

1 AN ACT relating to reemployment after retirement in the Teachers' Retirement
2 System.

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

4 ➔Section 1. KRS 161.605 is amended to read as follows:

5 Any member retired by reason of service may return to work in a position covered by the
6 Kentucky Teachers' Retirement System and continue to receive his or her retirement
7 allowance under the following conditions:

8 (1) Any member who is retired with thirty (30) or more years of service may return to
9 work in a full-time or a part-time position, or in a position providing substitute
10 teaching service, covered by the Teachers' Retirement System and earn up to a
11 maximum of seventy-five percent (75%) of the member's last annual compensation
12 measured on a daily rate to be determined by the board of trustees. For purposes of
13 determining whether the salary of a member returning to work is seventy-five
14 percent (75%) or less of the member's last annual compensation, all remuneration
15 paid and benefits provided to the member, on an actual dollar or fair market value
16 basis as determined by the retirement system, excluding employer-provided medical
17 insurance required under subsection ~~(4)~~~~(5)~~ of this section, shall be considered.
18 Members who were retired on or before June 30, 2002, shall be entitled to return to
19 work under the provisions of this section as if they had retired with thirty (30) years
20 of service. Nonqualified service credit purchased under the provisions of KRS
21 161.5465 or elsewhere with any state-administered retirement system shall not be
22 used to meet the thirty (30) year requirement set forth in this subsection. Out-of
23 state teaching service provided in public schools for kindergarten through grade
24 twelve (12) may count toward the thirty (30) year requirement set forth in this
25 subsection even if it is not purchased as service credit, if the member obtains from
26 his or her out-of-state employer certification of this service on forms prescribed by
27 the retirement system;

1 (2) Any member who is retired with less than thirty (30) years of service after June 30,
2 2002, may return to work in a full-time or part-time position, or in a position
3 providing substitute teaching service, covered by the Teachers' Retirement System
4 and earn up to a maximum of sixty-five percent (65%) of the member's last annual
5 compensation measured on a daily rate to be determined by the board of trustees.
6 For purposes of determining whether the salary of a member returning to work is
7 sixty-five percent (65%) or less of the member's last annual compensation, all
8 remuneration paid and benefits provided to the member, on an actual dollar or fair
9 market value basis as determined by the retirement system, excluding employer-
10 provided medical insurance required under subsection ~~(4)~~~~(5)~~ of this section, shall
11 be considered;

12 ~~(3) [Reemployment of a retired member under subsection (1) or (2) of this section in a~~
13 ~~full-time teaching or nonteaching position in a local school district shall be~~
14 ~~permitted only if the employer certifies to the Kentucky Teachers' Retirement~~
15 ~~System that there are no other qualified applicants available to fill the teaching or~~
16 ~~nonteaching position. The employer may use any source considered reliable,~~
17 ~~including but not limited to data provided by the Education Professional Standards~~
18 ~~Board and the Department of Education, to determine whether other qualified~~
19 ~~applicants are available to fill the teaching or nonteaching position. The Kentucky~~
20 ~~Board of Education shall promulgate administrative regulations to establish~~
21 ~~procedures to determine whether other qualified applicants are available to fill a~~
22 ~~teaching or nonteaching position and, if not, for filling the position with a retired~~
23 ~~member who will then be permitted to return to work in that position under~~
24 ~~subsection (1) or (2) of this section. The administrative regulations shall ensure that~~
25 ~~a retired member shall not be hired in a teaching or nonteaching position by a local~~
26 ~~school district until the superintendent of the school district assures the Kentucky~~
27 ~~Teachers' Retirement System that every reasonable effort has been made to recruit~~

1 ~~other qualified applicants for the position on an annual basis;~~

2 ~~(4)~~ Under this section, an employer may employ full-time a number of retired
3 members not to exceed ~~ten~~^{three} percent ~~(10%)~~^(3%) of the membership actively
4 employed full-time by that employer. The board of trustees may reduce this
5 ~~ten~~^{three} percent ~~(10%)~~^(3%) cap upon recommendation of the retirement
6 system's actuary if a reduction is necessary to maintain the actuarial soundness of
7 the retirement system. The board of trustees may increase the ~~ten~~^{three} percent
8 ~~(10%)~~^(3%) cap upon a determination that an increase is warranted to help address
9 a shortage in the number of available teachers and upon the determination of the
10 retirement system's actuary that the proposed cap increase allows the actuarial
11 soundness of the retirement system to be maintained. For purposes of this
12 subsection, "full-time" means the same as defined by KRS 161.220(21). A local
13 school district may exceed the quota established by this subsection by making an
14 annual written request to the Kentucky Department of Education which the
15 department may approve on a year-by-year basis ~~if the statewide quota has not~~
16 ~~been met. A district's written request to exceed its quota shall be submitted no~~
17 ~~sooner than two (2) weeks after the start of the school year];~~

18 ~~(4)~~⁽⁵⁾ (a) Except as provided by subsection ~~(9)~~⁽¹⁰⁾ of this section, a member
19 returning to work in a full-time or part-time position, or in a position
20 providing substitute teaching service, under subsection (1) or (2) of this
21 section shall contribute to an account with the retirement system that shall be
22 administered independently from and with no reciprocal impact with the
23 member's original retirement account, or any other account from which the
24 member is eligible to draw a retirement allowance.

25 (b) Except as provided by subsection ~~(9)~~⁽¹⁰⁾ of this section, a member returning
26 to work under subsection (1) or (2) of this section shall make contributions to
27 the retirement system at the rate provided under KRS 161.540. The new

1 account shall independently meet all vesting requirements as well as all other
2 conditions set forth in KRS 161.600(1) or (2), as applicable, before any
3 retirement allowance is payable from this account. The retirement allowance
4 accruing under this new account shall be calculated pursuant to KRS 161.620.
5 This new account shall not entitle the member to a duplication of the benefits
6 offered under KRS 161.620(7) or 161.675, nor shall this new account provide
7 the benefits offered by KRS 161.520, 161.525, 161.620(3), 161.655, 161.661,
8 or 161.663.

9 (c) A member returning to work under subsection (1) or (2) of this section shall
10 waive his or her medical insurance with the Teachers' Retirement System
11 during the period of reemployment and shall receive the medical insurance
12 coverage that is generally provided by the member's active employer to the
13 other members of the retirement system that the active employer employs. If
14 medical insurance coverage is not available from the employer, the Kentucky
15 Teachers' Retirement System may provide coverage for the member.

16 (d) A member returning to work under subsection (1) or (2) of this section shall
17 not be eligible to purchase service credit for any service provided after the
18 member's effective date of retirement but prior to the date that the member
19 returns to work. A member returning to work under subsection (1) or (2) of
20 this section shall not be eligible to purchase service credit that the member
21 would have otherwise been eligible to purchase prior to the member's initial
22 retirement.

23 (e) A member who returns to work under subsection (1) or (2) of this section, or
24 in the event of the death of the member, the member's estate or applicably
25 designated beneficiary, shall be entitled, within ninety (90) days of the posting
26 of the annual report submitted by the employer, to a refund of contributions as
27 permitted and limited by KRS 161.470;

1 ~~(5)~~~~(6)~~ The board of trustees may annually, on July 1, adjust the current daily rate of
2 a member's last annual compensation, for each full twelve (12) month period that
3 has elapsed subsequent to the member earning his or her last annual compensation,
4 by the percentage increase in the annual average of the consumer price index for all
5 urban consumers for the calendar year preceding the adjustment as published by the
6 Federal Bureau of Labor Statistics, not to exceed five percent (5%) annually. Each
7 annual adjustment shall become part of the member's daily rate base. Failure to
8 comply with the salary limitations set forth in subsections (1) and (2) of this section
9 as may be adjusted by this subsection shall result in a reduction of the member's
10 retirement allowance or any other benefit to which the member would otherwise be
11 entitled on a dollar-for-dollar basis for each dollar that the member exceeds these
12 salary limitations, and the member shall be refunded his or her retirement
13 contributions made on the compensation that exceeds these salary limitations.
14 Notwithstanding any other provision of law to the contrary, a member retiring from
15 a local school district who returns to work for a local school district under
16 subsection (1) or (2) of this section shall be entitled, without any reduction to his or
17 her retirement allowance or any other retirement benefit, to earn a minimum
18 amount equal to one hundred seventy dollars (\$170) per day;

19 ~~(6)~~~~(7)~~ (a) A retired member returning to work under subsection (1) or (2) of this
20 section shall have separated from service for a period of at least one (1) year if
21 returning to work for the same employer on a full-time basis, and at least three
22 (3) months if returning to work for a different employer on a full-time basis.
23 A retired member returning to work under subsection (1) or (2) of this section
24 on a part-time basis shall have separated from service for a period of at least
25 three (3) months before returning to work for any employer.

26 (b) As an alternative to the separation-from-service requirements in paragraph (a)
27 of this subsection, a retired member who is returning to work for the same

1 employer in a full-time position under subsections (1) and (2) of this section
2 may elect a separation-from-service of not less than two (2) months followed
3 by a forfeiture of the retired member's retirement allowance on a month-to-
4 month basis for each month that the member has separated from service for
5 less than twelve (12) full months. A retired member returning to work for the
6 same employer in a part-time position, or for a different employer in a full-
7 time position, may elect an alternative separation-from-service requirement of
8 at least two (2) months followed by a forfeiture of the member's retirement
9 allowance for one (1) month. During the period that the member forfeits his or
10 her retirement allowance and thereafter, member and employer contributions
11 shall be made to the retirement system as a result of employment in any
12 position subject to membership in the retirement system. The member shall
13 contribute to an account with the retirement system subject to the conditions
14 set forth in subsection ~~(4)~~~~(5)~~ of this section.

15 (c) A retired member who is returning to work for an employer that has
16 employees who participate in the Teachers' Retirement System shall comply
17 with the separation-from-service requirements in this subsection before
18 performing any service for the employer, regardless of whether the retired
19 member is providing service in a position covered by the Teachers'
20 Retirement System.

21 (d) The starting date for any separation from service required under this
22 subsection shall be the effective date of the member's retirement.

23 (e) The separation-from-service requirements of this subsection are not met if
24 there is a prearranged agreement between the member and an employer that
25 has employees who participate in the Teachers' Retirement System prior to
26 retirement for the member to work for the employer after retirement.

27 (f) The Teachers' Retirement System may require the member and the employer

1 for which the member is returning to work to certify in writing on a form
 2 prescribed by the Teachers' Retirement System that no prearranged agreement
 3 was or will be entered into between the member and employer prior to
 4 retirement for the member to work for the employer after retirement.

5 (g) Failure to comply with the separation-from-service requirements in this
 6 subsection voids a member's retirement and the member shall be required to
 7 return all the retirement benefits he or she received, with interest, for the
 8 period of time that the member returned to work without a sufficient
 9 separation from service;

10 ~~(Z)~~~~(8)~~ (a) Effective July 1, 2004, local school districts may employ retired
 11 members in full-time or part-time teaching or administrative positions *in*
 12 *critical shortage areas* without limitation on the compensation of the retired
 13 members that is otherwise required by subsections (1) and (2) of this section.~~]~~
 14 ~~Under provisions of this subsection, a local school district may only employ~~
 15 ~~retired members to fill critical shortage positions for which there are no other~~
 16 ~~qualified applicants as determined by the local superintendent.]~~ The number
 17 of retired members that a local school district may employ under this
 18 subsection shall be no more than *four (4)*~~two (2)~~ members per local school
 19 district or *ten*~~one~~ percent (*10%*)~~(1%)~~ of the total active members employed
 20 by the local school district on a full-time basis as defined under KRS
 21 161.220(21), whichever number is greater. Retired members returning to work
 22 under this subsection shall be subject to the separation-from-service
 23 requirements set forth in subsection ~~(6)~~~~(7)~~ of this section. Retired members
 24 returning to work under this subsection shall waive their medical insurance
 25 coverage with the retirement system during their period of reemployment and
 26 receive medical insurance coverage that is offered to other full-time members
 27 employed by the local school district. Retired members returning to work

1 under this subsection shall contribute to an account subject to the conditions
2 set forth in subsection ~~(4)~~~~(5)~~ of this section. Retired members returning to
3 work under this subsection shall make contributions to the retirement system
4 at the rate provided under KRS 161.540. The employer shall make
5 contributions at the rate provided under KRS 161.550. Local school districts
6 shall make annual payments to the retirement system on the compensation
7 paid to the reemployed retirees at the rates determined by the retirement
8 system's actuary that reflect any accrued liability resulting from the
9 reemployment of these members.

10 (b) The Department of Education may employ retired members in full-time or
11 part-time teaching or nonteaching positions without the limitations on
12 compensation otherwise required by subsections (1) and (2) of this section to
13 fill critical shortage areas in the schools it operates, including the Kentucky
14 School for the Blind~~,~~ **and** the Kentucky School for the Deaf, ~~and the~~
15 ~~Kentucky Virtual High School,~~ and to serve on audit teams. The department
16 shall be subject to the same requirements as local school districts as provided
17 in paragraph (a) of this subsection, except the Teachers' Retirement System
18 shall determine the maximum number of employees that may be employed
19 under this paragraph;

20 ~~(8)~~~~(9)~~ The return-to-work limitations set forth in this section shall apply to retired
21 members who are returning to work in the same position from which they retired, or
22 a position substantially similar to the one from which they retired, or a position
23 described in KRS 161.046 or any position listed in KRS 161.220(4) which requires
24 membership in the retirement system. Positions which generally require
25 certification or graduation from a four (4) year college or university as a condition
26 of employment which are created, or changed to remove the position from coverage
27 under KRS 161.220(4) are also subject to the return to work limitations set forth in

1 this section. The board of trustees shall determine whether employment in a
2 nonteaching position is subject to this subsection;

3 ~~(9)~~⁽¹⁰⁾ (a) Notwithstanding the provisions of this section, individuals who become
4 members on or after January 1, 2022, who subsequently retire and begin
5 drawing a monthly lifetime retirement allowance from the Teachers'
6 Retirement System, who following retirement are reemployed with an
7 employer participating in the Teachers' Retirement System, shall not be
8 eligible to contribute to or earn benefits in a second retirement account in the
9 Teachers' Retirement System during the period of reemployment.

10 (b) The provisions of subsections (1) to ~~(7)~~⁽⁸⁾ of this section are not subject to
11 KRS 161.714;{

12 ~~(11) Any member retired by reason of service may waive his or her annuity and~~
13 ~~return to full time employment in a position covered by the Teachers'~~
14 ~~Retirement System under the following conditions:~~

15 ~~(a) The member shall receive no annuity payments while employed in a covered~~
16 ~~position, shall waive his or her medical insurance coverage with the Teachers'~~
17 ~~Retirement System during the period of reemployment, and shall receive the~~
18 ~~medical insurance coverage that is generally offered by the member's active~~
19 ~~employer to the other members of the retirement system employed by the~~
20 ~~active employer. The member's estate or, if there is a beneficiary applicably~~
21 ~~designated by the member, then the beneficiary, shall continue to be eligible~~
22 ~~for life insurance benefits as provided in KRS 161.655. Service subsequent to~~
23 ~~retirement shall not be used to improve an annuity, except as provided in~~
24 ~~paragraphs (b) and (c) of this subsection;~~

25 ~~(b) Any member who waives regular annuity benefits and returns to teaching or~~
26 ~~covered employment shall be entitled to make contributions on the salaries~~
27 ~~received for this service and have his or her retirement annuity recalculated as~~

1 provided in the regular retirement formula in KRS 161.620(1), less any
2 applicable actuarial discount applied to the original retirement allowance due
3 to the election of a joint and last survivor option. Retirement option and
4 beneficiary designation on original retirement shall not be altered by
5 postretirement employment, and dependents and spouses of the members shall
6 not become eligible for benefits under KRS 161.520, 161.525, or 161.661
7 because of postretirement employment;

8 ~~(c) When a member returns to full time teaching or covered employment as
9 provided in subsection (b) of this section, the employer is required to withhold
10 and remit regular retirement contributions. The member must be employed
11 full time for at least one (1) consecutive contract year to be eligible to
12 improve an annuity. The member shall be returned to the annuity rolls on July
13 1 following completion of the contract year or on the first day of the month
14 following the month of termination of service if full time employment
15 exceeds one (1) consecutive contract year. A member shall not be returned to
16 the annuity rolls until after he or she has filed a retirement application in
17 compliance with KRS 161.600(6). Any discounts applied at the time of the
18 original retirement due to service or age may be reduced or eliminated due to
19 additional employment if full time employment is for one (1) consecutive
20 contract year or longer; and~~

21 ~~(d) A member retired by reason of service who has been employed the equivalent
22 of twenty five (25) days or more during a school year under KRS 161.605
23 may waive the member's retirement annuity and return to regular employment
24 covered by the Teachers' Retirement System during that school year a
25 maximum of one (1) time during any five (5) year period, beginning with that
26 school year;]~~

27 ~~(10)~~[(12)] Retired members may be employed in a part-time teaching capacity by an

1 agency described in KRS 161.220(4)(b) or (n), not to exceed the equivalent of
2 twelve (12) teaching hours in any one (1) fiscal year. Retired members may be
3 employed for a period not to exceed the equivalent of one hundred (100) days in
4 any one (1) fiscal year in a part-time administrative or nonteaching capacity by an
5 agency described in KRS 161.220(4)(b) or (n) in a position that would otherwise be
6 covered by the retirement system. Except as otherwise provided by this subsection,
7 the return to work provisions set forth in subsections (1) to ~~(7)~~~~(8)~~ of this section
8 shall not apply to retired members who return to work solely for an agency
9 described in KRS 161.220(4)(b) or (n). Calculation of the number of days and
10 teaching hours for part-time teaching, substitute teaching, or part-time employment
11 in a nonteaching capacity under this section shall not exceed the ratio between a
12 school year and the actual months of retirement for the member during that school
13 year. The board of trustees by administrative regulation may establish fractional
14 equivalents of a day of teaching service. Any member who exceeds the twelve (12)
15 hour or one hundred (100) day limitations of this subsection shall be subject to
16 having his or her retirement voided and be required to return all retirement
17 allowances and other benefits paid to the member or on the member's behalf since
18 the effective date of retirement. In lieu of voiding a member's retirement, the system
19 may reduce the member's retirement allowance or any other benefit to which the
20 member would otherwise be entitled on a dollar-for-dollar basis for each dollar of
21 compensation that the member earns in employment exceeding twelve (12) hours,
22 one hundred (100) days, or any apportionment of the two (2) combined. Retired
23 members returning to work for an employer described in KRS 161.220(4)(b) or (n)
24 shall comply with the separation-from-service requirements of subsection ~~(6)~~~~(7)~~
25 of this section;

26 ~~(11)~~~~(13)~~ When a retired member returns to employment in a part-time teaching
27 capacity or in a nonteaching capacity as provided in subsection ~~(10)~~~~(12)~~ of this

1 section, the employer shall contribute annually to the retirement system on the
 2 compensation paid to the retired member at rates determined by the retirement
 3 system actuary that reflect accrued liability for retired members who return to work
 4 under subsection ~~(10)~~~~(12)~~ of this section; and

5 ~~(12)~~~~(14)~~ For retired members who return to work during any one (1) fiscal year in both
 6 a position described in KRS 161.220(4)(b) or (n) and in a position described under
 7 another provision under KRS 161.220(4), and for retired members who return to
 8 work in a position described under KRS 161.220(4)(b) or (n) in both a teaching and
 9 an administrative or nonteaching capacity, the board of trustees shall adopt a
 10 methodology for a pro rata apportionment of days and hours that the retired
 11 member may work in each position.

12 **(13) Notwithstanding any other provision of KRS 161.220 to 161.716 to the contrary,**
 13 **an annuitant who has returned to work following retirement with an employer**
 14 **that does not participate in the state-administered retirement systems shall not be**
 15 **required to take health insurance coverage through the employer and the system**
 16 **shall continue to provide health insurance coverage and benefits to the annuitant**
 17 **during the period of employment, except as may be required by the Medicare**
 18 **Secondary Payer Act under 42 U.S.C. sec. 1395v(b).**

19 ➔Section 2. KRS 156.106 is amended to read as follows:

20 (1) For purposes of this section and KRS 161.605, "critical shortage area" means a lack
 21 of certified teachers in particular subject areas, in grade levels, or in geographic
 22 locations at the elementary and secondary level, as determined annually by the
 23 commissioner of education. The commissioner may use any source considered
 24 reliable including, but not limited to, data provided by the Education Professional
 25 Standards Board and local education agencies to identify the critical shortage areas.

26 (2) **(a)** The Kentucky Board of Education shall promulgate administrative regulations
 27 to establish procedures to be used to appoint retired teachers and

1 administrators to positions in critical shortage areas under this section and
 2 KRS 161.605. ~~[The administrative regulations shall assure that:~~

3 ~~(a) A retired teacher or administrator shall not be hired until the superintendent~~
 4 ~~assures that he or she has made every reasonable effort to recruit an active~~
 5 ~~teacher or administrator for the position on an annual basis; and]~~

6 (b) A retired teacher or administrator **appointed to a position in a critical**
 7 **shortage area** shall be paid, at a minimum, a salary at Rank II with ten (10)
 8 years of experience based on a single salary schedule adopted by the district.

9 **(c)** The commissioner of education shall report members reemployed under this section
 10 to the Kentucky Teachers' Retirement System. ~~[~~

11 ~~(3) The Kentucky Board of Education shall promulgate administrative regulations to~~
 12 ~~establish procedures to be used to appoint retired teachers and administrators to~~
 13 ~~positions in critical shortage areas under this section and KRS 161.605. The~~
 14 ~~administrative regulations shall assure that a retired teacher or administrator shall~~
 15 ~~not be hired until the superintendent assures the commissioner of education that the~~
 16 ~~superintendent has made every reasonable effort to recruit an active teacher or~~
 17 ~~administrator for the position on an annual basis. The commissioner of education~~
 18 ~~shall report members reemployed under this section to the Kentucky Teachers'~~
 19 ~~Retirement System.]~~

20 **(3)** ~~[(4)]~~ If a local school district needs a person to fill a critical shortage position after
 21 reaching its quota established under KRS 161.605, the commissioner of education
 22 with the approval of the executive director of the Kentucky Teachers' Retirement
 23 System may allow the district to exceed its quota if the statewide quota has not been
 24 met.

25 ➔Section 3. Notwithstanding the amendments made to subsection (11) of Section
 26 1 of this Act, retired members participating in the retirement waiver program established
 27 by KRS 161.605(11) prior to the effective date of this Act may continue to participate in

1 the program.