

1 AN ACT relating to employers of the Teachers' Retirement System.

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

3 ➔Section 1. KRS 161.220 is amended to read as follows:

4 As used in KRS 161.220 to 161.716 and 161.990:

- 5 (1) "Retirement system" means the arrangement provided for in KRS 161.220 to
6 161.716 and 161.990 for payment of allowances to members;
- 7 (2) "Retirement allowance" means the amount annually payable during the course of
8 his or her natural life to a member who has been retired by reason of service;
- 9 (3) "Disability allowance" means the amount annually payable to a member retired by
10 reason of disability;
- 11 (4) "Member" means the commissioner of education, deputy commissioners, associate
12 commissioners, and all division directors in the State Department of Education,
13 employees participating in the system pursuant to KRS 196.167(3)(b)1., and any
14 full-time teacher or professional occupying a position requiring certification or
15 graduation from a four (4) year college or university, as a condition of employment,
16 and who is employed by public boards, institutions, or agencies as follows:
- 17 (a) Local boards of education and public charter schools if the public charter
18 school satisfies the criteria set by the Internal Revenue Service to participate
19 in a governmental retirement plan;
- 20 (b) Eastern Kentucky University, Kentucky State University, Morehead State
21 University, Murray State University, Western Kentucky University, and any
22 community colleges established under the control of these universities;
- 23 (c) State-operated secondary area vocational education or area technology
24 centers, Kentucky School for the Blind, and Kentucky School for the Deaf;
- 25 (d) Other public education agencies as created by the General Assembly and
26 those members of the administrative staff of the Teachers' Retirement System
27 of the State of Kentucky whom the board of trustees may designate by

- 1 administrative regulation;
- 2 (e) Regional cooperative organizations formed by local boards of education or
3 other public educational institutions listed in this subsection, for the purpose
4 of providing educational services to the participating organizations;
- 5 (f) All full-time members of the staffs of the Kentucky Association of School
6 Administrators, Kentucky Education Association, Kentucky Vocational
7 Association, Kentucky High School Athletic Association, Kentucky
8 Academic Association, and the Kentucky School Boards Association who
9 were members of the Kentucky Teachers' Retirement System or were
10 qualified for a position covered by the system at the time of employment by
11 the association in the event that the board of directors of the respective
12 association petitions to be included. The board of trustees of the Kentucky
13 Teachers' Retirement System may designate by resolution whether part-time
14 employees of the petitioning association are to be included. The state shall
15 make no contributions on account of these employees, either full-time or part-
16 time. The association shall make the employer's contributions, including any
17 contribution that is specified under KRS 161.550. The provisions of this
18 paragraph shall be applicable to persons in the employ of the associations on
19 or subsequent to July 1, 1972;
- 20 (g) Employees of the Council on Postsecondary Education who were employees
21 of the Department for Adult Education and Literacy and who were members
22 of the Kentucky Teachers' Retirement System at the time the department was
23 transferred to the council pursuant to Executive Order 2003-600;
- 24 (h) The Office of Career and Technical Education;
- 25 (i) The Office of Vocational Rehabilitation;
- 26 (j) The Kentucky Educational Collaborative for State Agency Children;
- 27 (k) The Governor's Scholars Program;

- 1 (l) Any person who is retired for service from the retirement system and is
2 reemployed by an employer identified in this subsection in a position that the
3 board of trustees deems to be a member, except that any person who becomes
4 a member on or after January 1, 2022, and subsequently draws a monthly
5 lifetime retirement allowance, shall upon reemployment after retirement not
6 earn a second retirement account;
- 7 (m) Employees of the former Cabinet for Workforce Development who are
8 transferred to the Kentucky Community and Technical College System and
9 who occupy positions covered by the Kentucky Teachers' Retirement System
10 shall remain in the Teachers' Retirement System. New employees occupying
11 these positions, as well as newly created positions qualifying for Teachers'
12 Retirement System coverage that would have previously been included in the
13 former Cabinet for Workforce Development, shall be members of the
14 Teachers' Retirement System;
- 15 (n) Effective January 1, 1998, employees of state community colleges who are
16 transferred to the Kentucky Community and Technical College System shall
17 continue to participate in federal old age, survivors, disability, and hospital
18 insurance, and a retirement plan other than the Kentucky Teachers' Retirement
19 System offered by Kentucky Community and Technical College System. New
20 employees occupying positions in the Kentucky Community and Technical
21 College System as referenced in KRS 164.5807(5) that would not have
22 previously been included in the former Cabinet for Workforce Development,
23 shall participate in federal old age, survivors, disability, and hospital
24 insurance and have a choice at the time of employment of participating in a
25 retirement plan provided by the Kentucky Community and Technical College
26 System, including participation in the Kentucky Teachers' Retirement System,
27 on the same basis as faculty of the state universities as provided in KRS

1 161.540 and 161.620;

2 (o) Employees of the Office of General Counsel, the Office of Budget and
3 Administrative Services, and the Office of Quality and Human Resources
4 within the Office of the Secretary of the former Cabinet for Workforce
5 Development and the commissioners of the former Department for Adult
6 Education and Literacy and the former Department for Technical Education
7 who were contributing to the Kentucky Teachers' Retirement System as of
8 July 15, 2000;

9 (p) Employees of the Kentucky Department of Education only who are graduates
10 of a four (4) year college or university, notwithstanding a substitution clause
11 within a job classification, and who are serving in a professional job
12 classification as defined by the department;

13 (q) The Governor's School for Entrepreneurs Program;

14 (r) Employees of the Office of Adult Education within the Department of
15 Workforce Development in the Education and Labor Cabinet who were
16 employees of the Council on Postsecondary Education, Kentucky Adult
17 Education Program and who were members of the Kentucky Teachers'
18 Retirement System at the time the Program was transferred to the cabinet
19 pursuant to Executive Orders 2019-0026 and 2019-0027; ~~and~~

20 (s) Employees of the Education Professional Standards Board who were
21 members of the Kentucky Teachers' Retirement System at the time the
22 employees were transferred to the Kentucky Department of Education
23 pursuant to Executive Order 2020-590; and

24 (t) *WeLeadCS, the virtual computer science career academy established in*
25 *KRS 158.809;*

26 (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940,
27 and became a member of the retirement system created by 1938 (1st Extra. Sess.)

1 Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year
2 after that date, and any teacher who was a member of a local teacher retirement
3 system in the public elementary or secondary schools of the state on or before July
4 1, 1940, and continued to be a member of the system until he or she, with the
5 membership of the local retirement system, became a member of the state Teachers'
6 Retirement System or who becomes a member under the provisions of KRS
7 161.470(4);

8 (6) "New teacher" means any member not a present teacher;

9 (7) "Prior service" means the number of years during which the member was a teacher
10 in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior
11 service shall be allowed or credited to any teacher;

12 (8) "Subsequent service" means the number of years during which the teacher is a
13 member of the Teachers' Retirement System after July 1, 1941;

14 (9) "Final average salary" means the average of the five (5) highest annual salaries
15 which the member has received for service in a covered position and on which the
16 member has made contributions, or on which the public board, institution, or
17 agency has picked-up member contributions pursuant to KRS 161.540(2), or the
18 average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a),
19 which shall include picked-up member contributions. Additionally, the board of
20 trustees may approve a final average salary based upon the average of the three (3)
21 highest salaries for individuals who become members prior to January 1, 2022, who
22 are at least fifty-five (55) years of age and have a minimum of twenty-seven (27)
23 years of Kentucky service credit. However, if any of the five (5) or three (3) highest
24 annual salaries used to calculate the final average salary was paid within the three
25 (3) years immediately prior to the date of the member's retirement for individuals
26 who become members prior to January 1, 2022, or within the five (5) years
27 immediately prior to the date of the member's retirement for individuals who

1 become members on or after January 1, 2022, the amount of salary to be included
2 for each of those three (3) years or five (5) years, as applicable, for the purpose of
3 calculating the final average salary shall be limited to the lesser of:

- 4 (a) The member's actual salary; or
5 (b) The member's annual salary that was used for retirement purposes during each
6 of the prior three (3) years or five (5) years, as applicable, plus a percentage
7 increase equal to the percentage increase received by all other members
8 employed by the public board, institution, or agency, or for members of
9 school districts, the highest percentage increase received by members on any
10 one (1) rank and step of the salary schedule of the school district. The increase
11 shall be computed on the salary that was used for retirement purposes. The
12 board of trustees may promulgate an administrative regulation in accordance
13 with KRS Chapter 13A to establish a methodology for measuring the
14 limitation so that the combined increases in salary for each of the last three (3)
15 full years of salary prior to retirement shall not exceed the total permissible
16 percentage increase received by other members of the employer for the same
17 three (3) year period.

18 For individuals who became members of the retirement system prior to July 1,
19 2021, this limitation shall not apply if the member receives an increase in salary in a
20 percentage exceeding that received by the other members, and this increase was
21 accompanied by a corresponding change in position or in length of employment.
22 The board of trustees may promulgate an administrative regulation in accordance
23 with KRS Chapter 13A to provide definitions for a corresponding change in
24 position or in length of employment. This limitation shall also not apply to the
25 payment to a member for accrued annual leave if the individual becomes a member
26 before July 1, 2008, or accrued sick leave which is authorized by statute and which
27 shall, for individuals subject to KRS 161.155(10) who became nonuniversity

- 1 members of the system prior to January 1, 2022, be included as part of a retiring
2 member's annual compensation for the member's last year of active service;
- 3 (10) "Annual compensation" means the total salary received by a member as
4 compensation for all services performed in employment covered by the retirement
5 system during a fiscal year. Annual compensation shall not include payment for any
6 benefit or salary adjustments made by the public board, institution, or agency to the
7 member or on behalf of the member which is not available as a benefit or salary
8 adjustment to other members employed by that public board, institution, or agency.
9 Annual compensation shall not include the salary supplement received by a member
10 under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no
11 circumstances shall annual compensation include compensation that is earned by a
12 member while on assignment to an organization or agency that is not a public
13 board, institution, or agency listed in subsection (4) of this section. In the event that
14 federal law requires that a member continue membership in the retirement system
15 even though the member is on assignment to an organization or agency that is not a
16 public board, institution, or agency listed in subsection (4) of this section, the
17 member's annual compensation for retirement purposes shall be deemed to be the
18 annual compensation, as limited by subsection (9) of this section, last earned by the
19 member while still employed solely by and providing services directly to a public
20 board, institution, or agency listed in subsection (4) of this section. The board of
21 trustees shall determine if any benefit or salary adjustment qualifies as annual
22 compensation. For an individual who becomes a member on or after July 1, 2008,
23 annual compensation shall not include lump-sum payments upon termination of
24 employment for accumulated annual or compensatory leave;
- 25 (11) "Age of member" means the age attained on the first day of the month immediately
26 following the birthdate of the member. This definition is limited to retirement
27 eligibility and does not apply to tenure of members;

- 1 (12) "Employ," and derivatives thereof, means relationships under which an individual
2 provides services to an employer as an employee, as an independent contractor, as
3 an employee of a third party, or under any other arrangement as long as the services
4 provided to the employer are provided in a position that would otherwise be
5 covered by the Kentucky Teachers' Retirement System and as long as the services
6 are being provided to a public board, institution, or agency listed in subsection (4)
7 of this section;
- 8 (13) "Regular interest" means:
- 9 (a) For an individual who becomes a member prior to July 1, 2008, interest at
10 three percent (3%) per annum;:
- 11 (b) For an individual who becomes a member on or after July 1, 2008, but prior to
12 January 1, 2022, interest at two and one-half percent (2.5%) per annum for
13 purposes of crediting interest to the teacher savings account or any other
14 contributions made by the employee that are refundable to the employee upon
15 termination of employment; and
- 16 (c) For an individual who becomes a member on or after January 1, 2022, the
17 rolling five (5) year yield on a thirty (30) year United States Treasury bond as
18 of the end of May prior to the most recently completed fiscal year, except
19 that:
- 20 1. Once the member has at least sixty (60) months of service in the system
21 it shall mean interest at two and one-half percent (2.5%) per annum for
22 purposes of crediting interest to employee contributions in the
23 foundational benefit component or any other contributions made by the
24 employee to the foundational benefit component that are refundable to
25 the employee upon termination of employment; and
- 26 2. The board shall have the authority to adjust the regular interest rate for
27 individuals who become members on or after January 1, 2022, in

- 1 accordance with KRS 161.633 and 161.634;
- 2 (14) "Accumulated contributions" means the contributions of a member to the teachers'
3 savings fund, including picked-up member contributions as described in KRS
4 161.540(2), plus accrued regular interest;
- 5 (15) "Annuitant" means a person who receives a retirement allowance or a disability
6 allowance;
- 7 (16) "Local retirement system" means any teacher retirement or annuity system created
8 in any public school district in Kentucky in accordance with the laws of Kentucky;
- 9 (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The
10 retirement plan year is concurrent with this fiscal year. A contract for a member
11 employed by a local board of education may not exceed two hundred sixty-one
12 (261) days in the fiscal year;
- 13 (18) "Public schools" means the schools and other institutions mentioned in subsection
14 (4) of this section;
- 15 (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was
16 receiving, at the time of death of the member, at least one-half (1/2) of the support
17 from the member for maintenance, including board, lodging, medical care, and
18 related costs;
- 19 (20) "Active contributing member" means a member currently making contributions to
20 the Teachers' Retirement System, who made contributions in the next preceding
21 fiscal year, for whom picked-up member contributions are currently being made, or
22 for whom these contributions were made in the next preceding fiscal year;
- 23 (21) "Full-time" means employment in a position that requires services on a continuing
24 basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal
25 year basis;
- 26 (22) "Full actuarial cost," when used to determine the payment that a member must pay
27 for service credit means the actuarial value of all costs associated with the

1 enhancement of a member's benefits or eligibility for benefit enhancements,
2 including health insurance supplement payments made by the retirement system.

3 The actuary for the retirement system shall determine the full actuarial value costs
4 and actuarial cost factor tables as provided in KRS 161.400;

5 (23) "Last annual compensation" means the annual compensation, as defined by
6 subsection (10) of this section and as limited by subsection (9) of this section,
7 earned by the member during the most recent period of contributing service, either
8 consecutive or nonconsecutive, that is sufficient to provide the member with one (1)
9 full year of service credit in the Kentucky Teachers' Retirement System, and which
10 compensation is used in calculating the member's initial retirement allowance,
11 excluding bonuses, retirement incentives, payments for accumulated sick leave,
12 annual, personal, and compensatory leave, and any other lump-sum payment. For
13 an individual who becomes a member on or after July 1, 2008, payments for annual
14 or compensatory leave shall not be included in determining the member's last
15 annual compensation;

16 (24) "Participant" means a member, as defined by subsection (4) of this section, or an
17 annuitant, as defined by subsection (15) of this section;

18 (25) "Qualified domestic relations order" means any judgment, decree, or order,
19 including approval of a property settlement agreement, that:

20 (a) Is issued by a court or administrative agency; and

21 (b) Relates to the provision of child support, alimony payments, or marital
22 property rights to an alternate payee;

23 (26) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
24 participant, who is designated to be paid retirement benefits in a qualified domestic
25 relations order;

26 (27) "University member" means an individual who becomes a member through
27 employment with an employer specified in subsection (4)(b) and (n) of this section;

1 (28) "Nonuniversity member" means an individual who becomes a member through
2 employment with an employer specified under subsection (4) of this section, except
3 for those members employed by an employer specified in subsection (4)(b) and (n)
4 of this section;

5 (29) "Accumulated employer contribution" means the employer contribution deposited
6 to a member's account through the supplemental benefit component and regular
7 interest credited on such amounts as provided by KRS 161.635 for nonuniversity
8 members and KRS 161.636 for university members;

9 (30) "Accumulated account balance" means:

10 (a) For members who began participating in the system prior to January 1, 2022,
11 the member's accumulated contributions; or

12 (b) For members who began participating in the system on or after January 1,
13 2022, the combined sum of the member's accumulated contributions and the
14 member's accumulated employer contributions;

15 (31) "Foundational benefit component" means the benefits provided by KRS 161.220 to
16 161.716 to individuals who become members on or after January 1, 2022, except
17 for the supplemental benefit component and retiree health benefits set forth in KRS
18 161.675; and

19 (32) "Supplemental benefit component" means:

20 (a) The benefit established pursuant to KRS 161.635 for individuals who become
21 nonuniversity members on or after January 1, 2022; or

22 (b) The benefit established pursuant to KRS 161.636 for individuals who become
23 university members on or after January 1, 2022.

24 ➔Section 2. KRS 161.400 is amended to read as follows:

25 (1) (a) The board of trustees shall designate as actuary a competent person who shall
26 be a fellow of the Conference of Consulting Actuaries or a member of the
27 American Academy of Actuaries. He or she shall be the technical adviser of

1 the board on matters regarding the operation of the funds of the system and
2 shall perform such other duties as are required in connection therewith.

3 (b) 1. At least once in each two (2) year period, the board shall cause an
4 actuarial investigation to be made of all of the economic experience
5 under the retirement system, including but not limited to the inflation
6 rate, investment return, and payroll growth assumptions, relative to the
7 economic assumptions and funding methods previously adopted by the
8 board.

9 2. At least once in each five (5) year period, the actuary shall make an
10 actuarial investigation into all of the demographic actuarial assumptions
11 used, including but not limited to mortality tables, withdrawal rates, and
12 retirement rate assumptions, relative to the demographic actuarial
13 assumptions previously adopted by the board.

14 3. Each actuarial investigation shall include at a minimum a summary of
15 the changes in actuarial assumptions and funding methods
16 recommended in the investigation and the projected impact of the
17 recommended changes on funding levels, unfunded liabilities, and
18 actuarially recommended contribution rates for employers over a thirty
19 (30) year period.

20 (c) At least annually the actuary shall make an actuarial valuation of the
21 retirement system. The valuation shall include:

22 1. A description of the actuarial assumptions used, and the assumptions
23 shall be reasonably related to the experience of the system and represent
24 the actuary's best estimate of anticipated experience;

25 2. A description of any funding methods utilized or required by state law in
26 the development of the actuarial valuation results;

27 3. A description of any changes in actuarial assumptions and methods from

- 1 the previous year's actuarial valuation;
- 2 4. The actuarially recommended contribution rate for employers for the
- 3 upcoming budget periods;
- 4 5. A thirty (30) year projection of the funding levels, unfunded liabilities,
- 5 and actuarially recommended contribution rates for employers based
- 6 upon the actuarial assumptions, funding methods, and experience of the
- 7 system as of the valuation date; ~~and~~
- 8 6. A sensitivity analysis that evaluates the impact of changes in system
- 9 assumptions, including but not limited to the investment return
- 10 assumption, payroll growth assumption, and medical inflation rates, on
- 11 employer contribution rates, funding levels, and unfunded liabilities;
- 12 and
- 13 7. A breakdown of each individual employer's share of the actuarially
- 14 accrued liability as determined solely by the system's consulting
- 15 actuary and assigned to each employer based upon the last
- 16 participating employer of the member or annuitant as of the valuation
- 17 date. The breakdown shall include a value for each individual
- 18 employer, including but not limited to each individual school district,
- 19 each university, each state agency, and every other individual
- 20 employer who participates in the system.
- 21 (d) On the basis of the results of the valuations, the board of trustees shall make
- 22 necessary changes in the retirement system within the provisions of law and
- 23 shall establish the contributions payable by employers and the state specified
- 24 in KRS 161.550, including changes prescribed by KRS 161.633, 161.634,
- 25 161.635, and 161.636, as applicable.
- 26 (e) For any change in actuarial assumptions, funding methods, retiree health
- 27 insurance premiums and subsidies, or any other decisions made by the board

1 that impact system liabilities and actuarially recommended contribution rates
2 for employers and that are not made in conjunction with the actuarial
3 investigations required by paragraph (b) of this subsection, an actuarial
4 analysis shall be completed showing the projected impact of the changes on
5 funding levels, unfunded liabilities, and actuarially recommended contribution
6 rates for employers over a thirty (30) year period.

7 (2) Actuarial factors and actuarial cost factor tables in use by the retirement system for
8 all purposes shall be determined by the actuary of the retirement system and
9 approved by the board of trustees by resolution and implemented without the
10 necessity of an administrative regulation.

11 (3) A copy of each actuarial investigation, actuarial analysis, and valuation required by
12 subsection (1) of this section shall be forwarded electronically to the Legislative
13 Research Commission no later than ten (10) days after receipt by the board, and the
14 Legislative Research Commission shall distribute the information received to the
15 committee staff and co-chairs of any committee that has jurisdiction over the
16 Teachers' Retirement System. The actuarial valuation required by subsection (1)(c)
17 of this section shall be submitted no later than November 15 following the close of
18 the fiscal year.