Notwithstanding any other provisions of this section, the
20 ~~system~~~~Authority~~ may require the person to submit to one (1) or more
21 medical or psychological examinations at any time. The system shall be
22 responsible for any costs associated with any examinations of the person
23 requested by the medical examiner or the system for the purpose of providing
24 medical information deemed necessary by the medical examiner or the
25 system. Notice of the time and place of the examination shall be
26 ~~provided~~~~mailed~~ to the person or his or her legal representative. If the person
27 fails or refuses to submit to one (1) or more medical examinations, his or her

1 rights to further disability retirement allowance shall cease.

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

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

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

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

16 (a) The person may not change his or her beneficiary or payment option;

17 (b) If the person has returned to employment with an employer participating in
18 the County Employees Retirement System, Kentucky Employees Retirement
19 System, or State Police Retirement System ~~or the Kentucky Retirement~~
20 ~~Systems~~, the service and creditable compensation shall be used in
21 recomputing his or her benefit, except that the person's final compensation
22 shall not be less than the final compensation last used in determining his or
23 her retirement allowance;

24 (c) The benefit shall be reduced as provided by KRS 78.5510(4) or 78.5514(4);

25 (d) 1. The person shall remain eligible for reinstatement of his or her disability
26 allowance upon reevaluation ~~by the medical examiners~~ until his or her
27 normal retirement age. The person shall apply for reinstatement of

1 disability benefits in accordance with the provisions of this
2 paragraph~~[section]~~.

3 2. An application for reinstatement of disability benefits shall be
4 administered as an application under KRS 78.5524 or 78.5526, as
5 applicable, except:~~[and]~~

6 a. Only the bodily injuries, mental illnesses, diseases, or conditions
7 for which the person was originally approved for disability
8 benefits shall be considered. Bodily injuries, mental illnesses,
9 diseases, or conditions that came into existence after the person's
10 last day of paid employment shall not be considered as a basis for
11 reinstatement of disability benefits. Bodily injuries, mental
12 illnesses, diseases, or conditions alleged by the person as being
13 incapacitating, but which were not the basis for the award of
14 disability retirement benefits, shall not be considered;~~[and]~~

15 b. A person whose disability allowance was discontinued under
16 subsection (2) of this section, who is still employed in the same
17 position on which his or her disability allowance was
18 discontinued, shall submit with the application employment
19 information detailing the changes to the position evidencing
20 cause for reinstatement;

21 c. A person whose disability allowance was discontinued under
22 subsection (3) of this section shall provide with the application
23 new objective medical evidence not previously considered by the
24 Authority's medical examiner; and

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

27 3. If the person establishes that the disability benefits should be reinstated,

1 the system shall pay disability benefits effective from the first day of the
2 month following the month in which the person applied for
3 reinstatement of the disability benefits; and

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

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

11 **(9)** No disability retirement allowance shall be reduced or discontinued by the system
12 after the person's normal retirement date except in case of reemployment as
13 provided for by KRS 78.5540. If a disability retirement allowance has been reduced
14 or discontinued, except if the person is reemployed as provided for by KRS
15 78.5540, the retirement allowance shall be reinstated upon attainment of the
16 person's normal retirement date to the retirement allowance prior to adjustment. No
17 reinstated payment shall be less than the person is receiving upon attainment of the
18 person's normal retirement date.

19 ➔Section 22. KRS 78.5536 is amended to read as follows:

20 (1) For purposes of this section:

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

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

26 2. Any health savings account as permitted by 26 U.S.C. sec. 223 or health
27 reimbursement arrangement or a similar account as may be permitted by

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

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

- 1 the age of sixty-five (65) as before the age of sixty-five (65), if:
- 2 a. The recipient is not eligible for Medicare coverage; or
- 3 b. The recipient would otherwise be eligible for Medicare coverage
- 4 but is subject to the Medicare Secondary Payer Act under 42
- 5 U.S.C. sec. 1395y(b) and has been reemployed by a participating
- 6 agency which offers the recipient a hospital and medical insurance
- 7 benefit or by a participating agency which is prevented from
- 8 offering a hospital and medical benefit to the recipient as a
- 9 condition of reemployment under KRS 70.293, 95.022, or
- 10 164.952. Individuals who are eligible, pursuant to this subdivision,
- 11 to be included in the Kentucky Employees Health Plan as provided
- 12 by KRS 18A.225 to 18A.2287 may be rated as a separate class
- 13 from other eligible employees and retirees for the purpose of
- 14 determining medical insurance premiums.
- 15 (c) For recipients of a retirement allowance who are not eligible for the same
- 16 level of hospital and medical benefits as recipients living in Kentucky having
- 17 the same Medicare hospital and medical insurance eligibility status, the board
- 18 shall provide a medical insurance reimbursement plan as described in
- 19 subsection (6) of this section.
- 20 (d) Notwithstanding anything in KRS Chapter 78 to the contrary, the board of
- 21 trustees, in its discretion, may take necessary steps to ensure compliance with
- 22 42 U.S.C. secs. 300bb-1 et seq.
- 23 (3) (a) Each employer participating in the County Employees Retirement System as
- 24 provided in KRS 78.510 to 78.852 shall contribute to the insurance trust fund
- 25 established by KRS 61.701 the amount necessary to provide the monthly
- 26 contribution rate as provided for under this section. Such employer
- 27 contribution rate shall be developed by appropriate actuarial method as a part

1 of the determination of each respective employer contribution rate determined
2 under KRS 78.635.

- 3 (b) 1. Each employer described in paragraph (a) of this subsection shall deduct
4 from the creditable compensation of each member whose membership
5 date begins on or after September 1, 2008, an amount equal to one
6 percent (1%) of the member's creditable compensation. The deducted
7 amounts shall, at the discretion of the board, be credited to accounts
8 established pursuant to 26 U.S.C. sec. 401(h), within the funds
9 established in KRS 78.520, or the insurance trust fund established under
10 KRS 61.701. Notwithstanding the provisions of this paragraph, a
11 transfer of assets between the accounts established pursuant to 26 U.S.C.
12 sec. 401(h), within the funds established in KRS 78.520, and the
13 insurance trust fund established under KRS 61.701 shall not be allowed.
- 14 2. The employer shall file the contributions as provided by subparagraph 1.
15 of this paragraph at the retirement office in accordance with KRS
16 78.625. Any interest or penalties paid on any delinquent contributions
17 shall be credited to accounts established pursuant to 26 U.S.C. sec.
18 401(h), within the funds established in KRS 78.520, or the insurance
19 trust fund established under KRS 61.701. Notwithstanding any
20 minimum compensation requirements provided by law, the deductions
21 provided by this paragraph shall be made, and the compensation of the
22 member shall be reduced accordingly.
- 23 3. Each employer shall submit payroll reports, contributions lists, and other
24 data as may be required by administrative regulation promulgated by the
25 board of trustees pursuant to KRS Chapter 13A.
- 26 4. Every member shall be deemed to consent and agree to the deductions
27 made pursuant to this paragraph, and the payment of salary or

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

20 5. The board of trustees, at its discretion, may direct that the contributions
21 required by this paragraph be accounted for within accounts established
22 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS
23 78.520, or the insurance trust fund established under KRS 61.701,
24 through the use of separate accounts.

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

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

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

1 shall be considered disabled if he or she has been determined to be eligible for
2 federal Social Security disability benefits or meets the dependent disability
3 standard established by the Department of Employee Insurance in the
4 Personnel Cabinet.

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

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

- 1 4. Twenty-five percent (25%) of the monthly premium for single coverage
2 shall be paid for a retired member who had less than one hundred twenty
3 (120) months of service but had at least forty-eight (48) months of
4 service upon retirement, provided such retired member agrees to pay the
5 remaining seventy-five percent (75%) by payroll deduction from his or
6 her retirement allowance, electronic funds transfer, or by another
7 method.
- 8 (c) Notwithstanding paragraph (b) of this subsection, for a member participating
9 in the system prior to July 1, 2003, who:
- 10 1. Dies as a direct result of an act in line of duty as defined in KRS 78.510
11 or dies as a result of a duty-related injury as defined in KRS 61.621, the
12 monthly premium shall be paid for his or her spouse so long as the
13 spouse remains eligible for a monthly retirement benefit;
- 14 2. Becomes totally and permanently disabled as defined in KRS 78.5524 as
15 a direct result of an act in line of duty as defined in KRS 78.510 or
16 becomes disabled as a result of a duty-related injury as defined in KRS
17 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the
18 monthly premium shall be paid for his or her spouse so long as the
19 member and the spouse individually remain eligible for a monthly
20 retirement benefit; and
- 21 3. Dies as a direct result of an act in line of duty as defined in KRS 78.510,
22 dies as a result of a duty-related injury as defined in KRS 61.621,
23 becomes totally and permanently disabled as defined in KRS 78.5524 as
24 a direct result of an act in line of duty as defined in KRS 78.510, or
25 becomes disabled as a result of a duty-related injury as defined in KRS
26 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the
27 monthly premium shall be paid for each dependent child as defined in

1 KRS 78.510, so long as the member remains eligible for a monthly
2 retirement benefit, unless deceased, and each dependent child
3 individually remains eligible under KRS 78.510.

4 (d) 1. For a member who began participating in the system prior to July 1,
5 2003, who was determined to be in a hazardous position in the County
6 Employees Retirement System, or who is receiving a retirement
7 allowance based on General Assembly service, the funds specified
8 under paragraph (a)2. of this subsection shall also pay a percentage of
9 the monthly contribution rate sufficient to fund the premium costs for
10 hospital and medical insurance coverage for the spouse and for each
11 dependent child of a recipient.

12 2. The percentage of the monthly contribution rate paid for the spouse and
13 each dependent child of a recipient who was in a hazardous position or
14 who is receiving a retirement allowance based on General Assembly
15 service in accordance with subparagraph 1. of this paragraph shall be
16 based solely on the member's service in a hazardous position using the
17 formula in paragraph (b) of this subsection, except that for any recipient
18 of a retirement allowance from the County Employees Retirement
19 System who was contributing to the system on January 1, 1998, for
20 service in a hazardous position, the percentage of the monthly
21 contribution shall be based on the total of hazardous service and any
22 nonhazardous service as a police or firefighter with the same agency, if
23 that agency was participating in the County Employees Retirement
24 System but did not offer hazardous duty coverage for its police and
25 firefighters at the time of initial participation.

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

27 1. Participation in the insurance benefits provided under this section shall

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

1 direct result of an act in line of duty as defined in KRS 78.510(48) and
2 the member shall be entitled to the benefits payable under this
3 subsection as though the member had twenty (20) years of service in a
4 hazardous position:~~[-]~~

5 4. The minimum service required to participate in benefits as provided by
6 subparagraph 1. of this paragraph shall be waived for a member who is
7 disabled as a result of a duty-related injury as defined in KRS 61.621
8 and is eligible for the benefits provided by KRS 61.621(5)(b), and the
9 member shall be entitled to the benefits payable under this subsection as
10 though the member had twenty (20) years of service in a nonhazardous
11 position:~~[-]~~

12 5. Notwithstanding the provisions of this paragraph, the minimum service
13 requirement to participate in benefits as provided by subparagraph 1. of
14 this paragraph shall be waived for a member who dies as a direct result
15 of an act in line of duty as defined in KRS 78.510(48), who becomes
16 totally and permanently disabled as defined in KRS 78.5524 as a direct
17 result of an act in line of duty as defined in KRS 78.510, who dies as a
18 result of a duty-related injury as defined in KRS 61.621, or who
19 becomes disabled as a result of a duty-related injury as defined in KRS
20 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a),
21 and the premium for the member, the member's spouse, and for each
22 dependent child as defined in KRS 78.510 shall be paid in full by the
23 systems so long as the member, member's spouse, or dependent child
24 individually remains eligible for a monthly retirement benefit:~~[-]~~

25 6. Except as provided by subparagraph 4. of this paragraph, the monthly
26 insurance contribution amount shall be increased:

27 a. On July 1 of each year by one and one-half percent (1.5%). The

1 increase shall be cumulative and shall continue to accrue after the
2 member's retirement for as long as a monthly insurance
3 contribution is payable to the retired member or beneficiary but
4 shall not apply to any increase in the contribution attributable to
5 the increase specified by subdivision b. of this subparagraph; and

6 b. On January 1 of each year by five dollars (\$5) for members who
7 have accrued an additional full year of service as a participating
8 employee beyond the career threshold, subject to the following
9 restrictions:

10 i. The additional insurance contribution provided by this
11 subdivision shall only be applied to the monthly contribution
12 amounts provided under subparagraph 2.a. and b. of this
13 paragraph;

14 ii. The additional insurance contribution provided by this
15 subdivision shall only be payable towards the health plans
16 offered by the system to retirees who are not eligible for
17 Medicare or for reimbursements provided to retirees not
18 eligible for Medicare pursuant to subsection (6)(a)2. of this
19 section; and

20 iii. In order for the annual increase to occur as provided by this
21 subdivision, the funding level of retiree health benefits for
22 the system in which the employee is receiving the additional
23 insurance contribution shall be at least ninety percent (90%)
24 as of the most recent actuarial valuation and be projected by
25 the actuary to remain ninety percent (90%) for the year in
26 which the increase is provided; ~~and~~

27 7. The benefits of this paragraph provided to a member whose participation

1 begins on or after July 1, 2003, shall not be considered as benefits
2 protected by the inviolable contract provisions of KRS 78.852. The
3 General Assembly reserves the right to suspend or reduce the benefits
4 conferred in this paragraph if in its judgment the welfare of the
5 Commonwealth so demands;~~[-]~~

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

12 9. For purposes of this paragraph:

13 a. "Career threshold" for a member with service in a nonhazardous
14 position means twenty-seven (27) years of service credited under
15 KRS 16.543(1), 61.543(1), 78.615(1), or another state-
16 administered retirement system and for a member with service in a
17 hazardous position means the service requirements specified by
18 KRS 78.5514(2)(a)2. or (3)(b), or 78.5516(6)(b), as applicable;
19 and

20 b. "Funding level" means the actuarial value of assets divided by the
21 actuarially accrued liability expressed as a percentage that is
22 determined and reported by the system's actuary in the annual
23 actuarial valuation.

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

26 1. The system shall compute the member's combined service, including
27 service credit in another state-administered retirement system, and

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

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

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

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

1 medical insurance procured under authority of this section.

- 2 (6) (a) The board shall promulgate an administrative regulation to establish a medical
3 insurance reimbursement plan to provide reimbursement for hospital and
4 medical insurance plan premiums of recipients of a retirement allowance who:
- 5 1. Are not eligible for the same level of hospital and medical benefits as
6 recipients living in Kentucky and having the same Medicare hospital
7 and medical insurance eligibility status; or
 - 8 2. Are eligible for retiree health subsidies as provided by subsection (4)(e)
9 of this section, except for those recipients eligible for full premium
10 subsidies under subsection (4)(e)5. of this section. The reimbursement
11 program as provided by this subparagraph shall be available to the
12 recipient regardless of the hospital and medical insurance plans offered
13 by the systems.
- 14 (b) An eligible recipient shall file proof of payment for hospital and medical
15 insurance plan coverage with the retirement office. Reimbursement to eligible
16 recipients shall be made on a quarterly basis. The recipient shall be eligible
17 for reimbursement of substantiated medical insurance premiums for an
18 amount not to exceed the total monthly contribution rate determined under
19 subsection (4) of this section.
- 20 (c) For purposes of recipients described by paragraph (a)1. of this subsection, the
21 plan shall not be made available if all recipients are eligible for the same
22 coverage as recipients living in Kentucky.

23 ➔Section 23. KRS 78.5538 is amended to read as follows:

- 24 (1) (a) Upon the death of a retired member of the system, who was receiving a
25 monthly retirement allowance based on a minimum of forty-eight (48) months
26 of service, a death benefit for the beneficiary of five thousand dollars
27 (\$5,000) shall be paid.

- 1 (b) If the retired member had more than one (1) account in the County Employees
2 Retirement System or is eligible for a benefit from the Kentucky Retirement
3 Systems under the provisions of KRS 61.705, the combined payment from the
4 County Employees Retirement System under this section and the Kentucky
5 Retirement Systems under KRS 61.705 to the named beneficiary shall not
6 exceed five thousand dollars (\$5,000). Each system's cost shall be prorated
7 between the systems based upon the level of service credit in each system.
- 8 (c) Application for the death benefit made to the system shall include acceptable
9 evidence of death and of the eligibility of the applicant to receive the death
10 benefit~~[act on the deceased retired member's behalf]~~.
- 11 (2) (a) The death benefit shall be paid to a beneficiary named by the retired member.
12 Upon retirement or any time thereafter, the retired member may designate on
13 the form prescribed by the board, death benefit designation, a person, the
14 retired member's estate, a trust or trustee, or a licensed funeral home, as the
15 beneficiary of the death benefit provided by this section or KRS 61.705. The
16 beneficiary for the death benefit may or may not be the same beneficiary
17 designated in accordance with KRS 61.590(1) but only one (1) designation
18 shall be available to a retired member who has service in both the County
19 Employees Retirement System and the Kentucky Retirement Systems.
- 20 (b) If the beneficiary designated under this section is a person and that person
21 dies prior to the member, or if the beneficiary was the retired member's
22 spouse and they were divorced on the date of the retired member's death, then
23 the retired member's estate shall become the beneficiary, unless the retired
24 member has filed a subsequent death benefit designation.
- 25 (c) If a licensed funeral home is designated as beneficiary and the licensed
26 funeral home cannot be reasonably identified or located by the system at the
27 time of the retired member's death, then the retired member's estate shall

1 become the beneficiary of the death benefit.

2 (3) **The five thousand dollar (\$5,000) death benefit paid to the designated beneficiary**
 3 **shall not be subject to garnishment as an asset of the retired member's estate,**

4 **except if:**

5 **(a)** ~~If,~~ At the time of the retired member's death, a debt to the County
 6 Employees Retirement System remains on his or her account, the balance
 7 owed shall be deducted from the five thousand ~~dollar~~~~dollars~~ **dollar** (\$5,000) death
 8 benefit;

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

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

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

17 ➔Section 24. KRS 78.5540 (Effective January 1, 2024) is amended to read as
 18 follows:

19 (1) A retired member whose disability retirement was discontinued pursuant to KRS
 20 78.5528 and who is reemployed by an employer participating in the system or the
 21 Kentucky Retirement Systems prior to his or her normal retirement date shall have
 22 his or her accounts combined upon termination for determining eligibility for
 23 benefits. If the member is eligible for retirement, the member's service and
 24 creditable compensation earned as a result of his or her reemployment shall be used
 25 in the calculation of benefits, except that the member's final compensation shall not
 26 be less than the final compensation last used in determining his or her retirement
 27 allowance. The member shall not change beneficiary or payment option

1 designations.

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

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

25 (3) Retired members of the County Employees Retirement System who returned to
26 work with an employer that participates in the County Employees Retirement
27 System or Kentucky Retirement Systems prior to September 1, 2008, shall be

1 governed by the provisions of KRS 61.637(1) to (16).

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

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

- 20 1. The member shall contribute to a member account established for him or
21 her in the County Employees Retirement System or in one (1) of the
22 systems administered by the Kentucky Retirement Systems, and
23 employer contributions shall be paid on behalf of the member by the
24 participating employer to the system; and
- 25 2. Upon subsequent retirement, the member shall be eligible for a
26 retirement allowance based upon total service and creditable
27 compensation, including any additional service or creditable

1 compensation earned after his or her initial retirement was voided;

2 (b) If a retired member is receiving a retirement allowance from the County
3 Employees Retirement System and is employed in a regular full-time position
4 required to participate in the County Employees Retirement System or in one
5 (1) of the systems administered by the Kentucky Retirement Systems after a
6 one (1) month period following the member's initial retirement date, the
7 member may continue to receive his or her retirement allowance during the
8 period of reemployment subject to the following provisions:

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

19 a. If an elected official is reelected to a new term of office in the
20 same position as the elected official held prior to retirement and
21 takes office within twelve (12) months of his or her retirement
22 date, he or she shall be deemed by the Authority as having a
23 prearranged agreement; and

24 b. Employment that is accepted by the retired member after twelve
25 (12) months following the member's retirement date shall not
26 constitute a prearranged agreement under this paragraph;

27 2. Notwithstanding any other provision of KRS Chapter 78 to the contrary,

1 the member shall not contribute to the system and shall not earn any
2 additional benefits for any work performed during the period of
3 reemployment;

4 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
5 except for any retiree employed as a school resource officer as defined
6 by KRS 158.441, the employer shall pay employer contributions as
7 specified by KRS 78.5536 and 78.635 on all creditable compensation
8 earned by the employee during the period of reemployment. The
9 additional contributions paid shall be used to reduce the unfunded
10 actuarial liability of the system; and

11 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
12 except for any retiree employed as a school resource officer as defined
13 by KRS 158.441, the employer shall be required to reimburse the system
14 for the cost of the health insurance premium paid by the system to
15 provide coverage for the retiree, not to exceed the cost of the single
16 premium. Effective July 1, 2015, local school boards shall not be
17 required to pay the reimbursement required by this subparagraph for
18 retirees employed by the board for eighty (80) days or less during the
19 fiscal year;

20 (c) Notwithstanding paragraphs (a) and (b) of this subsection, a retired member
21 who qualifies as a volunteer for an employer participating in the County
22 Employees Retirement System or the Kentucky Retirement Systems and who
23 is receiving reimbursement of actual expenses, a nominal fee for his or her
24 volunteer services, or both, shall not be considered an employee of the
25 participating employer and shall not be subject to paragraphs (a) and (b) of
26 this subsection if:

27 1. Prior to the retired member's most recent retirement date, he or she did

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

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

- 22 (d) Notwithstanding any provision of this section, any mayor or member of a city
- 23 legislative body shall not be required to resign from his or her position as
- 24 mayor or as a member of the city legislative body in order to begin drawing
- 25 benefits from the systems administered by the Kentucky Retirement Systems
- 26 or the County Employees Retirement System or subject to any provision of
- 27 this section as it relates solely to his or her service as a mayor or member of

- 1 the city legislative body, if the mayor or member of a city legislative body:
- 2 1. Has not participated in the County Employees Retirement System prior
3 to retirement, but is otherwise eligible to retire from the Kentucky
4 Employees Retirement System or the State Police Retirement System; or
 - 5 2. Has been or is participating in the County Employees Retirement
6 System and is at least sixty-two (62) years of age. If a mayor or member
7 of a city legislative body who is at least sixty-two (62) years of age
8 retires from the systems administered by Kentucky Retirement Systems
9 or the County Employees Retirement System but remains in office after
10 his or her effective retirement date, the mayor or member of the city
11 legislative body shall not accrue any further service credit or benefits in
12 the systems administered by Kentucky Retirement Systems or the
13 County Employees Retirement System for any employment occurring
14 on or after the effective retirement date;
- 15 (e) Notwithstanding any provision of this section, any current or future part-time
16 adjunct instructor for the Kentucky Fire Commission who has not participated
17 in the Kentucky Employees Retirement System prior to retirement, but who is
18 otherwise eligible to retire from the County Employees Retirement System,
19 shall not be:
- 20 1. Required to resign from his or her position as a part-time adjunct
21 instructor for the Kentucky Fire Commission in order to begin drawing
22 benefits from the County Employees Retirement System; or
 - 23 2. Subject to any provision of this section as it relates solely to his or her
24 service as a part-time adjunct instructor for the Kentucky Fire
25 Commission;
- 26 (f) If a member is receiving a retirement allowance from the County Employees
27 Retirement System and enters into a contract or becomes a leased employee of

1 an employer under contract with an employer participating in the County
2 Employees Retirement System or one (1) of the systems administered by the
3 Kentucky Retirement Systems:

4 1. At any time following retirement, if the Authority determines the
5 employment arrangement does qualify as an independent contractor or
6 leased employee, the member may continue to receive his or her
7 retirement allowance during the period of the contract;

8 2. Within one (1) month following the member's initial retirement date, if
9 the Authority determines the employment arrangement does not qualify
10 as an independent contractor or leased employee, the member's
11 retirement shall be voided in accordance with paragraph (a) of this
12 subsection;

13 3. After one (1) month but within twelve (12) months following the
14 member's initial retirement, if the Authority determines the employment
15 arrangement does not qualify as an independent contractor or leased
16 employee and that a prearranged agreement existed between the member
17 and the agency for the member to return to work with the agency, the
18 member's retirement shall be voided in accordance with paragraph (a) of
19 this subsection;~~and~~

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

25 5. After twelve (12) months or more following the retired member's
26 retirement date, the initiation of a contract or the initial date of the
27 leased employment of a retired member by a participating agency ~~that~~

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

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

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

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

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

22 (b) 1. A retired member who has been ordered reinstated ***without loss of pay***
23 by the Personnel Board under authority of KRS 18A.095 or by court
24 order or by order of the ~~Kentucky~~~~Human Rights~~ Commission ***on***
25 ***Human Rights*** and accepts employment by an agency participating in
26 the Kentucky Employees Retirement System, ***State Police Retirement***
27 ***System***, or County Employees Retirement System shall void his or her

1 retirement by reimbursing the system in the full amount of his or her
 2 retirement allowance payments received, including any health
 3 insurance benefits paid to or on behalf of the member.

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

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

14 ➔Section 25. KRS 78.640 is amended to read as follows:

15 (1) The members' account shall be the account to which:

16 (a) All members' contributions, or contributions picked up by the employer after
 17 August 1, 1982, and interest allowances as provided in KRS 78.510 to 78.852
 18 shall be credited, except as provided by KRS 78.5536(3)(b); and

19 (b) For members who begin participating in the system on or after January 1,
 20 2014, the employer pay credit and interest credited on such amounts as
 21 provided by KRS 78.5512 and 78.5516 shall be credited.

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

27 (2) Each member's contribution or contribution picked up by the employer shall be

1 credited to the individual account of the contributing member, except as provided
2 by KRS 78.5536(3)(b).

3 (3) (a) Each member shall have his or her individual account credited with interest on
4 June 30 of each year.

5 (b) For a member who begins participating before September 1, 2008, interest
6 shall be credited to his or her individual account at a rate determined by the
7 board but not less than two percent (2%) per annum on the accumulated
8 account balance of the member on June 30 of the preceding fiscal year.

9 (c) For a member who begins participating on or after September 1, 2008, but
10 prior to January 1, 2014, interest shall be credited to his or her individual
11 account at a rate of two and one-half percent (2.5%) per annum on the
12 accumulated contributions of the member on June 30 of the preceding fiscal
13 year.

14 (d) For a member who begins participating on or after January 1, 2014, in the
15 hybrid cash balance plan, interest shall be credited in accordance with KRS
16 78.5512~~[16.583]~~ and 78.5516~~[61.597]~~.

17 (e) The amounts of interest credited to a member's account under this subsection
18 shall be transferred from the retirement allowance account.

19 (4) (a) Upon the retirement of a member who began participating in the system prior
20 to January 1, 2014, his or her accumulated account balance shall be
21 transferred from the members' account to the retirement allowance account.

22 (b) Upon the retirement of a member who began participating in the system on or
23 after January 1, 2014, who elects to annuitize his or her accumulated account
24 balance as prescribed by KRS 78.5512(7)(a) or (b) or 78.5516(7)(a) or (b), the
25 member's accumulated account balance shall be transferred to the retirement
26 allowance account.

27 ➔Section 26. KRS 78.782 is amended to read as follows:

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

1 Association.

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

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

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

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

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

- 1 2. A certified public accountant with relevant experience in retirement or
- 2 pension plan accounting;
- 3 3. An actuary with relevant experience in retirement or pension plan
- 4 consulting;
- 5 4. An attorney licensed to practice law in the Commonwealth of Kentucky
- 6 with relevant experience in retirement or pension plans; or
- 7 5. A current or former university professor whose primary area of
- 8 emphasis is economics or finance.
- 9 (2) The board is hereby granted the powers and privileges of a corporation, including
- 10 but not limited to the following powers:
- 11 (a) To sue and be sued in its corporate name;
- 12 (b) To make bylaws not inconsistent with the law;
- 13 (c) To conduct the business and promote the purposes for which it was formed;
- 14 (d) Except as provided in KRS 78.790(6), to contract for investment counseling,
- 15 auditing, medical, and other professional or technical services as required to
- 16 carry out the obligations of the board subject to the provisions of KRS
- 17 Chapters 45, 45A, 56, and 57. Actuarial consulting services shall be provided
- 18 by a firm hired by the Kentucky Public Pensions Authority;
- 19 (e) To purchase fiduciary liability insurance;
- 20 (f) Except as provided in KRS 78.790(6), to acquire, hold, sell, dispose of,
- 21 pledge, lease, or mortgage, the goods or property necessary to exercise the
- 22 board's powers and perform the board's duties subject to KRS Chapters 45,
- 23 45A, and 56; and
- 24 (g) The board shall reimburse any trustee, officer, or employee for any legal
- 25 expense resulting from a civil action arising out of the performance of his or
- 26 her official duties. The hourly rate of reimbursement for any contract for legal
- 27 services under this paragraph shall not exceed the maximum hourly rate

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

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

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

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

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

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

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

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

9 (f) The eligible voter shall cast his or her ballot by selecting the candidate of his
10 or her choice. He or she shall sign and mail the ballot **or cast the ballot**
11 **online, by telephone, or by any other electronic means made available by the**
12 **Authority**~~[or submit the electronic ballot]~~ at least thirty (30) days prior to the
13 date the term to be filled is due to expire. The latest mailing date, or date **to**
14 **cast telephonic or**~~[of submission in the case of]~~ electronic ballots, shall be
15 provided on the ballot.

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

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

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

25 1. Complete an application developed by the system which shall include
26 but not be limited to a disclosure of any prior felonies and any conflicts
27 of interest that would hinder the individual's ability to serve on the

- 1 board;
- 2 2. Submit a resume detailing the individual's education and employment
3 history and a cover letter detailing the member's qualifications for
4 serving as trustee to the board; and
- 5 3. Authorize the system to have a criminal background check performed.
6 The criminal background check shall be performed by the Department
7 of Kentucky State Police.
- 8 (j) In lieu of the ballots mailed to members and retired members as provided by
9 this subsection, the systems may by promulgation of administrative regulation
10 pursuant to KRS Chapter 13A conduct trustee elections using electronic
11 ballots or by telephone, except that the systems shall mail a paper ballot upon
12 request of any eligible voter.
- 13 (5) (a) Any vacancy which may occur in an appointed position during a term of
14 office shall be filled in the same manner which provides for the selection of
15 the particular trustee, and any vacancy which may occur in an elected position
16 during a term of office shall be filled by appointment by a majority vote of the
17 remaining elected trustees; however, any vacancy shall be filled only for the
18 duration of the unexpired term. In the event of a vacancy of an elected trustee
19 during a term of office, the system shall notify members of the vacancy and
20 the opportunity to be considered for the vacant position. Any vacancy shall be
21 filled within ninety (90) days of the position becoming vacant.
- 22 (b) Any appointments or reappointments to an appointed position on the board
23 shall be made at least thirty (30) days prior to an appointed member's term of
24 office ending. The Governor's Office shall, with each appointment or
25 reappointment, request lists to be submitted and base selections on those lists
26 solely under the procedures and requirements provided by subsection (1)(b) of
27 this section.

- 1 (6) (a) Membership on the board of trustees shall not be incompatible with any other
2 office unless a constitutional incompatibility exists. No trustee shall serve in
3 more than one (1) position as trustee on the board and, if a trustee holds more
4 than one (1) position as trustee on the board, he or she shall resign a position.
- 5 (b) A trustee shall be removed from office upon conviction of a felony or for a
6 finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court
7 of competent jurisdiction.
- 8 (c) A current or former employee of the County Employees Retirement System,
9 Kentucky Retirement Systems, or the Kentucky Public Pensions Authority
10 shall not be eligible to serve as a member of the board.
- 11 (7) Trustees who do not otherwise receive a salary from the State Treasury shall
12 receive a per diem of eighty dollars (\$80) for each day they are in session or on
13 official duty, and they shall be reimbursed for their actual and necessary expenses
14 in accordance with state administrative regulations and standards.
- 15 (8) (a) The board shall meet at least once in each quarter of the year and may meet in
16 special session upon the call of the chair or the chief executive officer.
- 17 (b) The board shall elect a chair and a vice chair. The chair shall not serve more
18 than four (4) consecutive years as chair or vice chair of the board. The vice
19 chair shall not serve more than four (4) consecutive years as chair or vice
20 chair of the board. A trustee who has served four (4) consecutive years as
21 chair or vice chair of the board may be elected chair or vice chair of the board
22 after an absence of two (2) years from the positions.
- 23 (c) A majority of the trustees shall constitute a quorum, and all actions taken by
24 the board shall be by affirmative vote of a majority of the trustees present.
- 25 (9) (a) The board of trustees shall appoint or contract for the services of a chief
26 executive officer and general counsel and fix the compensation and other
27 terms of employment for these positions without limitation of the provisions

1 of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer
2 shall serve as the legislative and executive adviser to the board. The general
3 counsel shall serve as legal adviser to the board. The chief executive officer
4 and general counsel shall work with the executive director of the Kentucky
5 Public Pensions Authority to carry out the provisions of KRS 78.510 to
6 78.852. The executive director of the Kentucky Public Pensions Authority
7 shall be the chief administrative officer of the board.

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

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

13 (d) The board shall do all things, take all actions, and promulgate all
14 administrative regulations, not inconsistent with the provisions of KRS 78.510
15 to 78.852, necessary or proper in order to carry out the provisions of KRS
16 78.510 to 78.852. Notwithstanding any other evidence of legislative intent, it
17 is hereby declared to be the controlling legislative intent that the provisions of
18 KRS 78.510 to 78.852 conform with federal statute or regulation and meet the
19 qualification requirements under 26 U.S.C. sec. 401(a), applicable federal
20 regulations, and other published guidance. Provisions of KRS 78.510 to
21 78.852 which conflict with federal statute or regulation or qualification under
22 26 U.S.C. sec. 401(a), applicable federal regulations, and other published
23 guidance shall not be available. The board shall have the authority to
24 promulgate administrative regulations to conform with federal statute and
25 regulation and to meet the qualification requirements under 26 U.S.C. sec.
26 401(a), including an administrative regulation to comply with 26 U.S.C. sec.
27 401(a)(9).

- 1 (e) Notwithstanding any other provision of statute to the contrary, including but
2 not limited to any provision of KRS Chapter 12, the Governor shall have no
3 authority to change any provision of KRS 78.510 to 78.852 by executive order
4 or action, including but not limited to reorganizing, replacing, amending, or
5 abolishing the membership of the County Employees Retirement System
6 board of trustees.
- 7 (10) The chief executive officer and general counsel of the board shall serve during its
8 will and pleasure. Notwithstanding any statute to the contrary, the chief executive
9 officer shall not be considered a legislative agent under KRS 6.611.
- 10 (11) The Attorney General, or an assistant designated by him or her, may attend each
11 meeting of the board and may receive the agenda, board minutes, and other
12 information distributed to trustees of the board upon request. The Attorney General
13 may act as legal adviser and attorney for the board, and the board may contract for
14 legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.
- 15 (12) (a) The Kentucky Public Pensions Authority shall publish an annual financial
16 report showing all receipts, disbursements, assets, and liabilities for the
17 systems. The annual report shall include a copy of an audit conducted in
18 accordance with generally accepted auditing standards. Except as provided by
19 paragraph (b) of this subsection, the board may select the independent
20 certified public accountant hired by the Kentucky Public Pensions Authority
21 or the Auditor of Public Accounts to perform the audit. If the audit is
22 performed by an independent certified public accountant, the Auditor of
23 Public Accounts shall not be required to perform an audit pursuant to KRS
24 43.050(2)(a), but may perform an audit at his or her discretion. All
25 proceedings and records of the board shall be open for inspection by the
26 public. The Kentucky Public Pensions Authority shall make copies of the
27 audit required by this subsection available for examination by any member,

1 retiree, or beneficiary in the offices of the County Employees Retirement
2 System and in other places as necessary to make the audit available to all
3 members, retirees, and beneficiaries. A copy of the annual audit shall be sent
4 electronically to the Legislative Research Commission no later than ten (10)
5 days after receipt by the board.

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

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

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

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

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

- 1 (b) A trustee discharges his or her duties on an informed basis if, when he or she
2 makes an inquiry into the business and affairs of the system or into a
3 particular action to be taken or decision to be made, he or she exercises the
4 care an ordinary prudent person in a like position would exercise under
5 similar circumstances.
- 6 (c) In discharging his or her duties, a trustee may rely on information, opinions,
7 reports, or statements, including financial statements and other financial data,
8 if prepared or presented by:
- 9 1. One (1) or more officers or employees of the system or Authority whom
10 the trustee honestly believes to be reliable and competent in the matters
11 presented;
 - 12 2. Legal counsel, public accountants, actuaries, or other persons as to
13 matters the trustee honestly believes are within the person's professional
14 or expert competence; or
 - 15 3. A committee of the board of trustees of which he or she is not a member
16 if the trustee honestly believes the committee merits confidence.
- 17 (d) A trustee shall not be considered as acting in good faith if he or she has
18 knowledge concerning the matter in question that makes reliance otherwise
19 permitted by paragraph (c) of this subsection unwarranted.
- 20 (e) Any action taken as a trustee, or any failure to take any action as a trustee,
21 shall not be the basis for monetary damages or injunctive relief unless:
- 22 1. The trustee has breached or failed to perform the duties of the trustee's
23 office in compliance with this section; and
 - 24 2. In the case of an action for monetary damages, the breach or failure to
25 perform constitutes willful misconduct or wanton or reckless disregard
26 for human rights, safety, or property.
- 27 (f) A person bringing an action for monetary damages under this section shall

1 have the burden of proving by clear and convincing evidence the provisions of
2 paragraph (e)1. and 2. of this subsection, and the burden of proving that the
3 breach or failure to perform was the legal cause of damages suffered by the
4 system.

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

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

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

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

27 1. Benefits and benefits administration;

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

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

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

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

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

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

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

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

- 1 (h) A listing of the members of the board of trustees and membership on each
2 committee established by the board, including any investment committees;
- 3 (i) All investment holdings in aggregate, fees, and commissions for each fund
4 administered by the board, which shall be updated on a quarterly basis for
5 fiscal years beginning on or after July 1, 2021. The system shall request from
6 all managers, partnerships, and any other available sources all information
7 regarding fees and commissions and shall, based on the requested information
8 received:
- 9 1. Disclose the dollar value of fees and commissions paid to each
10 individual manager or partnership;
 - 11 2. Disclose the dollar value of any profit sharing, carried interest, or any
12 other partnership incentive arrangements, partnership agreements, or
13 any other partnership expenses received by or paid to each manager or
14 partnership; and
 - 15 3. As applicable, report each fee or commission by manager or partnership
16 consistent with standards established by the Institutional Limited
17 Partners Association (ILPA).
- 18 In addition to the requirements of this paragraph, the system shall also
19 disclose the name and address of all individual underlying managers or
20 partners in any fund of funds in which system assets are invested;
- 21 (j) An update of net of fees investment returns, asset allocations, and the
22 performance of the funds against benchmarks adopted by the board for each
23 fund, for each asset class administered by the board, and for each manager.
24 The update shall be posted on a quarterly basis for fiscal years beginning on
25 or after July 1, 2021;
- 26 (k) A searchable database of the system's expenditures and a listing of each
27 individual employed by the system along with the employee's salary or wages.

1 In lieu of posting the information required by this paragraph to the Kentucky
2 Public Pensions Authority's website, the system may provide the information
3 through a website established by the executive branch to inform the public
4 about public employee salaries and wages;

5 (l) All contracts or offering documents for services, goods, or property purchased
6 or utilized by the system for contracts or offering documents entered into on
7 or after July 1, 2021;

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

10 (n) All proxy vote reports as provided by KRS 78.790(7).

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

22 (20) Notwithstanding any other provision of KRS 78.510 to 78.852 to the contrary, no
23 funds of the County Employees Retirement System, including fees and
24 commissions paid to an investment manager, private fund, or company issuing
25 securities, who manages systems assets, shall be used to pay fees and commissions
26 to placement agents. For purposes of this subsection, "placement agent" means a
27 third-party individual, who is not an employee, or firm, wholly or partially owned

1 by the entity being hired, who solicits investments on behalf of an investment
2 manager, private fund, or company issuing securities.

3 ➔Section 27. KRS 78.852 is amended to read as follows:

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

11 (2) (a) For members who begin participating in the County Employees Retirement
12 System on or after January 1, 2014, the General Assembly reserves the right
13 to amend, suspend, or reduce the benefits and rights provided under KRS
14 78.510 to 78.852 if, in its judgment, the welfare of the Commonwealth so
15 demands, except that the amount of benefits the member has accrued at the
16 time of amendment, suspension, or reduction shall not be affected.

17 (b) For purposes of this subsection, the amount of benefits the member has
18 accrued at the time of amendment, suspension, or reduction shall be limited to
19 the accumulated account balance the member has accrued at the time of
20 amendment, suspension, or reduction.

21 (c) The provisions of this subsection shall not be construed to limit the General
22 Assembly's authority to change any other benefit or right specified by KRS
23 78.510 to 78.852, except the benefits specified by paragraph (b) of this
24 subsection, for members who begin participating in the County Employees
25 Retirement System on or after January 1, 2014.

26 (3) The provisions of this section shall not be construed to limit the General Assembly's
27 authority to amend, reduce, or suspend the benefits and rights of members of the

1 County Employees Retirement System as provided by KRS 78.510 to 78.852 that
2 the General Assembly had the authority to amend, reduce, or suspend, prior to July
3 1, 2013.

4 (4) The responsibility for funding the provisions of KRS 78.510 to 78.852 shall be the
5 responsibility of the employers participating in the County Employees Retirement
6 System. For any employer failing to fund the requirements of KRS 78.510 to
7 78.852, the board shall have the full authority under the law to:

8 (a) Require the employer to involuntarily cease participating and pay all costs for
9 ceasing participation as provided by KRS 78.535; or

10 (b) Suspend benefit payments and refunds or to seek legal action as provided by
11 KRS 78.625 for any employer failing to fund the requirements of KRS 78.510
12 to 78.852.