

1 AN ACT relating to membership dates in the Kentucky Employees Retirement
2 System.

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

4 ➔Section 1. KRS 61.510 is amended to read as follows:

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

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

- 1 (8) "Member" means any employee who is included in the membership of the system
2 or any former employee whose membership has not been terminated under KRS
3 61.535;
- 4 (9) "Service" means the total of current service and prior service as defined in this
5 section;
- 6 (10) "Current service" means the number of years and months of employment as an
7 employee, on and after July 1, 1956, except that for members, officers, and
8 employees of the General Assembly this date shall be January 1, 1960, for which
9 creditable compensation is paid and employee contributions deducted, except as
10 otherwise provided, and each member, officer, and employee of the General
11 Assembly shall be credited with a month of current service for each month he or
12 she serves in the position;
- 13 (11) "Prior service" means the number of years and completed months, expressed as a
14 fraction of a year, of employment as an employee, prior to July 1, 1956, for which
15 creditable compensation was paid; except that for members, officers, and
16 employees of the General Assembly, this date shall be January 1, 1960. An
17 employee shall be credited with one (1) month of prior service only in those months
18 he or she received compensation for at least one hundred (100) hours of work;
19 provided, however, that each member, officer, and employee of the General
20 Assembly shall be credited with a month of prior service for each month he or she
21 served in the position prior to January 1, 1960. Twelve (12) months of current
22 service in the system are required to validate prior service;
- 23 (12) "Accumulated contributions" at any time means the sum of all amounts deducted
24 from the compensation of a member and credited to his or her individual account in
25 the members' account, including employee contributions picked up after August 1,
26 1982, pursuant to KRS 61.560(4), together with interest credited, on such amounts
27 and any other amounts the member shall have contributed thereto, including interest

1 credited thereon. For members who begin participating on or after September 1,
2 2008, "accumulated contributions" shall not include employee contributions that are
3 deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the
4 funds established in KRS 16.510 and 61.515, as prescribed by KRS 61.702(3)(b);

5 (13) "Creditable compensation":

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

17 (b) Includes:

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

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

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

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

18 (c) Excludes:

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

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

23 3. For employees who begin participating on or after August 1, 2016,
24 nominal fees paid for services as a volunteer; and

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

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

- 1 (a) For a member who begins participating before September 1, 2008, who is
2 employed in a nonhazardous position, the creditable compensation of the
3 member during the five (5) fiscal years he or she was paid at the highest
4 average monthly rate divided by the number of months of service credit
5 during that five (5) year period multiplied by twelve (12). The five (5) years
6 may be fractional and need not be consecutive. If the number of months of
7 service credit during the five (5) year period is less than forty-eight (48), one
8 (1) or more additional fiscal years shall be used;
- 9 (b) For a member who is employed in a nonhazardous position, whose effective
10 retirement date is between August 1, 2001, and January 1, 2009, and whose
11 total service credit is at least twenty-seven (27) years and whose age and years
12 of service total at least seventy-five (75), final compensation means the
13 creditable compensation of the member during the three (3) fiscal years the
14 member was paid at the highest average monthly rate divided by the number
15 of months of service credit during that three (3) years period multiplied by
16 twelve (12). The three (3) years may be fractional and need not be
17 consecutive. If the number of months of service credit during the three (3)
18 year period is less than twenty-four (24), one (1) or more additional fiscal
19 years shall be used. Notwithstanding the provision of KRS 61.565, the
20 funding for this paragraph shall be provided from existing funds of the
21 retirement allowance;
- 22 (c) For a member who begins participating before September 1, 2008, who is
23 employed in a hazardous position, as provided in KRS 61.592, the creditable
24 compensation of the member during the three (3) fiscal years he or she was
25 paid at the highest average monthly rate divided by the number of months of
26 service credit during that three (3) year period multiplied by twelve (12). The
27 three (3) years may be fractional and need not be consecutive. If the number

1 of months of service credit during the three (3) year period is less than twenty-
2 four (24), one (1) or more additional fiscal years 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 61.592, the creditable compensation of the member during the three
16 (3) complete fiscal years he or she was paid at the highest average monthly
17 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, including employee contributions picked up
27 after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the

1 system by the employer and the following equivalents shall be used to convert the
2 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
3 workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour
4 workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months,
5 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 that are adopted by the board. In cases of disability
10 retirement, the options authorized by KRS 61.635 shall be computed by adding ten
11 (10) years to the age of the member, unless the member has chosen the Social
12 Security adjustment option as provided for in KRS 61.635(8), in which case the
13 member's actual age shall be used. For members who began participating in the
14 system prior to January 1, 2014, no disability retirement option shall be less than
15 the same option computed under early retirement;

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

18 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
19 following June 30, which shall also be the plan year. The "fiscal year" shall be the
20 limitation year used to determine contribution and benefit limits as established by
21 26 U.S.C. sec. 415;

22 (20) "Officers and employees of the General Assembly" means the occupants of those
23 positions enumerated in KRS 6.150. The term shall also apply to assistants who
24 were employed by the General Assembly for at least one (1) regular legislative
25 session prior to July 13, 2004, who elect to participate in the retirement system, and
26 who serve for at least six (6) regular legislative sessions. Assistants hired after July
27 13, 2004, shall be designated as interim employees;

- 1 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean
2 all positions that average one hundred (100) or more hours per month determined
3 by using the number of months actually worked within a calendar or fiscal year,
4 including all positions except:
- 5 (a) Seasonal positions, which although temporary in duration, are positions which
6 coincide in duration with a particular season or seasons of the year and which
7 may recur regularly from year to year, the period of time shall not exceed nine
8 (9) months;
- 9 (b) Emergency positions which are positions utilized by the employer during:
- 10 1. An emergency as determined by the employer for a period not
11 exceeding thirty (30) working days and are nonrenewable; or
12 2. A state of emergency declared by the President of the United States or
13 the Governor of the Commonwealth of Kentucky that are created or
14 filled specifically for addressing the employer's needs during and as a
15 result of the declared emergency;
- 16 (c) Temporary positions which are positions of employment with a participating
17 department for a period of time not to exceed nine (9) months and are
18 nonrenewable;
- 19 (d) Part-time positions which are positions which may be permanent in duration,
20 but which require less than a calendar or fiscal year average of one hundred
21 (100) hours of work per month, determined by using the number of months
22 actually worked within a calendar or fiscal year, in the performance of duty;
23 and
- 24 (e) Interim positions which are positions established for a one-time or recurring
25 need not to exceed nine (9) months;
- 26 (22) "Vested" for purposes of determining eligibility for purchasing service credit under
27 KRS 61.552 means the employee has at least forty-eight (48) months of service if

1 age sixty-five (65) or older or at least sixty (60) months of service if under the age
2 of sixty-five (65). For purposes of this subsection, "service" means service in the
3 systems administered by the Kentucky Retirement Systems and County Employees
4 Retirement System;

5 (23) "Parted employer" means a department, portion of a department, board, or agency,
6 such as Outwood Hospital and School, which previously participated in the system,
7 but due to lease or other contractual arrangement is now operated by a publicly held
8 corporation or other similar organization, and therefore is no longer participating in
9 the system. The term "parted employer" shall not include a department, board, or
10 agency that ceased participation in the system pursuant to KRS 61.522;

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

14 (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
15 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
16 pay. The rate shall be certified by the employer;

17 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by
18 the member in accordance with KRS 61.542 or 61.705 to receive any available
19 benefits in the event of the member's death. As used in KRS 61.702, "beneficiary"
20 does not mean an estate, trust, or trustee;

21 (27) "Recipient" means the retired member or the person or persons designated as
22 beneficiary by the member and drawing a retirement allowance as a result of the
23 member's death or a dependent child drawing a retirement allowance. An alternate
24 payee of a qualified domestic relations order shall not be considered a recipient,
25 except for purposes of KRS 61.623;

26 (28) "Level percentage of payroll amortization method" means a method of determining
27 the annual amortization payment on the unfunded actuarial accrued liability as

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

- 1 as provided in KRS 61.543;
- 2 (35) "Month" means a calendar month;
- 3 (36) "Membership date" means:
- 4 (a) The date upon which the member began participating in the system as
- 5 provided in KRS 61.543;
- 6 (b) For a member electing to participate in the system pursuant to KRS
- 7 196.167(4) or 311A.022(2) who has not previously participated in the system
- 8 or the Kentucky Teachers' Retirement System, the date the member began
- 9 participating in a defined contribution plan that meets the requirements of 26
- 10 U.S.C. sec. 403(b);
- 11 (c) For members bound by an educational contract as a conditional employee to
- 12 the state of Kentucky~~[prior to December 31, 2003]~~, the date on which the
- 13 educational contract became effective; or
- 14 (d) For a member participating in the system pursuant to KRS 31.045, the earlier
- 15 of the date upon which the member began participating in the system under
- 16 paragraph (a) of this subsection or the date the member began employment
- 17 with the Louisville and Jefferson County Public Defender Corporation;
- 18 (37) "Participant" means a member, as defined by subsection (8) of this section, or a
- 19 retired member, as defined by subsection (24) of this section;
- 20 (38) "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 (39) "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 (40) "Accumulated employer credit" mean the employer pay credit deposited to the
2 member's account and interest credited on such amounts as provided by KRS
3 16.583 and 61.597;
- 4 (41) "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 and 61.597,
9 the combined sum of the member's accumulated contributions and the
10 member's accumulated employer credit;
- 11 (42) "Volunteer" means an individual who:
- 12 (a) Freely and without pressure or coercion performs hours of service for an
13 employer participating in one (1) of the systems administered by Kentucky
14 Retirement Systems without receipt of compensation for services rendered,
15 except for reimbursement of actual expenses, payment of a nominal fee to
16 offset the costs of performing the voluntary services, or both; and
- 17 (b) If a retired member, does not become an employee, leased employee, or
18 independent contractor of the employer for which he or she is performing
19 volunteer services for a period of at least twelve (12) months following the
20 retired member's most recent retirement date;
- 21 (43) "Nominal fee" means compensation earned for services as a volunteer that does not
22 exceed five hundred dollars (\$500) per month with each participating employer.
23 Compensation earned for services as a volunteer from more than one (1)
24 participating employer during a month shall not be aggregated to determine whether
25 the compensation exceeds the five hundred dollars (\$500) per month maximum
26 provided by this subsection;
- 27 (44) "Nonhazardous position" means a position that does not meet the requirements of

1 KRS 61.592 or has not been approved by the board as a hazardous position;

2 (45) "Monthly average pay" means:

3 (a) In the case of a member who dies as a direct result of an act in line of duty as
4 defined in KRS 16.505 or who dies as a result of a duty-related injury as
5 defined in KRS 61.621, the higher of the member's monthly final rate of pay
6 or the average monthly creditable compensation earned by the deceased
7 member during his or her last twelve (12) months of employment; or

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

16 (46) "Authority" means the Kentucky Public Pensions Authority as provided by KRS
17 61.505;

18 (47) "Executive director" means the executive director of the Kentucky Public Pensions
19 Authority;

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

22 (a) Faculty;

23 (b) Staff responsible for teaching; or

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

27 (49) "Agency reporting official" means the person designated by the participating

1 employer who shall be responsible for forwarding all employer and employee
2 contributions and a record of the contributions to the system and for performing
3 other administrative duties pursuant to KRS 61.510 to 61.705; and
4 (50) "Gainful employment" means work in any capacity that is or may be performed
5 with regularity and is or may be usually done for pay, whether pay is received or
6 not received, including seasonal, volunteer, part-time, and on-call work.