

1 AN ACT relating to pension spiking in the systems administered by the Kentucky  
2 Public Pensions Authority.

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

4 ➔Section 1. KRS 61.598 is amended to read as follows:

5 (1) *As used in*~~[For purposes of]~~ this section, "bona fide promotion or career  
6 advancement":

7 (a) Means:

8 1. A professional advancement in substantially the same line of work held  
9 by the employee in the four (4) years immediately prior to the final five  
10 (5) fiscal years preceding retirement or a change in employment position  
11 based on the training, skills, education, or expertise of the employee that  
12 imposes a significant change in job duties and responsibilities to clearly  
13 justify the increased compensation to the member; or

14 2. *a.* An increase in creditable compensation for all employees in a  
15 specified class due to an increase in rate of pay authorized or  
16 funded by the legislative or administrative body of the employer or  
17 due to an increase in rate of pay mandated in a collective  
18 bargaining agreement approved by the legislative body of the  
19 employer.

20 *b. Subdivision a. of this subparagraph shall be retroactive to apply*  
21 *to any member whose effective retirement date occurred on or*  
22 *after July 1, 2021*; and

23 (b) Does not include any circumstance where an elected official participating in  
24 the Kentucky Employees Retirement System or the County Employees  
25 Retirement System takes a position of employment with a different employer  
26 participating in any of the state-administered retirement systems.

27 (2) (a) For employees retiring from the Kentucky Employees Retirement System, the

1 County Employees Retirement System, or the State Police Retirement System  
2 on or after January 1, 2018, the systems shall, for each of the retiring  
3 employee's last five (5) fiscal years of employment, identify any fiscal year in  
4 which the creditable compensation increased at a rate of ten percent (10%) or  
5 more annually over the immediately preceding fiscal year's creditable  
6 compensation. The employee's creditable compensation in the fiscal year  
7 immediately prior to the employee's last five (5) fiscal years of employment  
8 shall be utilized to compare the initial fiscal year in the five (5) fiscal year  
9 period.

10 (b) Except as limited or excluded by subsections (3) and (4) of this section, any  
11 amount of increase in creditable compensation for a fiscal year identified  
12 under paragraph (a) of this subsection that exceeds ten percent (10%) more  
13 than the employee's creditable compensation from the immediately preceding  
14 fiscal year shall not be included in the creditable compensation used to  
15 calculate the retiring employee's monthly retirement allowance. If the  
16 creditable compensation for a specific fiscal year identified under paragraph  
17 (a) of this subsection as exceeding the ten percent (10%) increase limitation is  
18 not used to calculate the retiring employee's monthly retirement allowance,  
19 then no reduction in creditable compensation shall occur for that fiscal year.

20 (c) If the creditable compensation of the retiring employee is reduced as provided  
21 by paragraph (b) of this subsection, the retirement systems:

- 22 1. Shall refund the employee contributions and interest attributable to the  
23 reduction in creditable compensation; and
- 24 2. Shall not refund the employer contributions paid but shall utilize those  
25 funds to pay down the unfunded liability of the pension fund in which  
26 the retiring employee participated.

27 (3) (a) In order to ensure the prospective application of the limitations on increases in

1           creditable compensation contained in subsection (2) of this section, only the  
2           creditable compensation earned by the retiring employee on or after July 1,  
3           2017, shall be subject to reduction under subsection (2) of this section.  
4           Creditable compensation earned by the retiring employee prior to July 1,  
5           2017, shall not be subject to reduction under subsection (2) of this section.

6           (b) If the reductions in creditable compensation during a retiring member's entire  
7           last five (5) years of employment results in a reduction in his or her monthly  
8           retirement allowance of less than twenty-five dollars (\$25) per month or an  
9           actuarially equivalent value under the various payment options, then no  
10          reduction in creditable compensation or retirement allowances shall occur  
11          under subsection (2) of this section.

12       (4) Subsection (2) of this section shall not apply to:

13           (a) A bona fide promotion or career advancement as defined by subsection (1) of  
14           this section;

15           (b) A lump-sum payment for compensatory time paid to an employee upon  
16           termination of employment;

17           (c) A lump-sum payment made pursuant to an alternate sick leave program under  
18           KRS 78.616(5) that is paid to an employee upon termination of employment;

19           (d) Increases in creditable compensation in a fiscal year over the immediately  
20           preceding fiscal year, where in the immediately preceding fiscal year the  
21           employer reported the employee as being on leave without pay for any reason,  
22           including but not limited to sick leave without pay, maternity leave, leave  
23           authorized under the Family Medical Leave Act, and any period of time  
24           where the employee received workers' compensation benefit payments that  
25           were not reported to the plan as creditable compensation;

26           (e) Increases in creditable compensation directly attributable to an employee's  
27           receipt of compensation for:

- 1           1. Overtime hours worked while serving as a participating employee under  
2           any state or federal grant, grant pass-through, or similar program that  
3           requires overtime as a condition or necessity of the employer's receipt of  
4           the grant; or
  - 5           2. The first one hundred (100) hours of mandatory overtime hours that the  
6           employee is individually required to work by the employer during a  
7           fiscal year. This subparagraph shall not be construed to apply to  
8           overtime hours voluntarily worked by the employee or in situations in  
9           which the employee has the option to elect out of participation in  
10          overtime hours. Any mandatory overtime hours exempt under this  
11          subparagraph shall be in addition to any overtime hours otherwise  
12          exempt under the provisions of this subsection; and
- 13          (f) Increases in creditable compensation directly attributable to an employee's  
14          receipt of compensation for overtime performed during and as a result of a  
15          state of emergency declared by:
- 16               1. The President of the United States or the Governor of the  
17               Commonwealth of Kentucky; or
  - 18               2. A local government in which the Governor authorizes mobilization of  
19               the Kentucky National Guard pursuant to KRS 38.030 and 39A.950  
20               during such time as the National Guard is mobilized.
- 21          (5) (a) For employees retiring on or after January 1, 2014, but prior to July 1, 2017,  
22          the last participating employer shall be required to pay for any additional  
23          actuarial costs resulting from annual increases in an employee's creditable  
24          compensation greater than ten percent (10%) over the employee's last five (5)  
25          fiscal years of employment that are not the direct result of a bona fide  
26          promotion or career advancement. The cost shall be determined by the  
27          retirement systems.

- 1 (b) Lump-sum payments for compensatory time paid to an employee upon  
2 termination of employment shall be exempt from this subsection.
- 3 (c) The Authority shall be required to answer inquiries from participating  
4 employers regarding this subsection. Upon request of the employer prior to  
5 the employee's change of position or hiring, the systems shall make a  
6 determination that is binding to the systems as to whether or not a change of  
7 position or hiring constitutes a bona fide promotion or career advancement.
- 8 (d) For any additional actuarial costs charged to the employer under this  
9 subsection, the systems shall allow the employer to pay the costs without  
10 interest over a period of one (1) year from the date of receipt of the employer's  
11 final invoice.
- 12 (6) The Authority shall determine whether increases in creditable compensation during  
13 the last five (5) fiscal years of employment prior to retirement constitute a bona fide  
14 promotion or career advancement and may promulgate administrative regulations in  
15 accordance with KRS Chapter 13A to administer this section. All state-  
16 administered retirement systems shall cooperate to implement this section.
- 17 (7) Any employer who disagrees with a determination made by the system in  
18 accordance with this section regarding whether an increase in compensation  
19 constitutes a bona fide promotion or career advancement for purposes of subsection  
20 (5) of this section may request a hearing and appeal the decision in accordance with  
21 KRS 61.645(16) or 78.782(16).
- 22 (8) For the fiscal year beginning July 1, 2017, and subsequent years, the Kentucky  
23 Retirement Systems and the County Employees Retirement System shall provide a  
24 means for employers to separately report the specific exceptions provided in  
25 subsection (4) of this section within the reporting system utilized by the employers  
26 for making employer reports under KRS 16.645, 61.675, and 78.545. The Kentucky  
27 Retirement Systems and the County Employees Retirement System shall

1 continually provide communication, instructions, training, and educational  
2 opportunities for employers regarding how to appropriately report exemptions  
3 established by subsection (4) of this section.

4 (9) This section shall not apply to employees participating in the hybrid cash balance  
5 plan as provided by KRS 16.583, 61.597, 78.5512, and 78.5516.

6 ➔Section 2. KRS 16.198 is amended to read as follows:

7 The appointment, salary, benefits, and number of individuals employed as a Trooper R  
8 Class and CVE R class shall be as follows:

9 (1) The commissioner may appoint CVE R Class employees. CVE R Class employees  
10 shall serve on a contractual basis for a term of one (1) year, and the contract may be  
11 renewed annually, by agreement of the parties, for no more than nine (9) additional  
12 one (1) year terms. A CVE R Class employee shall be required to pass a physical  
13 fitness test every three (3) years.

14 (2) The commissioner may appoint Trooper R Class employees who shall serve on a  
15 contractual basis for a term of one (1) year. The contract may be renewed on an  
16 annual basis upon the agreement of both parties. A Trooper R Class employee shall  
17 be required to pass a physical fitness test every three (3) years.

18 (3) The compensation for Trooper R Class employees and CVE R Class employees  
19 shall be established by administrative regulation promulgated pursuant to KRS  
20 Chapter 13A.

21 (4) (a) All appointments of individuals employed as a Trooper R Class and CVE R  
22 Class shall be based upon agency need as determined by the commissioner.

23 (b) Work stations for individuals employed as a Trooper R Class and CVE R  
24 Class shall be determined by agency need with consideration given to the  
25 applicant's stated preference.

26 (c) Merit of individuals employed as a Trooper R Class and CVE R Class shall be  
27 determined by the applicant's work performance history.

- 1 (d) Fitness of individuals employed as a Trooper R Class and CVE R Class shall  
2 be determined by the applicant's ability to adhere to the agency standards set  
3 by the commissioner under this chapter.
- 4 (5) The number of individuals employed as a Trooper R Class and CVE R Class by the  
5 department shall not:
- 6 (a) Exceed one hundred (100); or  
7 (b) Be counted in the total employee cap for the department.
- 8 (6) All individuals employed as a Trooper R Class and CVE R Class shall be assigned  
9 the job duties of trooper or commercial vehicle enforcement officer and shall not be  
10 placed in any supervisory positions.
- 11 (7) Notwithstanding any provision of KRS 16.505 to 16.652, KRS 18A.005 to  
12 18A.228, and KRS 61.510 to 61.705 to the contrary:
- 13 (a) Individuals employed as a Trooper R Class and CVE R Class shall continue to  
14 receive all retirement and health insurance benefits provided by the systems  
15 administered by Kentucky Retirement Systems to which they were entitled  
16 upon retiring from the department as a commissioned officer under this  
17 chapter;
- 18 (b) Individuals employed as a Trooper R Class and CVE R Class shall not be  
19 eligible to receive health insurance coverage or benefits through the  
20 department and shall not be eligible to participate in the State Police  
21 Retirement System or the Kentucky Employees Retirement System; and
- 22 (c) The department shall not pay health insurance contributions to the state health  
23 insurance plan for individuals employed as a Trooper R Class or CVE R  
24 Class.
- 25 (8) The department shall provide Trooper R Class and CVE R Class employees  
26 vacation, bereavement, and sick leave and holiday pay at the same level as an  
27 officer with less than five (5) years of service, which shall include but not be

1        limited to at least eight (8) hours of vacation leave and eight (8) hours of sick  
2        leave per month served ~~promulgate administrative regulations, pursuant to KRS~~  
3        ~~Chapter 13A, to establish vacation, bereavement, and sick leave for Trooper R~~  
4        ~~Class and CVE R Class employees, at the same level as an officer with less than~~  
5        ~~five (5) years of service, and holiday pay for Trooper R Class and CVE R Class~~  
6        ~~employees].~~

7        (9) Individuals employed as a Trooper R Class or CVE R Class shall be employed on a  
8        contractual basis and shall be provided due process pursuant to KRS 16.140 or  
9        16.192 for any disciplinary action imposed by the commissioner. A decision by the  
10       commissioner to not renew a contract shall not be considered a disciplinary action  
11       for purposes of this section.

12       (10) The provisions of this section shall not eliminate or reduce any requirements under  
13       KRS 61.637 for the department to pay employer contributions to the retirement  
14       systems or to reimburse the retirement systems for the cost of retiree health, on any  
15       individual employed as a Trooper R Class or CVE R Class.

16       ➔Section 3. The Kentucky Public Pensions Authority shall review the accounts of  
17       members who had an effective retirement date that occurred on or after July 1, 2021, and  
18       shall retroactively adjust recipient benefits accordingly to reflect the amendments to  
19       subsection (1)(a)2. of Section 1 of this Act, including any benefits the recipient would  
20       have received had the amendments to subsection (1)(a)2. of Section 1 of this Act been in  
21       effect immediately prior to the member's effective retirement date.