

1 AN ACT relating to retirement benefits for state and county employees in
2 hazardous positions.

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

4 ➔SECTION 1. A NEW SECTION OF KRS 16.505 TO 16.652 IS CREATED TO
5 READ AS FOLLOWS:

6 *Notwithstanding any provision of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510*
7 *to 78.852 to the contrary:*

8 *(1) Effective January 1, 2027, a member participating in the State Police Retirement*
9 *System, in a hazardous position in the Kentucky Employees Retirement System,*
10 *or in a hazardous position in the County Employees Retirement System, who*
11 *began participating on or after January 1, 2014, but prior to January 1, 2027, in*
12 *the hybrid cash balance plan as provided by Section 4 or 6 of this Act, shall, in*
13 *lieu of the benefits of the hybrid cash balance plan that he or she would otherwise*
14 *be eligible to receive from the systems, receive the benefits and rights provided to*
15 *members in a hazardous position who began participating in the systems*
16 *immediately prior to January 1, 2014, unless the member makes an election*
17 *under subsection (3) of this section;*

18 *(2) For each member participating in a hazardous position whose rights and benefits*
19 *change as a result of subsection (1) of this section, unless the member makes an*
20 *election under subsection (3) of this section:*

21 *(a) All service accrued on or after January 1, 2014, in the State Police*
22 *Retirement System, in a hazardous position in the Kentucky Employees*
23 *Retirement System, or in a hazardous position in the County Employees*
24 *Retirement System, shall be presumed as service credit earned immediately*
25 *prior to January 1, 2014, for purposes of determining benefits under KRS*
26 *16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852;*

27 *(b) The member's accumulated contributions shall remain in the member's*

1 account; and

2 (c) The accumulated employer credit shall be transferred to the retirement
3 allowance account as provided by KRS 16.565, 61.580, and 78.650, as
4 applicable;

5 (3) (a) A member participating in the State Police Retirement System, in a
6 hazardous position in the Kentucky Employees Retirement System, or in a
7 hazardous position in the County Employees Retirement System, who began
8 participating on or after January 1, 2014, but prior to January 1, 2027, in
9 the hybrid cash balance plan as provided by Section 4 or 6 of this Act, may
10 make a one (1) time, irrevocable election to opt out of the change to his or
11 her rights and benefits under subsection (1) of this section.

12 (b) An election under this subsection shall be:

13 1. In writing and on a form prescribed by the Kentucky Public Pensions
14 Authority;

15 2. For a member participating on or after the effective date of this Act,
16 but prior to January 1, 2027, made by January 31, 2027; and

17 3. For a member who did not participate or participated in a
18 nonhazardous position on or after the effective date of this Act, but
19 prior to January 1, 2027, who subsequently accepts a position
20 participating in the State Police Retirement System, a hazardous
21 position in the Kentucky Employees Retirement System, or a
22 hazardous position in the County Employees Retirement System, made
23 within thirty (30) days of the member's date of employment; and

24 (4) This section shall not apply to:

25 (a) Retired members who are reemployed on or after September 1, 2008, and
26 who are not eligible to participate in the systems during reemployment;

27 (b) Members who, prior to the effective date of this Act, made an election under

1 Section 7 of this Act; or

2 (c) Any service credit earned on or after January 1, 2014, in a nonhazardous
3 position, except that nonhazardous service in the hybrid cash balance plan
4 of either the Kentucky Employees Retirement System or the County
5 Employees Retirement System shall be consolidated as provided by Section
6 19 of this Act with hazardous service credit resulting from subsection (1) of
7 this section in order to determine eligibility and benefits.

8 ➔Section 2. KRS 16.576 is amended to read as follows:

- 9 (1) (a) Any member who begins participating before September 1, 2008, who has at
10 least five (5) years of service credit may retire at his or her normal retirement
11 date, or subsequent thereto, upon written notification to the system, setting
12 forth at what date the retirement is to become effective, if the effective date
13 shall be after his or her last day of service and subsequent to the filing of the
14 notice at the retirement office.
- 15 (b) Any member who begins participating on or after September 1, 2008, who has
16 at least five (5) years of service credited under KRS 16.543(1), 61.543(1), or
17 another state-administered retirement system may retire at his or her normal
18 retirement date, or subsequent thereto, upon written notification to the system,
19 setting forth what date the retirement is to become effective, if the effective
20 date shall be after his or her last day of service and subsequent to the filing of
21 the notice at the retirement office.
- 22 (2) The member shall have the right to elect to have his or her retirement allowance
23 payable under subsection (3), (4), or (6) of this section or any one (1) of the plans
24 set forth in KRS 61.635.
- 25 (3) (a) Effective August 1, 1990, a member of the Kentucky State Police Retirement
26 System may elect to receive an annual retirement allowance, payable monthly
27 during his or her lifetime, equal to two and five-tenths percent (2.5%) of final

1 compensation for each year of service credit. Effective August 1, 1988, a
2 member of the Kentucky Employees Retirement System covered by this
3 section may elect to receive an annual retirement allowance, payable monthly
4 during his or her lifetime, equal to two and forty-nine hundredths percent
5 (2.49%) of final compensation for each year of service credit. The annual
6 retirement allowance for a member covered by this section shall not exceed
7 the maximum benefit as set forth in the Internal Revenue Code.

8 (b) A member of the State Police Retirement System or a member of the
9 Kentucky Employees Retirement System covered by this section, whose
10 participation begins on or after September 1, 2008, but prior to January 1,
11 2014, or whose participation begins on or after January 1, 2027, or whose
12 participation is presumed under Section 1 of this Act to begin immediately
13 prior to January 1, 2014, shall receive an annual retirement allowance,
14 payable monthly during his or her lifetime, equal to:

- 15 1. One and three-tenths percent (1.3%) of final compensation for each year
16 of service credit if the employee has earned ten (10) or less years of
17 service at retirement;
- 18 2. One and one-half percent (1.5%) of final compensation for each year of
19 service credit if the employee has earned greater than ten (10) but no
20 more than twenty (20) years of service at retirement;
- 21 3. Two and one-quarter percent (2.25%) of final compensation for each
22 year of service credit if the employee has earned greater than twenty
23 (20) but less than twenty-five (25) years of service at retirement; or
- 24 4. Two and one-half percent (2.5%) of final compensation for each year of
25 service credit if the employee has earned twenty-five (25) or more years
26 of service at retirement.

27 (4) The member may elect to receive a monthly retirement allowance payable for ten

1 (10) years certain, actuarially equivalent to the retirement allowance payable under
2 subsection (3) of this section. If the member should become deceased prior to the
3 expiration of ten (10) years, his or her beneficiary, unless the beneficiary is the
4 member's estate, shall receive the remaining payments monthly for the duration of
5 the ten (10) years. If the member's estate is the beneficiary, the member's estate
6 shall receive a lump-sum payment which shall be the actuarial equivalent to the
7 remaining payments. The provisions of KRS 61.702 notwithstanding, the member
8 who retired on June 17, 1978, or thereafter, and his or her spouse and eligible
9 dependents shall continue to receive the insurance benefits to which they are
10 entitled pursuant to KRS 61.702 after the expiration of ten (10) years. Effective
11 with any insurance contract procured, or self-insurance plan instituted, after July 15,
12 1990, a member who retired prior to June 17, 1978, and his or her spouse and
13 eligible dependents shall receive insurance benefits pursuant to KRS 61.702 upon
14 payment by the member or beneficiary of the entire cost of the required insurance
15 premium.

16 (5) Notwithstanding any other provisions of this section, upon written notification to
17 the system, a member shall have the option to defer his or her election to receive
18 his or her retirement allowance. The retirement allowance payable under a deferred
19 option shall be increased to reflect the deferred receipt of benefits.

20 (6) In lieu of any other benefits due under KRS 16.505 to 16.652, a member who
21 begins participating before September 1, 2008, who has attained age fifty-five (55)
22 and who has attained at least one (1) month of service credit but no more than fifty-
23 nine (59) months of service credit may elect to receive an annual retirement
24 allowance, payable monthly or less frequently as determined by the board, which
25 shall be determined by multiplying his or her accumulated contributions by two (2)
26 and converting this amount to an annual retirement allowance based on an annuity
27 rate adopted by the board which would pay the actuarial equivalent of twice his or

1 her accumulated contributions over the lifetime of the retired member.

2 (7) (a) Subsections (1) to (6) of this section shall not apply to:

3 1. Members who begin participating in the system on or after January 1,
4 2014, but prior to January 1, 2027, who make an election under
5 subsection (3) of Section 1 of this Act; or

6 2. Members who, prior to the effective date of this Act, made an election
7 under Section 7 of this Act.

8 (b) Members who: ~~+~~

9 1. Begin participating in the system on or after January 1, 2014, but prior
10 to January 1, 2027, who make an election under subsection (3) of
11 Section 1 of this Act; or

12 2. Prior to the effective date of this Act, made an election under Section 7
13 of this Act;

14 shall receive the retirement benefit calculation prescribed by KRS 16.583.

15 ➔Section 3. KRS 16.577 is amended to read as follows:

16 (1) Upon retirement at early retirement date, a member may receive an annual
17 retirement allowance payable monthly during his or her lifetime which shall be
18 determined in the same manner as for retirement at his or her normal retirement
19 date, with years of service and final compensation being determined as of the date
20 of his or her actual retirement, but the amount of the retirement allowance so
21 determined shall be reduced at an amount determined by the board's actuary to
22 reflect the earlier commencement of benefits.

23 (2) For a member who begins participating before September 1, 2008, there shall be no
24 reduction in the retirement allowance if the member has twenty (20) or more years
25 of service credit, at least fifteen (15) of which are current service.

26 (3) For a member who begins participating on or after September 1, 2008, but prior to
27 January 1, 2014, or who begins participating on or after January 1, 2027, or who

1 is presumed under Section 1 of this Act to begin participating immediately prior
 2 to January 1, 2014, there shall be no reduction in the retirement allowance if the
 3 member has twenty-five (25) or more years of service credited under KRS
 4 16.543(1), 61.543(1), or another state-administered retirement system.

5 (4) (a) Subsections (1) to (3) of this section shall not apply to:

- 6 1. Members who begin participating in the system on or after January 1,
 7 2014, but prior to January 1, 2027, who make an election under
 8 subsection (3) of Section 1 of this Act; or
 9 2. Members who, prior to the effective date of this Act, made an election
 10 under Section 7 of this Act.

11 (b) Members who: ~~†~~

- 12 1. Begin participating in the system on or after January 1, 2014, but prior
 13 to January 1, 2027, who make an election under subsection (3) of
 14 Section 1 of this Act; or
 15 2. Prior to the effective date of this Act, made an election under Section 7
 16 of this Act;

17 shall receive the retirement benefit calculation prescribed by KRS 16.583.

18 ➔Section 4. KRS 16.583 is amended to read as follows:

- 19 (1) A member of the State Police Retirement System, a member of the Kentucky
 20 Employees Retirement System in a hazardous duty position covered by this section,
 21 whose participation begins on or after January 1, 2014, but prior to January 1,
 22 2027, who makes an election under subsection (3) of Section 1 of this Act, or
 23 who, prior to the effective date of this Act, made an election under Section 7 of
 24 this Act~~[or a member making an election pursuant to KRS 61.5955]~~, shall receive
 25 the retirement benefits provided by this section in lieu of the retirement benefits
 26 provided under KRS 16.576 and 16.577. The retirement benefit provided by this
 27 section shall be known as the hybrid cash balance plan and shall operate as another

- 1 benefit tier within the State Police Retirement System and the Kentucky Employees
2 Retirement System.
- 3 (2) The hybrid cash balance plan shall provide a retirement benefit based upon the
4 member's accumulated account balance, which shall include:
- 5 (a) Contributions made by the member as provided by KRS 16.505 to 16.652 and
6 61.510 to 61.705, except for employee contributions prescribed by KRS
7 61.702(3)(b);
- 8 (b) 1. An employer pay credit of seven and one-half percent (7.5%) of the
9 creditable compensation earned by the employee for each month the
10 employee is contributing to the hybrid cash balance plan provided by
11 this section; and
- 12 2. For members of the State Police Retirement System covered by this
13 section, an employer pay credit for the value of accumulated sick leave
14 as determined and limited by KRS 16.584; and
- 15 (c) Interest credits added annually to the member's accumulated account balance
16 as provided by this section.
- 17 (3) (a) Member contributions and employer pay credits as provided by subsection
18 (2)(a) and (b)1. of this section shall be credited to the member's account
19 monthly as contributions are reported and posted to the system in accordance
20 with KRS 61.675.
- 21 (b) Interest credits, as provided by subsection (2)(c) of this section, shall be
22 credited to the member's account annually on June 30 of each fiscal year, as
23 determined by subsection (4) of this section.
- 24 (c) Employer pay credits for accumulated sick leave shall be credited to the
25 member's account as determined by KRS 16.584.
- 26 (4) (a) On June 30 of each fiscal year, the system shall determine if the member
27 contributed to the hybrid cash balance plan during the fiscal year.

- 1 (b) If the member contributed to the hybrid cash balance plan during the fiscal
2 year, the interest credit added to the member's account for that fiscal year
3 shall be determined by multiplying the member's accumulated account
4 balance on June 30 of the preceding fiscal year by a percentage increase equal
5 to:
- 6 1. Four percent (4%); plus
 - 7 2. Seventy-five percent (75%) of the system's geometric average net
8 investment return in excess of a four percent (4%) rate of return.
- 9 (c) If the member did not contribute to the hybrid cash balance plan during the
10 fiscal year, the interest credit added to the member's account for that fiscal
11 year shall be determined by multiplying the member's accumulated account
12 balance on June 30 of the preceding fiscal year by four percent (4%).
- 13 (d) For purposes of this subsection, "system's geometric average net investment
14 return":
- 15 1. Means the annual average geometric investment return, net of
16 administrative and investment fees and expenses, over the last five (5)
17 fiscal years as of the date the interest is credited to the member's
18 account; and
 - 19 2. Shall be expressed as a percentage and based upon the system in which
20 the member has an account.
- 21 (e) No employer pay credits or interest credits shall be provided to a member who
22 has taken a refund of contributions as provided by KRS 61.625 or who has
23 retired and annuitized his or her accumulated account balance as prescribed
24 by this section.
- 25 (5) (a) Upon termination of employment, a member who has less than five (5) years
26 of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who
27 elects to take a refund of his or her accumulated account balance as provided

1 by KRS 61.625, shall forfeit the accumulated employer credit, and shall only
2 receive a refund of his or her accumulated contributions.

3 (b) Upon termination of employment, a member who has five (5) or more years
4 of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who
5 elects to take a refund of his or her accumulated account balance as provided
6 by KRS 61.625, shall receive a full refund of his or her accumulated account
7 balance.

8 (6) A member participating in the hybrid cash balance plan provided by this section
9 may retire:

10 (a) At his or her normal retirement date, provided he or she has earned five (5) or
11 more years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1),
12 or another state-administered retirement system; or

13 (b) At any age, provided he or she has earned twenty-five (25) or more years of
14 service credited under KRS 16.543(1), 61.543(1), or 78.615(1), or another
15 state-administered retirement system.

16 (7) A member eligible to retire under subsection (6) of this section may elect to:

17 (a) Receive a monthly retirement allowance payable for life by having his or her
18 accumulated account balance annuitized by the retirement systems in
19 accordance with the actuarial assumptions and actuarial methods adopted by
20 the board and in effect on the member's retirement date;

21 (b) Receive the actuarial equivalent of his or her retirement allowance calculated
22 under paragraph (a) of this subsection payable under one (1) of the options set
23 forth in KRS 61.635, except for the option provided by KRS 61.635(11); or

24 (c) Take a refund of his or her account balance as provided by KRS 61.625.

25 (8) The provisions of this section shall not apply to:

26 (a) Members who began participating in the Kentucky Employees Retirement
27 System, the County Employees Retirement System, or the State Police

1 Retirement System prior to January 1, 2014;

2 **(b) Members who are presumed under Section 1 of this Act to have begun**
 3 **participating in the State Police Retirement System, in a hazardous position**
 4 **in the Kentucky Employees Retirement System, or in a hazardous position**
 5 **in the County Employees Retirement System immediately prior to January**
 6 **1, 2014, and have not made an election under subsection (3) of Section 1 of**
 7 **this Act; or**

8 **(c) Members who begin participating in the State Police Retirement System, in**
 9 **a hazardous position in the Kentucky Employees Retirement System, or in a**
 10 **hazardous position in the County Employees Retirement System on or after**
 11 **January 1, 2027**~~], except for those members who make an election pursuant~~
 12 ~~to KRS 61.5955].~~

13 ➔Section 5. KRS 78.5514 is amended to read as follows:

14 (1) The provisions of this section shall only apply to members of the County
 15 Employees Retirement System ~~who began participating in the system prior to~~
 16 ~~January 1, 2014,~~ who have service in a hazardous position, **except for those**
 17 **members who make an election under subsection (3) of Section 1 of this Act, or**
 18 **who, prior to the effective date of this Act, made an election under Section 7 of**
 19 **this Act.**

20 (2) (a) A member who began participating prior to September 1, 2008, is eligible for
 21 a retirement allowance determined under subsection (4)(a) of this section for
 22 his or her service if:

- 23 1. The member has attained normal retirement age and has five (5) or more
 24 years of service, at least one (1) of which is current service;
- 25 2. The member has twenty (20) or more years of service, at least fifteen
 26 (15) of which are current service; or
- 27 3. The member has attained age fifty (50) and has fifteen (15) or more

1 years of service.

2 (b) In lieu of any other benefits due under 78.510 to 78.852, a member who began
3 participating prior to September 1, 2008, who has attained normal retirement
4 age and who has obtained at least one (1) month of service credit but no more
5 than fifty-nine (59) months of service may elect to receive an annual
6 retirement allowance payable monthly or less frequently, as determined by the
7 board, which shall be determined by multiplying his or her accumulated
8 contributions by two (2) and converting this amount to an annual retirement
9 allowance based on an annuity rate adopted by the board which would pay the
10 actuarial equivalent of twice his or her accumulated contributions over the
11 lifetime of the retired member.

12 (3) A member who began participating on or after September 1, 2008, but prior to
13 January 1, 2014, **or who began participating on or after January 1, 2027, or who**
14 **is presumed under Section 1 of this Act to have begun participating immediately**
15 **prior to January 1, 2014,** is eligible for a retirement allowance determined under
16 subsection (4)(b) of this section for his or her service if:

17 (a) The member has attained normal retirement age and has five (5) years of
18 service credited under KRS 16.543(1), 61.543(1), or 78.615(1), or another
19 state-administered retirement system;

20 (b) The member has twenty-five (25) or more years of service credited under
21 KRS 16.543(1), 61.543(1), or 78.615(1), or another state-administered
22 retirement system; or

23 (c) The member has attained age fifty (50) and has fifteen (15) years of service
24 credited under KRS 16.543(1), 61.543(1), or 78.615(1), or another state-
25 administered retirement system.

26 (4) (a) A member of the system covered by this section who began participating prior
27 to September 1, 2008, may elect to receive an annual retirement allowance,

1 payable monthly during his or her lifetime, equal to two and five-tenths
2 percent (2.5%) of final compensation for each year of service credit.

3 (b) A member of the system covered by this section, who begins participating in
4 the system on or after September 1, 2008, but prior to January 1, 2014, or who
5 begins participating on or after January 1, 2027, or who is presumed under
6 Section 1 of this Act to begin participating in the system immediately prior
7 to January 1, 2014, shall be eligible to receive an annual retirement
8 allowance, payable monthly during his or her lifetime, equal to:

- 9 1. One and three-tenths percent (1.3%) of final compensation for each year
10 of service credit if the employee has earned ten (10) or less years of
11 service at retirement;
- 12 2. One and one-half percent (1.5%) of final compensation for each year of
13 service credit if the employee has earned greater than ten (10) but no
14 more than twenty (20) years of service at retirement;
- 15 3. Two and one-quarter percent (2.25%) of final compensation for each
16 year of service credit if the employee has earned greater than twenty
17 (20) but less than twenty-five (25) years of service at retirement; or
- 18 4. Two and one-half percent (2.5%) of final compensation for each year of
19 service credit if the employee has earned twenty-five (25) or more years
20 of service at retirement.

21 (c) The annual retirement allowance determined under this subsection shall:

- 22 1. Not be reduced for a member retiring under the provisions specified by
23 subsections (2)(a)1., (2)(a)2., (3)(a), and (3)(b) of this section; and
- 24 2. Be reduced for a member retiring under the provisions specified by
25 subsections (2)(a)3. and (3)(c) of this section by an amount determined
26 by the board's actuary to reflect the earlier commencement of benefits.

27 ➔Section 6. KRS 78.5516 is amended to read as follows:

- 1 (1) A member of the County Employees Retirement System in a hazardous position
2 covered by this section~~[,]~~ who begins participating in the system on or after January
3 1, 2014, **but prior to January 1, 2027, who makes an election under subsection (3)**
4 **of Section 1 of this Act, or who, prior to the effective date of this Act, made an**
5 **election under Section 7 of this Act,**~~[or a member who makes an election pursuant~~
6 ~~to KRS 61.5955,]~~ shall receive the retirement benefits provided by this section in
7 lieu of the retirement benefits provided under KRS 78.5514. The retirement benefit
8 provided by this section shall be known as the hybrid cash balance plan and shall
9 operate as another benefit tier within the County Employees Retirement System.
- 10 (2) The hybrid cash balance plan shall provide a retirement benefit based upon the
11 member's accumulated account balance, which shall include:
- 12 (a) Contributions made by the member as provided by KRS 78.510 to 78.852,
13 except for employee contributions prescribed by KRS 78.5536(3)(b);
- 14 (b) An employer pay credit of seven and one-half percent (7.5%) of the creditable
15 compensation earned by the employee for each month the employee is
16 contributing to the hybrid cash balance plan provided by this section; and
- 17 (c) Interest credits added annually to the member's accumulated account balance
18 as provided by this section.
- 19 (3) (a) Member contributions and employer pay credits as provided by subsection
20 (2)(a) and (b) of this section shall be credited to the member's account
21 monthly as contributions are reported and posted to the system in accordance
22 with KRS 78.625.
- 23 (b) Interest credits, as provided by subsection (2)(c) of this section, shall be
24 credited to the member's account annually on June 30 of each fiscal year, as
25 determined by subsection (4) of this section.
- 26 (4) (a) On June 30 of each fiscal year, the system shall determine if the member
27 contributed to the hybrid cash balance plan or the Kentucky Retirement

- 1 Systems during the fiscal year.
- 2 (b) If the member contributed to the hybrid cash balance plan or the Kentucky
3 Retirement Systems during the fiscal year, the interest credit added to the
4 member's account for that fiscal year shall be determined by multiplying the
5 member's accumulated account balance on June 30 of the preceding fiscal
6 year by a percentage increase equal to:
- 7 1. Four percent (4%); plus
 - 8 2. Seventy-five percent (75%) of the system's geometric average net
9 investment return in excess of a four percent (4%) rate of return.
- 10 (c) If the member did not contribute to the hybrid cash balance plan or the
11 Kentucky Retirement Systems during the fiscal year, the interest credit added
12 to the member's account for that fiscal year shall be determined by
13 multiplying the member's accumulated account balance on June 30 of the
14 preceding fiscal year by four percent (4%).
- 15 (d) For purposes of this subsection, "system's geometric average net investment
16 return":
- 17 1. Means the annual average geometric investment return, net of
18 administrative and investment fees and expenses, over the last five (5)
19 fiscal years as of the date the interest is credited to the member's
20 account; and
 - 21 2. Shall be expressed as a percentage and based upon the system in which
22 the member has an account.
- 23 (e) No employer pay credits or interest credits shall be provided to a member who
24 has taken a refund of contributions as provided by KRS 61.625 or who has
25 retired and annuitized his or her accumulated account balance as prescribed
26 by this section.
- 27 (5) (a) Upon termination of employment, a member who has less than five (5) years

1 of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who
2 elects to take a refund of his or her accumulated account balance as provided
3 by KRS 61.625, shall forfeit the accumulated employer credit, and shall only
4 receive a refund of his or her accumulated contributions.

5 (b) Upon termination of employment, a member who has five (5) or more years
6 of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who
7 elects to take a refund of his or her accumulated account balance as provided
8 by KRS 61.625, shall receive a full refund of his or her accumulated account
9 balance.

10 (6) A member participating in the hybrid cash balance plan provided by this section
11 may retire:

12 (a) At his or her normal retirement date, provided he or she has earned five (5) or
13 more years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1),
14 or another state-administered retirement system; or

15 (b) At any age, provided he or she has earned twenty-five (25) or more years of
16 service credited under KRS 16.543(1), 61.543(1), or 78.615(1), or another
17 state-administered retirement system.

18 (7) A member eligible to retire under subsection (6) of this section may elect to:

19 (a) Receive a monthly retirement allowance payable for life by having his or her
20 accumulated account balance annuitized by the system in accordance with the
21 actuarial assumptions and actuarial methods adopted by the board and in
22 effect on the member's retirement date;

23 (b) Receive the actuarial equivalent of his or her retirement allowance calculated
24 under paragraph (a) of this subsection payable under one (1) of the options set
25 forth in KRS 61.635, except for the option provided by KRS 61.635(11); or

26 (c) Take a refund of his or her account balance as provided by KRS 61.625.

27 (8) The provisions of this section shall not apply to:

1 (a) Members who began participating in the Kentucky Employees Retirement
2 System, County Employees Retirement System, or the State Police
3 Retirement System prior to January 1, 2014;

4 (b) *Members who are presumed under Section 1 of this Act to have begun*
5 *participating in the State Police Retirement System, in a hazardous position*
6 *in the Kentucky Employees Retirement System, or in a hazardous position*
7 *in the County Employees Retirement System immediately prior to January*
8 *1, 2014, and have not made an election under subsection (3) of Section 1 of*
9 *this Act; or*

10 (c) *Members who begin participating in the State Police Retirement System, in*
11 *a hazardous position in the Kentucky Employees Retirement System, or in a*
12 *hazardous position in the County Employees Retirement System on or after*
13 *January 1, 2027*, except as provided by KRS 61.5955].

14 ➔ Section 7. KRS 61.5955 is amended to read as follows:

15 As of the effective date of this Act, notwithstanding any provision of KRS 16.505 to
16 16.652, 61.510 to 61.705, and 78.510 to 78.852 to the contrary:

17 (1) Subject to the provisions of this section, a~~any~~ member who began participating in
18 a nonhazardous position in the Kentucky Employees Retirement System~~,~~ or the
19 County Employees Retirement System~~, or the State Police Retirement System~~ on
20 or after September 1, 2008, but prior to January 1, 2014, may in lieu of the benefits
21 he or she is currently eligible to receive from the systems, elect to receive the
22 benefits and rights provided to members who began participating in the systems on
23 or after January 1, 2014, including participating in the hybrid cash balance plan
24 created pursuant to KRS 61.597 or 78.5512 ~~for members in nonhazardous duty~~
25 ~~positions or pursuant to KRS 16.583 or 78.5516 for members in hazardous duty~~
26 ~~positions~~, as applicable;

27 (2) The election provided by this section shall be made in writing and on a form

1 prescribed by the Kentucky Public Pensions Authority and shall apply to all service
2 or accounts in the Kentucky Retirement Systems or the County Employees
3 Retirement System;

4 (3) For each member who makes an election provided by this section:

5 (a) Any service credit the member has accrued prior to January 1, 2014, shall be
6 considered as service credit earned on or after January 1, 2014, for purposes
7 of determining benefits under KRS 16.505 to 16.652, 61.510 to 61.705, and
8 78.510 to 78.852;

9 (b) On the member's effective election date, the value of the member's
10 accumulated contributions, less any interest, shall be deposited into the
11 member's hybrid cash balance account as provided by KRS 16.583, 61.597,
12 78.5512, or 78.5516, as applicable, and considered part of the member's
13 accumulated account balance;

14 (c) On the member's effective election date, an employer pay credit as provided
15 by KRS ~~[16.583, 61.597]~~ or 78.5512, ~~[or 78.5516]~~, as applicable, shall be
16 added to the member's accumulated account balance for each month the
17 member contributed to the Kentucky Employees Retirement System ~~[or the~~
18 County Employees Retirement System ~~[, or the State Police Retirement~~
19 System] prior to his or her effective election date; and

20 (d) Interest credits as provided by KRS ~~[16.583, 61.597]~~ or 78.5512, ~~[or~~
21 78.5516,] as applicable, shall only be applied for periods occurring on or after
22 the member's effective election date;

23 (4) Before accepting an election provided by this section, the Kentucky Public Pensions
24 Authority shall provide the member with information detailing the potential results
25 of the member's election;

26 (5) An election made pursuant to this section shall be irrevocable;

27 (6) (a) A member of the Kentucky Employees Retirement System ~~[or the~~ County

1 Employees Retirement System~~[, or the State Police Retirement System]~~ shall
 2 not be eligible to make an election prescribed by this section until the
 3 Kentucky Retirement Systems receives a favorable private letter ruling from
 4 the Internal Revenue Service regarding this section.

5 (b) If the Internal Revenue Service denies the request for a private letter ruling as
 6 provided by paragraph (a) of this subsection, this section shall be void.

7 (c) The Kentucky Public Pensions Authority may promulgate administrative
 8 regulations under KRS Chapter 13A in order to carry out this section; and

9 (7) This section shall not apply to:

10 (a) Retirees who were reemployed on or after September 1, 2008, and who are
 11 not eligible to participate in the systems during reemployment; or

12 (b) *Service that a member may have in the State Police Retirement System, in a*
 13 *hazardous position in the Kentucky Employees Retirement System, or in a*
 14 *hazardous position in the County Employees Retirement System, unless the*
 15 *member made an election under this section prior to the effective date of*
 16 *this Act.*

17 ➔Section 8. KRS 16.505 is amended to read as follows:

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

19 (1) "System" means the State Police Retirement System created by KRS 16.505 to
 20 16.652;

21 (2) "Board" means the board of trustees of the Kentucky Retirement Systems;

22 (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its
 23 successor;

24 (4) "Current service" means the number of years and completed months of employment
 25 as an employee subsequent to July 1, 1958, for which creditable compensation was
 26 paid by the employer and employee contributions deducted except as otherwise
 27 provided;

- 1 (5) "Prior service" means the number of years and completed months of employment as
2 an employee prior to July 1, 1958, for which creditable compensation was paid to
3 the employee by the Commonwealth. Twelve (12) months of current service in the
4 system are required to validate prior service;
- 5 (6) "Service" means the total of current service and prior service;
- 6 (7) "Accumulated contributions" at any time means the sum of all amounts deducted
7 from the compensation of a member and credited to his or her individual account in
8 the member's account, including employee contributions picked up after August 1,
9 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts
10 as provided in KRS 16.505 to 16.652, and any other amounts the member shall
11 have contributed, including interest credited. For members who begin participating
12 on or after September 1, 2008, "accumulated contributions" shall not include
13 employee contributions that are deposited into accounts established pursuant to 26
14 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, as
15 prescribed by KRS 61.702(3)(b);
- 16 (8) "Creditable compensation":
- 17 (a) Except as provided by paragraph (b) or (c) of this subsection, means all salary
18 and wages, including payments for compensatory time, paid to the employee
19 as a result of services performed for the employer or for time during which the
20 member is on paid leave, which are includable on the member's federal form
21 W-2 wage and tax statement under the heading "wages, tips, other
22 compensation," including employee contributions picked up after August 1,
23 1982, pursuant to KRS 16.545(4);
- 24 (b) Includes:
- 25 1. Lump-sum bonuses, severance pay, or employer-provided payments for
26 purchase of service credit, which shall be averaged over the employee's
27 total service with the system in which it is recorded if it is equal to or

- 1 greater than one thousand dollars (\$1,000);
- 2 2. Lump-sum payments for creditable compensation paid as a result of an
- 3 order of a court of competent jurisdiction, the Personnel Board, or the
- 4 Kentucky Commission on Human Rights, or for any creditable
- 5 compensation paid in anticipation of settlement of an action before a
- 6 court of competent jurisdiction, the Personnel Board, or the Kentucky
- 7 Commission on Human Rights, including notices of violations of state
- 8 or federal wage and hour statutes or violations of state or federal
- 9 discrimination statutes, which shall be credited to the fiscal year during
- 10 which the wages were earned or should have been paid by the employer.
- 11 This subparagraph shall also include lump-sum payments for reinstated
- 12 wages pursuant to KRS 61.569, which shall be credited to the period
- 13 during which the wages were earned or should have been paid by the
- 14 employer;
- 15 3. Amounts which are not includable in the member's gross income by
- 16 virtue of the member having taken a voluntary salary reduction provided
- 17 for under applicable provisions of the Internal Revenue Code; and
- 18 4. Elective amounts for qualified transportation fringes paid or made
- 19 available on or after January 1, 2001, for calendar years on or after
- 20 January 1, 2001, that are not includable in the gross income of the
- 21 employee by reason of 26 U.S.C. sec. 132(f)(4); and
- 22 (c) Excludes:
- 23 1. Living allowances, expense reimbursements, lump-sum payments for
- 24 accrued vacation leave, and other items determined by the board;
- 25 2. For employees who begin participating on or after September 1, 2008,
- 26 lump-sum payments for compensatory time; and
- 27 3. Any salary or wages paid to an employee for services as a Kentucky

1 State Police school resource officer as defined by KRS 158.441;

2 (9) "Final compensation" means:

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

10 (b) For a member who begins participating on or after September 1, 2008, but
11 prior to January 1, 2014, or a member who begins participating on or after
12 January 1, 2027, or a member who is presumed under Section 1 of this Act
13 to begin participating immediately prior to January 1, 2014, the creditable
14 compensation of the member during the three (3) complete fiscal years he or
15 she was paid at the highest average monthly rate divided by three (3). Each
16 fiscal year used to determine final compensation must contain twelve (12)
17 months of service credit. If the member does not have three (3) complete
18 fiscal years that each contain twelve (12) months of service credit, then one
19 (1) or more additional fiscal years, which may contain less than twelve (12)
20 months of service credit, shall be added until the number of months in the
21 final compensation calculation is at least thirty-six (36) months;

22 (10) "Final rate of pay" means the actual rate upon which earnings of a member were
23 calculated during the twelve (12) month period immediately preceding the
24 member's effective retirement date, including employee contributions picked up
25 after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the
26 system by the employer and the following equivalents shall be used to convert the
27 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour

- 1 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-
2 1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve
3 (12) months, or one (1) year;
- 4 (11) "Retired member" means any former member receiving a retirement allowance or
5 any former member who has filed the necessary documents for retirement benefits
6 and is no longer contributing to the retirement system;
- 7 (12) "Retirement allowance" means the retirement payments to which a retired member
8 is entitled;
- 9 (13) "Actuarial equivalent" means a benefit of equal value when computed upon the
10 basis of actuarial tables adopted by the board. In cases of disability retirement, the
11 options authorized by KRS 61.635 shall be computed by adding ten (10) years to
12 the age of the member, unless the member has chosen the Social Security
13 adjustment option as provided for in KRS 61.635(8), in which case the member's
14 actual age shall be used. For members who began participating in the system prior
15 to January 1, 2014, or who begin participating in the system on or after January
16 1, 2027, or who are presumed under Section 1 of this Act to begin participating in
17 the system immediately prior to January 1, 2014, no disability retirement option
18 shall be less than the same option computed under early retirement;
- 19 (14) "Authorized leave of absence" means any time during which a person is absent
20 from employment but retained in the status of an employee in accordance with the
21 personnel policy of the Department of Kentucky State Police;
- 22 (15) "Normal retirement date" means:
- 23 (a) For a member who begins participating before September 1, 2008, the first
24 day of the month following a member's fifty-fifth birthday, except that for
25 members over age fifty-five (55) on July 1, 1958, it shall mean January 1,
26 1959; or
- 27 (b) For a member who begins participating on or after September 1, 2008, the

- 1 first day of the month following a member's sixtieth birthday;
- 2 (16) "Disability retirement date" means the first day of the month following the last day
3 of paid employment;
- 4 (17) "Dependent child" means a child in the womb and a natural or legally adopted child
5 of the member who has neither attained age eighteen (18) nor married or who is an
6 unmarried full-time student who has not attained age twenty-two (22). Solely in the
7 cases where a member dies as a direct result of an act in line of duty as defined in
8 this section, dies as a result of a duty-related injury as defined in KRS 61.621,
9 becomes totally and permanently disabled as a direct result of an act in line of duty
10 as defined in this section, or becomes disabled as a result of a duty-related injury as
11 defined in KRS 61.621 and is eligible for the benefits provided by KRS
12 61.621(5)(a), "dependent child" also means a naturally or legally adopted disabled
13 child of the member, regardless of the child's age, if the child has been determined
14 to be eligible for federal Social Security disability benefits or is being claimed as a
15 qualifying child for tax purposes due to the child's total and permanent disability;
- 16 (18) "Optional allowance" means an actuarially equivalent benefit elected by the
17 member in lieu of all other benefits provided by KRS 16.505 to 16.652;
- 18 (19) "Act in line of duty" means:
- 19 (a) A single act occurring or a single thing done, which, as determined by the
20 board, was required in the performance of the duties specified in KRS 16.060;
- 21 (b) For employees in hazardous positions under KRS 61.592, a single act
22 occurring which was required in the performance of the principal duties of the
23 position as defined by the job description; or
- 24 (c) For employees participating in the State Police Retirement System and for
25 employees who are in hazardous positions under KRS 61.592, a single act of
26 violence committed against the employee that is found to be related to his or
27 her job duties, whether or not it occurs at his or her job site;

- 1 (20) "Early retirement date" means:
- 2 (a) For a member who begins participating before September 1, 2008, the
- 3 retirement date declared by a member who is not less than fifty (50) years of
- 4 age and has fifteen (15) years of service; or
- 5 (b) For a member who begins participating on or after September 1, 2008, but
- 6 prior to January 1, 2014, or a member who begins participating on or after
- 7 January 1, 2027, or a member who is presumed under Section 1 of this Act
- 8 to begin participating immediately prior to January 1, 2014, the retirement
- 9 date declared by a member who is not less than fifty (50) years of age and has
- 10 fifteen (15) years of service credited under KRS 16.543(1) or 61.543(1) or
- 11 another state-administered retirement system;
- 12 (21) "Member" means any officer included in the membership of the system as provided
- 13 under KRS 16.520 whose membership has not been terminated under KRS 61.535;
- 14 (22) "Regular full-time officers" means the occupants of positions as set forth in KRS
- 15 16.010;
- 16 (23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which
- 17 results in an employee's total incapacity to continue as an employee in a hazardous
- 18 position, but the employee is not necessarily deemed to be totally and permanently
- 19 disabled to engage in other occupations for remuneration or profit;
- 20 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
- 21 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
- 22 pay. The rate shall be certified by the employer;
- 23 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the
- 24 member in accordance with KRS 61.542 or 61.705 to receive any available benefits
- 25 in the event of the member's death. As used in KRS 61.702, "beneficiary" does not
- 26 mean an estate, trust, or trustee;
- 27 (26) "Recipient" means the retired member, the person or persons designated as

1 beneficiary by the member and drawing a retirement allowance as a result of the
2 member's death, or a dependent child drawing a retirement allowance. An alternate
3 payee of a qualified domestic relations order shall not be considered a recipient,
4 except for purposes of KRS 61.623;

5 (27) "Person" means a natural person;

6 (28) "Retirement office" means the Kentucky Public Pensions Authority office building
7 in Frankfort, unless otherwise designated by the Kentucky Public Pensions
8 Authority;

9 (29) "Vested" for purposes of determining eligibility for purchasing service credit under
10 KRS 61.552 means the employee has at least forty-eight (48) months of service if
11 age sixty-five (65) or older or at least sixty (60) months of service if under the age
12 of sixty-five (65). For purposes of this subsection, "service" means service in the
13 systems administered by the Kentucky Retirement Systems and County Employees
14 Retirement Systems;

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

21 (31) "Objective medical evidence" means reports of examinations or treatments; medical
22 signs which are anatomical, physiological, or psychological abnormalities that can
23 be observed; psychiatric signs which are medically demonstrable phenomena
24 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
25 or contact with reality; or laboratory findings which are anatomical, physiological,
26 or psychological phenomena that can be shown by medically acceptable laboratory
27 diagnostic techniques, including but not limited to chemical tests,

- 1 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 2 (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the
3 following June 30, which shall also be the plan year. The "fiscal year" shall be the
4 limitation year used to determine contribution and benefit limits established by 26
5 U.S.C. sec. 415;
- 6 (33) "Participating" means an employee is currently earning service credit in the system
7 as provided in KRS 16.543;
- 8 (34) "Month" means a calendar month;
- 9 (35) "Membership date" means the date upon which the member began participating in
10 the system as provided by KRS 16.543;
- 11 (36) "Participant" means a member, as defined by subsection (21) of this section, or a
12 retired member, as defined by subsection (11) of this section;
- 13 (37) "Qualified domestic relations order" means any judgment, decree, or order,
14 including approval of a property settlement agreement, that:
- 15 (a) Is issued by a court or administrative agency; and
- 16 (b) Relates to the provision of child support, alimony payments, or marital
17 property rights to an alternate payee;
- 18 (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
19 participant, who is designated to be paid retirement benefits in a qualified domestic
20 relations order;
- 21 (39) "Accumulated employer credit" means the employer pay credit deposited to the
22 member's account and interest credited on such amounts as provided by KRS
23 16.583;
- 24 (40) "Accumulated account balance" means:
- 25 (a) For members who began participating in the system prior to January 1, 2014,
26 the member's accumulated contributions; or
- 27 (b) For members who began participating in the system on or after January 1,

1 2014, but prior to January 1, 2027, in the hybrid cash balance plan as
2 provided by KRS 16.583, who make an election under subsection (3) of
3 Section 1 of this Act, or who, prior to the effective date of this Act, made an
4 election under Section 7 of this Act, the combined sum of the member's
5 accumulated contributions and the member's accumulated employer pay
6 credit; and

7 (41) "Monthly average pay" means:

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

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

21 ➔Section 9. KRS 16.560 is amended to read as follows:

22 (1) The member account shall be the account to which:

23 (a) All members' contributions, or contributions picked up by the employer after
24 August 1, 1982, and interest allowances as provided in KRS 16.505 to 16.652
25 shall be credited, except as provided by KRS 61.702(2)(b); and

26 (b) For members who begin participating in the system on or after January 1,
27 2014, but prior to January 1, 2027, who make an election under subsection

1 *(3) of Section 1 of this Act, or who, prior to the effective date of this Act,*
2 *made an election under Section 7 of this Act,* the employer pay credit and
3 interest credited on such amounts as provided by KRS 16.583 shall be
4 credited.

5 Only funds from this account shall be used to return accumulated contributions or
6 accumulated account balances of a member when required by reason of any
7 provision of KRS 16.505 to 16.652. Prior to the member's retirement, death, or
8 refund in accordance with KRS 61.625, no funds shall be made available from the
9 member's account.

10 (2) Each member's contribution or contribution picked up by the employer shall be
11 credited to the individual account of the contributing member, except as provided
12 by KRS 61.702(2)(b).

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

15 (b) For members who begin participating before September 1, 2008, interest shall
16 be credited to their individual account at a rate determined by the board but
17 not less than two and one-half percent (2.5%) per annum on the accumulated
18 account balance of the member on June 30 of the preceding fiscal year.

19 (c) For members who begin participating on or after September 1, 2008, but prior
20 to January 1, 2014, *or who begin participating on or after January 1, 2027,*
21 *or who are presumed under Section 1 of this Act to begin participating*
22 *immediately prior to January 1, 2014,* interest shall be credited to their
23 individual account at a rate of two and one-half percent (2.5%) per annum on
24 the accumulated account balance of the member on June 30 of the preceding
25 fiscal year.

26 (d) For members who begin participating on or after January 1, 2014, *but prior to*
27 *January 1, 2027, who make an election under subsection (3) of Section 1 of*

1 *this Act, or who, prior to the effective date of this Act, made an election*
 2 *under Section 7 of this Act to opt into*~~the~~ the hybrid cash balance plan,
 3 interest shall be credited to their individual account in accordance with KRS
 4 16.583.

5 (e) The amounts of interest credited to a member's account under this subsection
 6 and KRS 16.583 and the employer pay credit as provided by KRS 16.583
 7 shall be transferred from the retirement allowance account.

8 (4) (a) Upon the retirement of a member who began participating in the system prior
 9 to January 1, 2014, *or a member who begins participating on or after*
 10 *January 1, 2027, or a member who is presumed under Section 1 of this Act*
 11 *to begin participating immediately prior to January 1, 2014,* his or her
 12 accumulated account balance shall be transferred from the member's account
 13 to the retirement allowance account.

14 (b) Upon the retirement of a member who began participating in the system on or
 15 after January 1, 2014, *but prior to January 1, 2027, who makes an election*
 16 *under subsection (3) of Section 1 of this Act, or who, prior to the effective*
 17 *date of this Act, made an election under Section 7 of this Act,* who elects to
 18 annuitize his or her accumulated account balance as prescribed by KRS
 19 16.583(7)(a) or (b), the member's accumulated account balance shall be
 20 transferred to the retirement allowance account.

21 (5) Included as a part of such member's account shall be his *or her* accumulated
 22 account balance in the Kentucky Employees Retirement System, if any, transferred
 23 to this system.

24 ➔Section 10. KRS 16.578 is amended to read as follows:

25 (1) If a member dies prior to the first day of the month in which the member would
 26 have received his or her first retirement allowance, the member's beneficiary shall
 27 be eligible for the benefits provided by this section if the member had on file a

- 1 written designation of a beneficiary with the retirement office as provided by KRS
2 61.542 and the member met the following conditions at the date of his or her death:
- 3 (a) The member was eligible to retire under KRS 16.576, 16.577, or 16.583(6);
 - 4 (b) The member was in active employment or on authorized leave of absence
5 with five (5) or more years of service credit and died prior to his or her normal
6 retirement date; or
 - 7 (c) The member was not in active employment or on authorized leave of absence
8 with twelve (12) or more years of service credit and died prior to his or her
9 normal retirement date.
- 10 (2) If the beneficiary eligible for benefits as provided in subsection (1) of this section is
11 a single person, then the beneficiary may elect to receive:
- 12 (a) A monthly benefit payable for the life of the beneficiary that is equal to the
13 benefit that would have been paid had the member retired immediately prior
14 to his or her date of death and elected to receive benefits payable under the
15 survivorship one hundred percent (100%) option as provided in KRS
16 61.635(2);
 - 17 (b) A monthly benefit payable for the life of the beneficiary under the beneficiary
18 Social Security adjustment option as provided in KRS 61.635(9) that is the
19 actuarial equivalent to the amount computed under paragraph (a) of this
20 subsection;
 - 21 (c) A monthly benefit payable for a period of sixty (60) months that is the
22 actuarial equivalent to the amount computed under paragraph (a) of this
23 subsection;
 - 24 (d) A monthly benefit payable for a period of one hundred twenty (120) months
25 that is the actuarial equivalent to the amount computed under paragraph (a) of
26 this subsection;
 - 27 (e) If the member began participating in the system prior to January 1, 2014, ***or***

1 *began participating on or after January 1, 2027, or is presumed under*
2 *Section 1 of this Act to have begun participating immediately prior to*
3 *January 1, 2014,* a monthly benefit payable for:

- 4 1. Sixty (60) months certain;
- 5 2. One hundred twenty (120) months certain;
- 6 3. The actuarial equivalent refund; or
- 7 4. The Social Security adjustment option;

8 that is equivalent to the benefit the member would have been entitled to
9 receive based on his or her years of service and final compensation at the date
10 of his or her death reduced by the survivorship fifty percent (50%) factor as
11 provided for in KRS 61.635(4), then reduced by fifty percent (50%), and that
12 is the actuarial equivalent to the amount computed under paragraph (a) of this
13 subsection; or

14 (f) The higher of a refund of the member's accumulated account balance and
15 interest as described in KRS 61.625(1) or a one (1) time lump-sum payment
16 which shall be the actuarial equivalent of the amount payable under paragraph
17 (a) of this subsection for a period of sixty (60) months.

18 (3) If the beneficiary eligible for benefits as provided in subsection (1) of this section
19 are multiple beneficiaries or a trust, then the multiple beneficiaries by consensus or
20 the trustee may elect to receive the actuarial equivalent amounts payable under
21 subsection (2)(c), (d), (e), or (f) of this section using the assumption that the
22 beneficiary's age is the same as the member's age.

23 (4) If the beneficiary eligible for benefits as provided in subsection (1) of this section is
24 the member's estate, then the beneficiary shall receive the higher of a refund of the
25 member's accumulated account balance and interest as described in KRS 61.625(1)
26 or the one (1) time lump-sum payment payable under subsection (2)(f) of this
27 section, using the assumption that the beneficiary's age is the same as the member's

1 age.

2 (5) Payments of taxable distributions made pursuant to this section shall be subject to
3 state and federal tax as appropriate.

4 ➔Section 11. KRS 16.582 is amended to read as follows:

5 (1) (a) Total and permanent disability means a disability which results in the
6 member's incapacity to engage in any occupation for remuneration or profit.
7 Loss by severance of both hands at or above the wrists, or both feet at or
8 above the ankles, or one (1) hand above the wrist and one (1) foot above the
9 ankle, or the complete, irrevocable loss of the sight of both eyes shall be
10 considered as total and permanent.

11 (b) Hazardous disability means a disability which results in the member's total
12 incapacity to continue as a regular full-time officer or as an employee in a
13 hazardous position, as defined in KRS 61.592, but which does not result in the
14 member's total and permanent incapacity to engage in other occupations for
15 remuneration or profit.

16 (c) In determining whether the disability meets the requirement of this section,
17 any reasonable accommodation provided by the employer as provided in 42
18 U.S.C. sec. 12111(9) and 29 C.F.R. pt. 1630 shall be considered.

19 (d) If the board determines that the total and permanent disability of a member
20 receiving a retirement allowance under this section has ceased, then the board
21 shall determine if the member has a hazardous disability.

22 (2) Any person may qualify to retire on disability, subject to the following:

23 (a) The person shall have sixty (60) months of service, twelve (12) of which shall
24 be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The
25 service requirement shall be waived if the disability is a total and permanent
26 disability or a hazardous disability and is a direct result of an act in line of
27 duty;

- 1 (b) For a person whose membership date is prior to August 1, 2004, the person
2 shall not be eligible for an unreduced retirement allowance;
- 3 (c) The person's application shall be on file in the retirement office no later than
4 twenty-four (24) months after the person's last day of paid employment, as
5 defined in KRS 16.505, as a regular full-time officer or in a regular full-time
6 hazardous position under KRS 61.592;
- 7 (d) The person shall receive a satisfactory determination pursuant to KRS 61.665;
8 and
- 9 (e) A person's disability application based on the same claim of incapacity shall
10 be accepted and reconsidered for disability if accompanied by new objective
11 medical evidence. The application shall be on file in the retirement office no
12 later than twenty-four (24) months after the person's last day of paid
13 employment as a regular full-time officer or in a regular full-time hazardous
14 position.
- 15 (3) Upon the examination of the objective medical evidence by licensed physicians
16 pursuant to KRS 61.665, it shall be determined that:
- 17 (a) The incapacity results from bodily injury, mental illness, or disease. For
18 purposes of this section, "injury" means any physical harm or damage to the
19 human organism other than disease or mental illness;
- 20 (b) The incapacity is deemed to be permanent; and
- 21 (c) The incapacity does not result directly or indirectly from:
- 22 1. Injury intentionally self-inflicted while sane or insane; or
23 2. Bodily injury, mental illness, disease, or condition which pre-existed
24 membership in the system or reemployment, whichever is most recent,
25 unless:
- 26 a. The disability results from bodily injury, mental illness, disease, or
27 a condition which has been substantially aggravated by an injury

1 or accident arising out of or in the course of employment; or

2 b. The person has at least sixteen (16) years' current or prior service
3 for employment with employers participating in the retirement
4 systems administered by the Kentucky Retirement Systems or the
5 County Employees Retirement System.

6 For purposes of this subparagraph, "reemployment" shall not mean a
7 change of employment between employers participating in the
8 retirement systems administered by the Kentucky Retirement Systems or
9 the County Employees Retirement System with no loss of service credit.

10 (4) (a) 1. An incapacity shall be deemed to be permanent for the purpose of
11 hazardous disability if it is expected to result in death or can be expected
12 to last for a continuous period of not less than twelve (12) months from
13 the person's last day of paid employment in a position as a regular full-
14 time officer or a hazardous position.

15 2. The determination of a permanent incapacity for the purpose of
16 hazardous disability shall be based on the medical evidence contained in
17 the member's file and the member's residual functional capacity and
18 physical exertion requirements.

19 3. The determination of a total and permanent incapacity shall be based on
20 the medical evidence contained in the member's file and the member's
21 residual functional capacity.

22 (b) The person's residual functional capacity shall be the person's capacity for
23 work activity on a regular and continuing basis. The person's physical ability
24 shall be assessed in light of the severity of the person's physical, mental, and
25 other impairments. The person's ability to walk, stand, carry, push, pull, reach,
26 handle, and other physical functions shall be considered with regard to
27 physical impairments. The person's ability to understand, remember, and carry

1 out instructions and respond appropriately to supervision, coworkers, and
2 work pressures in a work setting shall be considered with regard to mental
3 impairments. Other impairments, including skin impairments, epilepsy, visual
4 sensory impairments, postural and manipulative limitations, and
5 environmental restrictions, shall be considered in conjunction with the
6 person's physical and mental impairments to determine residual functional
7 capacity.

8 (c) The person's physical exertion requirements shall be determined based on the
9 following standards:

- 10 1. Sedentary work shall be work that involves lifting no more than ten (10)
11 pounds at a time and occasionally lifting or carrying articles such as
12 large files, ledgers, and small tools. Although a sedentary job primarily
13 involves sitting, occasional walking and standing may also be required
14 in the performance of duties.
- 15 2. Light work shall be work that involves lifting no more than twenty (20)
16 pounds at a time with frequent lifting or carrying of objects weighing up
17 to ten (10) pounds. A job shall be in this category if lifting is
18 infrequently required but walking and standing are frequently required,
19 or if the job primarily requires sitting with pushing and pulling of arm or
20 leg controls. If the person has the ability to perform substantially all of
21 these activities, the person shall be deemed capable of light work. A
22 person deemed capable of light work shall be deemed capable of
23 sedentary work unless the person has additional limitations such as the
24 loss of fine dexterity or inability to sit for long periods.
- 25 3. Medium work shall be work that involves lifting no more than fifty (50)
26 pounds at a time with frequent lifting or carrying of objects weighing up
27 to twenty-five (25) pounds. If the person is deemed capable of medium

1 work, the person shall be deemed capable of light and sedentary work.

2 4. Heavy work shall be work that involves lifting no more than one
3 hundred (100) pounds at a time with frequent lifting or carrying of
4 objects weighing up to fifty (50) pounds. If the person is deemed
5 capable of heavy work, the person shall also be deemed capable of
6 medium, light, and sedentary work.

7 5. Very heavy work shall be work that involves lifting objects weighing
8 more than one hundred (100) pounds at a time with frequent lifting or
9 carrying of objects weighing fifty (50) or more pounds. If the person is
10 deemed capable of very heavy work, the person shall be deemed capable
11 of heavy, medium, light, and sedentary work.

12 (5) (a) **For a member whose participation begins prior to August 1, 2004,** the
13 disability retirement allowance shall be determined as provided in KRS
14 16.576, except if the member's total service credit on his or her last day of
15 paid employment in a regular full-time position is less than twenty (20) years,
16 service shall be added beginning with his or her last date of paid employment
17 and continuing to his or her fifty-fifth birthday. The maximum service credit
18 added shall not exceed the total service the member had on his or her last day
19 of paid employment, and the maximum service credit for calculating his or
20 her retirement allowance, including his or her total service and service added
21 under this section, shall not exceed twenty (20) years.

22 (b) For a member whose participation begins on or after August 1, 2004, but prior
23 to January 1, 2014, **or whose participation begins on or after January 1,**
24 **2027, or whose participation is presumed under Section 1 of this Act to**
25 **begin immediately prior to January 1, 2014,** the disability retirement
26 allowance shall be the higher of twenty-five percent (25%) of the member's
27 monthly final rate of pay or the retirement allowance determined in the same

1 manner as for retirement at his or her normal retirement date with years of
2 service and final compensation being determined as of the date of his or her
3 disability.

4 (c) For a member who begins participating on or after January 1, 2014, but prior
5 to January 1, 2027, in the hybrid cash balance plan as provided by KRS
6 16.583, who makes an election under subsection (3) of Section 1 of this Act,
7 or who, prior to the effective date of this Act, made an election under
8 Section 7 of this Act, the disability retirement allowance shall be the higher of
9 twenty-five percent (25%) of the member's monthly final rate of pay or the
10 retirement allowance determined in the same manner as for retirement at his
11 or her normal retirement date under KRS 16.583.

12 (6) If the member receives a satisfactory determination of hazardous disability pursuant
13 to KRS 61.665 and the disability is the direct result of an act in line of duty as
14 defined in KRS 16.505, the member's retirement allowance shall be calculated as
15 follows:

16 (a) For the disabled member, benefits as provided in subsection (5) of this section
17 except that the monthly retirement allowance payable shall not be less than
18 twenty-five percent (25%) of the member's monthly final rate of pay; and

19 (b) For each dependent child of the member on his or her disability retirement
20 date, who is alive at the time any particular payment is due, a monthly
21 payment equal to ten percent (10%) of the disabled member's monthly final
22 rate of pay; however, total maximum dependent children's benefit shall not
23 exceed forty percent (40%) of the member's monthly final rate of pay. The
24 payments shall be payable to each dependent child, or to a legally appointed
25 guardian or as directed by the system.

26 (7) If the member receives a satisfactory determination of total and permanent
27 disability pursuant to KRS 61.665 and the disability is the direct result of an act in

1 line of duty as defined in KRS 16.505, the member's retirement allowance shall be
2 calculated as follows:

3 (a) For the disabled member, the benefits as provided in subsection (5) of this
4 section except that the monthly retirement allowance payable shall not be less
5 than seventy-five percent (75%) of the member's monthly average pay; and

6 (b) For each dependent child of the member on his or her disability retirement
7 date, who is alive at the time any particular payment is due, a monthly
8 payment equal to ten percent (10%) of the disabled member's monthly
9 average pay, except that:

10 1. Member and dependent children payments under this subsection shall
11 not exceed one hundred percent (100%) of the member's monthly
12 average pay; and

13 2. Total maximum dependent children's benefits shall not exceed twenty-
14 five percent (25%) of the member's monthly average pay while the
15 member is living and forty percent (40%) of the member's monthly
16 average pay after the member's death. The payments shall be payable to
17 each dependent child, or to a legally appointed guardian or as directed
18 by the system, and shall be divided equally among all dependent
19 children.

20 (8) No benefit provided in this section shall be reduced as a result of any change in the
21 extent of disability of any retired member who is the age of normal retirement or
22 older.

23 (9) If a regular full-time officer or hazardous position member has been approved for
24 benefits under a hazardous disability, the board shall, upon request of the member,
25 permit the member to receive the hazardous disability allowance while accruing
26 benefits in a nonhazardous position, subject to proper medical review of the
27 nonhazardous position's job description by the system's medical examiner.

1 (10) For a member of the State Police Retirement System, in lieu of the allowance
2 provided in subsection (5) to (7) of this section, the member may be retained on the
3 regular payroll and receive the compensation authorized by KRS 16.165, if he or
4 she is qualified.

5 ➔Section 12. KRS 61.510 is amended to read as follows:

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

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

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

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

6 (13) "Creditable compensation":

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

18 (b) Includes:

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

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

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

19 (c) Excludes:

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

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

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

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

23 (c) For a member who begins participating before September 1, 2008, who is
24 employed in a hazardous position, as provided in KRS 61.592, the creditable
25 compensation of the member during the three (3) fiscal years he or she was
26 paid at the highest average monthly rate divided by the number of months of
27 service credit during that three (3) year period multiplied by twelve (12). The

1 three (3) years may be fractional and need not be consecutive. If the number
2 of months of service credit during the three (3) year period is less than twenty-
3 four (24), one (1) or more additional fiscal years shall be used;

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

14 (e) For a member who begins participating on or after September 1, 2008, but
15 prior to January 1, 2014, or a member who begins participating on or after
16 January 1, 2027, or a member who is presumed under Section 1 of this Act
17 to begin participating immediately prior to January 1, 2014, who is
18 employed in a hazardous position as provided in KRS 61.592, the creditable
19 compensation of the member during the three (3) complete fiscal years he or
20 she was paid at the highest average monthly rate divided by three (3). Each
21 fiscal year used to determine final compensation must contain twelve (12)
22 months of service credit. If the member does not have three (3) complete
23 fiscal years that each contain twelve (12) months of service credit, then one
24 (1) or more additional fiscal years, which may contain less than twelve (12)
25 months of service credit, shall be added until the number of months in the
26 final compensation calculation is at least thirty-six (36) months;

27 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were

1 calculated during the twelve (12) month period immediately preceding the
2 member's effective retirement date, including employee contributions picked up
3 after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the
4 system by the employer and the following equivalents shall be used to convert the
5 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
6 workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour
7 workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months,
8 one (1) year;

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

11 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
12 basis of the actuarial tables that are adopted by the board. In cases of disability
13 retirement, the options authorized by KRS 61.635 shall be computed by adding ten
14 (10) years to the age of the member, unless the member has chosen the Social
15 Security adjustment option as provided for in KRS 61.635(8), in which case the
16 member's actual age shall be used. For members who began participating in the
17 system prior to January 1, 2014, or who begin participating in a hazardous
18 position in the system on or after January 1, 2027, or who are presumed under
19 Section 1 of this Act to begin participating in a hazardous position in the system
20 immediately prior to January 1, 2014, no disability retirement option shall be less
21 than the same option computed under early retirement;

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

24 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
25 following June 30, which shall also be the plan year. The "fiscal year" shall be the
26 limitation year used to determine contribution and benefit limits as established by
27 26 U.S.C. sec. 415;

- 1 (20) "Officers and employees of the General Assembly" means the occupants of those
2 positions enumerated in KRS 6.150. The term shall also apply to assistants who
3 were employed by the General Assembly for at least one (1) regular legislative
4 session prior to July 13, 2004, who elect to participate in the retirement system, and
5 who serve for at least six (6) regular legislative sessions. Assistants hired after July
6 13, 2004, shall be designated as interim employees;
- 7 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean
8 all positions that average one hundred (100) or more hours per month determined
9 by using the number of months actually worked within a calendar or fiscal year,
10 including all positions except:
- 11 (a) Seasonal positions, which although temporary in duration, are positions which
12 coincide in duration with a particular season or seasons of the year and which
13 may recur regularly from year to year, the period of time shall not exceed nine
14 (9) months;
 - 15 (b) Emergency positions which are positions utilized by the employer during:
 - 16 1. An emergency as determined by the employer for a period not
17 exceeding thirty (30) working days and are nonrenewable; or
 - 18 2. A state of emergency declared by the President of the United States or
19 the Governor of the Commonwealth of Kentucky that are created or
20 filled specifically for addressing the employer's needs during and as a
21 result of the declared emergency;
 - 22 (c) Temporary positions which are positions of employment with a participating
23 department for a period of time not to exceed nine (9) months and are
24 nonrenewable;
 - 25 (d) Part-time positions which are positions which may be permanent in duration,
26 but which require less than a calendar or fiscal year average of one hundred
27 (100) hours of work per month, determined by using the number of months

1 actually worked within a calendar or fiscal year, in the performance of duty;
2 and

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

5 (22) "Vested" for purposes of determining eligibility for purchasing service credit under
6 KRS 61.552 means the employee has at least forty-eight (48) months of service if
7 age sixty-five (65) or older or at least sixty (60) months of service if under the age
8 of sixty-five (65). For purposes of this subsection, "service" means service in the
9 systems administered by the Kentucky Retirement Systems and County Employees
10 Retirement System;

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

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

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

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

27 (27) "Recipient" means the retired member or the person or persons designated as

1 beneficiary by the member and drawing a retirement allowance as a result of the
2 member's death or a dependent child drawing a retirement allowance. An alternate
3 payee of a qualified domestic relations order shall not be considered a recipient,
4 except for purposes of KRS 61.623;

5 (28) "Level percentage of payroll amortization method" means a method of determining
6 the annual amortization payment on the unfunded actuarial accrued liability as
7 expressed as a percentage of payroll over a set period of years but that may be
8 converted to a dollar value for purposes of KRS 61.565(1)(d). Under this method,
9 the percentage of payroll shall be projected to remain constant for all years
10 remaining in the set period of time and the unfunded actuarially accrued liability
11 shall be projected to be fully amortized at the conclusion of the set period of years;

12 (29) "Increment" means twelve (12) months of service credit which are purchased. The
13 twelve (12) months need not be consecutive. The final increment may be less than
14 twelve (12) months;

15 (30) "Person" means a natural person;

16 (31) "Retirement office" means the Kentucky Public Pensions Authority's office
17 building in Frankfort, unless otherwise designated by the Kentucky Public Pensions
18 Authority;

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

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

- 1 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
2 or contact with reality; or laboratory findings which are anatomical, physiological,
3 or psychological phenomena that can be shown by medically acceptable laboratory
4 diagnostic techniques, including but not limited to chemical tests,
5 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 6 (34) "Participating" means an employee is currently earning service credit in the system
7 as provided in KRS 61.543;
- 8 (35) "Month" means a calendar month;
- 9 (36) "Membership date" means:
- 10 (a) The date upon which the member began participating in the system as
11 provided in KRS 61.543;
- 12 (b) For a member electing to participate in the system pursuant to KRS
13 196.167(4) or 311A.022(2) who has not previously participated in the system
14 or the Kentucky Teachers' Retirement System, the date the member began
15 participating in a defined contribution plan that meets the requirements of 26
16 U.S.C. sec. 403(b);
- 17 (c) For members bound by an educational contract as a conditional employee to
18 the state of Kentucky prior to December 31, 2003, the date on which the
19 educational contract became effective; or
- 20 (d) For a member participating in the system pursuant to KRS 31.045, the earlier
21 of the date upon which the member began participating in the system under
22 paragraph (a) of this subsection or the date the member began employment
23 with the Louisville and Jefferson County Public Defender Corporation;
- 24 (37) "Participant" means a member, as defined by subsection (8) of this section, or a
25 retired member, as defined by subsection (24) of this section;
- 26 (38) "Qualified domestic relations order" means any judgment, decree, or order,
27 including approval of a property settlement agreement, that:

- 1 (a) Is issued by a court or administrative agency; and
- 2 (b) Relates to the provision of child support, alimony payments, or marital
- 3 property rights to an alternate payee;
- 4 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
- 5 participant, who is designated to be paid retirement benefits in a qualified domestic
- 6 relations order;
- 7 (40) "Accumulated employer credit" mean the employer pay credit deposited to the
- 8 member's account and interest credited on such amounts as provided by KRS
- 9 16.583 and 61.597;
- 10 (41) "Accumulated account balance" means:
- 11 (a) For members who began participating in the system prior to January 1, 2014,
- 12 the member's accumulated contributions; or
- 13 (b) For members who began participating in the system on or after January 1,
- 14 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,
- 15 **who make an election under subsection (3) of Section 1 of this Act, or who,**
- 16 **prior to the effective date of this Act, made an election under Section 7 of**
- 17 **this Act,** the combined sum of the member's accumulated contributions and
- 18 the member's accumulated employer credit;
- 19 (42) "Volunteer" means an individual who:
- 20 (a) Freely and without pressure or coercion performs hours of service for an
- 21 employer participating in one (1) of the systems administered by Kentucky
- 22 Retirement Systems without receipt of compensation for services rendered,
- 23 except for reimbursement of actual expenses, payment of a nominal fee to
- 24 offset the costs of performing the voluntary services, or both; and
- 25 (b) If a retired member, does not become an employee, leased employee, or
- 26 independent contractor of the employer for which he or she is performing
- 27 volunteer services for a period of at least twelve (12) months following the

1 retired member's most recent retirement date;

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

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

10 (45) "Monthly average pay" means:

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

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

24 (46) "Authority" means the Kentucky Public Pensions Authority as provided by KRS
25 61.505;

26 (47) "Executive director" means the executive director of the Kentucky Public Pensions
27 Authority;

- 1 (48) "Instructional staff" means the employees of a state college or university
2 participating under KRS 61.520 who are:
- 3 (a) Faculty;
 - 4 (b) Staff responsible for teaching; or
 - 5 (c) Other individuals employed in an administrative position that is eligible for
6 participation in the Teachers' Insurance and Annuity Association (TIAA) of
7 the Teachers' Retirement System;
- 8 (49) "Agency reporting official" means the person designated by the participating
9 employer who shall be responsible for forwarding all employer and employee
10 contributions and a record of the contributions to the system and for performing
11 other administrative duties pursuant to KRS 61.510 to 61.705; and
- 12 (50) "Gainful employment" means work in any capacity that is or may be performed
13 with regularity and is or may be usually done for pay, whether pay is received or
14 not received, including seasonal, volunteer, part-time, and on-call work.
- 15 ➔Section 13. KRS 61.546 is amended to read as follows:
- 16 (1) Except as otherwise provided by this section, any member of the Kentucky
17 Employees Retirement System or the State Police Retirement System whose
18 retirement date is July 14, 1984, or thereafter, shall receive credit for unused sick
19 leave accrued while contributing to the retirement system from which the retirement
20 benefit is to be paid in accordance with this section.
 - 21 (2) (a) Upon the member's notification of retirement as prescribed in KRS 16.576 or
22 61.590, the employer shall certify the retiring member's unused, accumulated
23 sick leave balance to the system.
 - 24 (b) The member's sick leave balance, expressed in days, shall be divided by the
25 average number of working days per month in the state service and rounded to
26 the nearest number of whole months.
 - 27 (c) Except as provided by subsection (3) of this section, the member's sick leave

1 balance, expressed in months, shall upon retirement be added to his or her
2 service credit for the purpose of determining his or her annual retirement
3 allowance under KRS 16.505 to 16.652 or 61.510 to 61.705 and for the
4 purpose of determining whether the member is eligible to receive a retirement
5 allowance under KRS 16.505 to 16.652 or 61.510 to 61.705.

6 (3) For a member who begins participating in the Kentucky Employees Retirement
7 System or the State Police Retirement System on or after September 1, 2008, or for
8 a member who begins participating in a hazardous duty position in the Kentucky
9 Employees Retirement System or in the State Police Retirement System on or
10 after January 1, 2027, or for a member who is presumed under Section 1 of this
11 Act to begin participating in a hazardous duty position in the Kentucky
12 Employees Retirement System or in the State Police Retirement System
13 immediately prior to January 1, 2014:

14 (a) The member shall receive no more than twelve (12) months of service credit
15 upon retirement for accumulated unused sick leave accrued while contributing
16 to the retirement system or systems from which the retirement benefit is to be
17 paid;

18 (b) The service credited for accumulated unused sick leave as limited by this
19 section and added to the member's service credit shall be used for purposes of
20 determining the member's annual retirement allowance under KRS 16.505 to
21 16.652 and 61.510 to 61.705; and

22 (c) The service credited for accumulated unused sick leave and added to the
23 member's service credit shall not be used to determine whether a member is
24 eligible to receive a retirement allowance under any of the provisions of KRS
25 16.505 to 16.652 and 61.510 to 61.705.

26 (4) Notwithstanding any other provision of this section to the contrary, the value of any
27 accumulated sick leave that is added to the member's service credit in the Kentucky

1 Employees Retirement System or the State Police Retirement System on or after
 2 July 1, 2010, shall be paid to the retirement system by the last participating
 3 Kentucky Employees Retirement System or State Police Retirement System
 4 employer based upon a formula adopted by the board.

5 (5) The provisions of this section shall not apply to a participating agency whose
 6 employees are not employed by the Commonwealth until the agency certifies to the
 7 system that a sick leave program has been formally adopted and is universally
 8 administered within the agency.

9 (6) This section shall not apply to:

10 (a) Members ***in a nonhazardous position*** who begin participating in the systems
 11 administered by Kentucky Retirement Systems on or after January 1, 2014; ***or***

12 (b) ***Members who make an election under subsection (3) of Section 1 of this***
 13 ***Act, or who, prior to the effective date of this Act, made an election under or***
 14 ***Section 7 of this Act.***

15 ➔Section 14. KRS 61.552 is amended to read as follows:

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

22 (a) The employee was called to active military duty in the Armed Forces of the
 23 United States:

24 1. After the employee's membership date in the system and provided the
 25 employee was on leave of absence from the employer and did not
 26 withdraw his or her accumulated account balance; or

27 2. Prior to the employee's membership date in the system and the date the

- 1 employee terminated employment with his or her employer;
- 2 (b) The employee entered active military service within three (3) months of his or
3 her last day of paid employment;
- 4 (c) The employee's discharge military service was terminated in a manner other
5 than as described in 38 U.S.C. sec. 4304;
- 6 (d) The employee returns to work with an employer participating in the system
7 within two (2) years after completion of the period of active military duty, or
8 upon the subsequent termination of any total disability which existed at the
9 expiration of the two (2) years after discharge; and
- 10 (e) For an employee who is a member in a nonhazardous position whose
11 membership date is on or after January 1, 2014, or who is a member in a
12 hazardous position beginning prior to January 1, 2027, who makes an
13 election under subsection (3) of Section 1 of this Act, or who, prior to the
14 effective date of this Act, made an election under Section 7 of this Act, who
15 is participating in the hybrid cash balance plan under KRS 16.583, 61.597,
16 78.5512, or 78.5516, the employee pays the employee contributions on the
17 credited compensation as provided under KRS 16.543, 61.543, and 78.615.

18 For periods of active military duty that meet the requirements of this subsection, the
19 employer shall pay the employer contributions payable under KRS 61.565, 61.702,
20 78.5536, and 78.635.

- 21 (2) (a) Omitted Service. Any person who is entitled to service credit for employment
22 which was not reported by the employer in accordance with KRS 16.543,
23 61.543, or 78.615 may obtain credit for the service subject to the provisions of
24 this subsection.
- 25 (b) Provided the person pays for the omitted service with within six (6) months of
26 notification by the system, the cost of the service shall be equal to the
27 employee contributions that would have been paid if the person had been

- 1 correctly reported in accordance with KRS 16.543, 61.543, or 78.615.
- 2 (c) Any employee participating in one (1) of the state-administered retirement
3 systems entitled to service credit under paragraph (a) of this subsection who
4 has not repaid the employee contributions due within six (6) months of
5 notification by the system may purchase the credit after the six (6) months by
6 paying to the system the employee contributions plus interest at the actuarially
7 assumed rate from the date of initial notification under paragraph (b) of this
8 subsection.
- 9 (d) Omitted service purchased under this subsection shall:
- 10 1. Be considered service credited under KRS 16.543(1), 61.543(1), or
11 78.615(1) for purposes of determining eligibility for retirement benefits
12 under KRS 78.510 to 78.852; and
- 13 2. Not be credited to the member's account until the employer
14 contributions due and any interest or penalties on the delinquent
15 employer contributions for the period of omitted service are received by
16 the system.
- 17 (e) Employees who begin participating on or after January 1, 2014, in the hybrid
18 cash balance plan provided by KRS 16.583 or 61.597 or 78.5512 or 78.5516
19 shall, upon payment of the employee and employer contributions due under
20 this subsection, have their accumulated account balance increased by the
21 employee contributions, employer pay credits, and interest credits that would
22 have been credited to their member's account if the contributions had been
23 paid on time.
- 24 (f) Contributions payable by the employer under this subsection for omitted
25 service shall be considered delinquent from the date the employee should
26 have been reported and received service credit in accordance with KRS
27 16.543, 61.543, and 78.615.

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

- 1 any specific year shall not exceed three (3) months.
- 2 (b) The cost of the summer months service credit shall be determined by the
3 formula established by subsection (10) of this section and may be purchased
4 by the employee, or the employer on behalf of the employee, or the cost may
5 be paid by both the employer and employee in which case the employer and
6 employee shall each pay fifty percent (50%) of the cost. Service credit shall
7 not be credited to the member's account until both the employer's and
8 employee's payment are received by the system.
- 9 (c) If the employee has purchased service credit under this subsection based on
10 months reported by the employer for the fiscal year, and an audit of the
11 employee's account reduces the number of months of service credit for which
12 the employee is eligible to no fewer than nine (9) months, the employee shall
13 retain credit for the months purchased unless the employee is ineligible for
14 any service in the fiscal year. The employee shall be eligible to purchase the
15 additional months under this subsection to total one (1) year.
- 16 (d) This subsection shall not apply to members who began participating in the
17 County Employees Retirement System on or after January 1, 2014.
- 18 (5) Vested Service Purchases. Any employee who began participating in the County
19 Employees Retirement System, the Kentucky Employees Retirement System, or the
20 State Police Retirement System prior to January 1, 2014, or who began
21 participating in the State Police Retirement System or in a hazardous position in
22 the County Employees Retirement System or the Kentucky Employees Retirement
23 System on or after January 1, 2027, or who is presumed under Section 1 of this
24 Act to have begun participating in the State Police Retirement System or in a
25 hazardous position in the County Employees Retirement System or the Kentucky
26 Employees Retirement System immediately prior to January 1, 2014, who is
27 vested may purchase service credit for:

- 1 (a) Past service. "Past service" means periods of employment:
 - 2 1. Between July 1, 1956, in the case of the Kentucky Employees
 - 3 Retirement System, or July 1, 1958, in the case of the County
 - 4 Employees Retirement System, and the effective date of participation by
 - 5 the employer; or
 - 6 2. With a public agency that did not participate in the Kentucky Employees
 - 7 Retirement System but would have been eligible to participate under
 - 8 KRS 61.520 or a political subdivision that did not participate in the
 - 9 County Employees Retirement System but would have been eligible to
 - 10 participate under KRS 78.530, provided the public agency or political
 - 11 subdivision has merged with or been taken over by a participating
 - 12 employer;
- 13 (b) State university service, provided the university does not participate in a state-
- 14 administered retirement system and the university service being purchased
- 15 was in a nonteaching position that did not participate in a defined benefit
- 16 retirement program;
- 17 (c) 1. Up to ten (10) years of out-of-state service. "Out-of-state" means service
- 18 credited to a state or local government-administered public defined
- 19 benefit plan in another state that is not a defined benefit plan for
- 20 teachers.
- 21 2. Up to ten (10) years of out-of-state hazardous service. "Out-of-state
- 22 hazardous service" means service in a regular full-time position that was
- 23 credited to a defined benefit retirement plan administered by a state or
- 24 local government in another state, if the service could be certified as
- 25 hazardous pursuant to KRS 61.592 or 78.5520, as applicable. The
- 26 employee may purchase out-of-state hazardous service under this
- 27 subparagraph provided the employee is vested to receive benefits from

1 the State Police Retirement System or hazardous duty benefits from the
2 Kentucky Employees Retirement System or the County Employees
3 Retirement System.

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

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

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

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

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

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

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

26 (h) Part-time employment in a noncertified position at a school board prior to the
27 1990-91 school year which averaged eighty (80) or more hours of work per

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

5 (i) Any period of:

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

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

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

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

- 1 death, or written request following termination, the payment, plus interest as
2 provided in KRS 16.560, 61.575, or 78.640, as applicable, shall be refunded.
- 3 (7) For purposes of service purchased under subsections (2) to (6) of this section:
- 4 (a) Except for subsection (6) of this section, the service must qualify as regular
5 full-time as provided by KRS 61.510 and 78.510;
- 6 (b) No service credit may be purchased for periods already credited to the system
7 or another public defined benefit retirement fund, including non-qualified
8 service purchased in another state-administered retirement system;
- 9 (c) Except as provided by paragraph (a)2.a. of subsection (9) of this section, the
10 employee payment for service purchases shall not be picked up, as described
11 in KRS 16.545(4), 61.560(4), or 78.610(4), by the employer;
- 12 (d) Except for service purchased under subsection (2) or (3) of this section,
13 service purchases made pursuant to this section may be purchased by the
14 entire amount of service available or by increments. Service purchases made
15 pursuant to subsections (2) and (3) of this section shall only be purchased by
16 the entire amount of service available; and
- 17 (e) Service purchases as provided by subsections (5)(b), (d) to (f), and (j)1. and
18 (6) of this section may be purchased in any system in which the member has
19 service credit.
- 20 (8) (a) Employer purchase of past service. Any employer participating in the system
21 may purchase service credit, between July 1, 1956, in the case of the
22 Kentucky Employees Retirement System, or July 1, 1958, in the case of the
23 County Employees Retirement System, and the participation date of the
24 employer, for present employees of the county or department who have
25 elected coverage under KRS 61.525(2) or 78.540(1), provided the employee
26 began participating in the system prior to January 1, 2014.
- 27 (b) A Kentucky Employees Retirement System employer shall pay the cost of the

1 service credit within the fiscal year the election is made to purchase the
2 service credit. A County Employees Retirement System employer may
3 purchase the service, with interest at the rate actuarially assumed by the board,
4 over a period not to exceed ten (10) years.

5 (c) If an employer elects to purchase service under the provisions of this
6 subsection, any present employee who would be eligible to receive service
7 credit under the provisions of this subsection and has purchased service credit
8 under subsection (5)(a) of this section shall have his or her payment for the
9 service credit refunded with interest at the rate paid under KRS 61.575 or
10 78.640.

11 (d) Any payments made by an employer under this subsection shall be deposited
12 to the retirement allowance account of the system and these funds shall not be
13 considered accumulated contributions of the individual members.

14 (9) (a) An employee participating in the system may purchase service credit under
15 any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to
16 78.852 for which he or she is eligible to purchase, or as otherwise required by
17 38 U.S.C. ch. 43, by:

18 1. Making a lump-sum payment on a before-tax basis as provided in
19 subparagraph 3. of this paragraph, or on an after-tax basis if the
20 employee is purchasing service credit under subsection (1) or (3) of this
21 section, service available pursuant to 38 U.S.C. ch. 43 not otherwise
22 provided for in this section, or grandfathered service as defined in
23 paragraph (b) of this subsection;

24 2. Entering into an agreement to purchase service credit through an
25 installment purchase of service agreement with the systems as provided
26 by paragraph (c) of this subsection:

27 a. On a before-tax basis in which the service is purchased pursuant to

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

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

1 amount has been paid. The first service credited shall represent the first
2 calendar month of the service to be purchased and each succeeding
3 month of service credit shall represent the succeeding months of that
4 service.

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

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

25 10. Installment payments of employees on military leave or sick leave
26 without pay shall be suspended during the period of leave and shall
27 resume without recalculation upon the employee's return from leave.

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

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

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

22 (b) Service purchased on or after August 1, 2004, under the provisions of KRS
23 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, except for service
24 purchased under subsections (1) to (3) of this section or service purchased as
25 described by paragraph (d) of this subsection, shall not be used to determine
26 eligibility for or the amount of the monthly insurance contribution under KRS
27 61.702 or 78.5536.

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

- 6 1. Shall not be used to determine eligibility for a retirement allowance
7 under disability retirement, early retirement, normal retirement, or upon
8 death of the member under any of the provisions of KRS 16.505 to
9 16.652, 61.510 to 61.705, or 78.510 to 78.852; and
- 10 2. Shall only be used to determine the amount of the retirement allowance
11 of a member who is eligible for a retirement allowance under disability,
12 early retirement, normal retirement, or upon death of the member under
13 any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or
14 78.510 to 78.852, based on service earned as a participating employee.

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

- 22 1. A retirement allowance under disability retirement, early retirement,
23 normal retirement, or death under any of the provisions of KRS 16.505
24 to 16.652, 61.510 to 61.705, and 78.510 to 78.852; and
- 25 2. The monthly insurance contribution under KRS 61.702 or 78.5536.

26 ➔Section 15. KRS 61.575 is amended to read as follows:

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

- 1 (a) All members' contributions, or contributions picked up by the employer after
2 August 1, 1982, and interest allowances as provided in KRS 61.510 to 61.692
3 shall be credited, except as provided by KRS 61.702(3)(b); and
- 4 (b) For members who begin participating in a nonhazardous position in the
5 system on or after January 1, 2014, or a member who makes an election
6 under subsection (3) of Section 1 of this Act, or who, prior to the effective
7 date of this Act, made an election under Section 7 of this Act, the employer
8 pay credit and interest credited on such amounts as provided by KRS 16.583
9 and 61.597 shall be credited.

10 Only funds from this account shall be used to return the accumulated contributions
11 or accumulated account balances of a member when required by reason of any
12 provision of KRS 61.510 to 61.705. Prior to the member's retirement, death, or
13 refund in accordance with KRS 61.625, no funds shall be made available from the
14 member account.

15 (2) Each member's contribution or contribution picked up by the employer shall be
16 credited to the individual account of the contributing member, except as provided
17 by KRS 61.702(3)(b).

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

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

24 (c) For a member who begins participating on or after September 1, 2008, but
25 prior to January 1, 2014, or who begins participating in a hazardous position
26 on or after January 1, 2027, for his or her service in a hazardous position,
27 or who is presumed under Section 1 of this Act to have begun participating

1 *in a hazardous position immediately prior to January 1, 2014,* interest shall
 2 be credited to his or her individual account at a rate of two and one-half
 3 percent (2.5%) per annum on the accumulated account balance of the member
 4 on June 30 of the preceding fiscal year.

5 (d) For a member who begins participating *in a nonhazardous position* on or
 6 after January 1, 2014, in the hybrid cash balance plan, *or a member who*
 7 *makes an election under subsection (3) of Section 1 of this Act, or who,*
 8 *prior to the effective date of this Act, made an election under Section 7 of*
 9 *this Act,* interest shall be credited in accordance with KRS 16.583 and 61.597.

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

12 (4) (a) Upon the retirement of a member who began participating in the system prior
 13 to January 1, 2014, *or who begins participating in a hazardous position on*
 14 *or after January 1, 2027, or who is presumed under Section 1 of this Act to*
 15 *have begun participating in a hazardous position immediately prior to*
 16 *January 1, 2014,* his or her accumulated account balance shall be transferred
 17 from the members' account to the retirement allowance account.

18 (b) Upon the retirement of a member *in a nonhazardous position* who began
 19 participating in the system on or after January 1, 2014, *or a member who*
 20 *makes an election under subsection (3) of Section 1 of this Act, or who,*
 21 *prior to the effective date of this Act, made an election under Section 7 of*
 22 *this Act,* who elects to annuitize his or her accumulated account balance as
 23 prescribed by KRS 16.583(7)(a), *except as otherwise provided under Section*
 24 *1 of this Act,* or 61.597(8)~~(7)~~(a) or (b), the member's accumulated account
 25 balance shall be transferred to the retirement allowance account.

26 ➔Section 16. KRS 61.592 is amended to read as follows:

27 (1) (a) "Hazardous position" for employees participating in the Kentucky Employees

1 Retirement System means:

- 2 1. Any position whose principal duties involve active law enforcement,
3 including the positions of probation and parole officer and
4 Commonwealth detective, active fire suppression or prevention, or other
5 positions, including but not limited to pilots of the Transportation
6 Cabinet and paramedics and emergency medical technicians, with duties
7 that require frequent exposure to a high degree of danger or peril and
8 also require a high degree of physical conditioning;
- 9 2. Positions in the Department of Corrections in state correctional
10 institutions and the Kentucky Correctional Psychiatric Center with
11 duties that regularly and routinely require face-to-face contact with
12 inmates; and
- 13 3. Positions of employees who elect coverage under KRS 196.167(3)(b)2.
14 and who continue to provide educational services and support to inmates
15 as a Department of Corrections employee.
- 16 (b) The effective date of participation under hazardous duty coverage for
17 positions in the Department of Alcoholic Beverage Control shall be April 1,
18 1998. The employer and employee contributions shall be paid by the
19 employer and forwarded to the retirement system for the period not previously
20 reported.
- 21 (2) Each employer may request of the board hazardous duty coverage for those
22 positions as defined in subsection (1) of this section. Upon request, each employer
23 shall certify to the system, in the manner prescribed by the board, the names of all
24 employees working in a hazardous position as defined in subsection (1) of this
25 section for which coverage is requested. The certification of the employer shall bear
26 the approval of the agent or agency responsible for the budget of the department or
27 county indicating that the required employer contributions have been provided for

1 in the budget of the employing department or county. The system shall determine
2 whether the employees whose names have been certified by the employer are
3 working in positions meeting the definition of a hazardous position as provided by
4 subsection (1) of this section. This process shall not be required for employees who
5 elect coverage under KRS 196.167(3)(b)2.

6 (3) (a) An employee who elects coverage under KRS 196.167(3)(b)2., and an
7 employee participating in the Kentucky Employees Retirement System who is
8 determined by the system to be working in a hazardous position in accordance
9 with subsection (2) of this section, shall contribute, for each pay period for
10 which he or she receives compensation, eight percent (8%) of his or her
11 creditable compensation.

12 (b) Each employer shall pay employer contributions based on the creditable
13 compensation of the employees determined by the system to be working in a
14 hazardous position at the employer contribution rate as determined by the
15 board. The rate shall be determined by actuarial methods consistent with the
16 provisions of KRS 61.565.

17 (c) If the employer participated in the system prior to electing hazardous duty
18 coverage, the employer may pay to the system the cost of converting the
19 nonhazardous service to hazardous service from the date of participation to
20 the date the payment is made, or the employer may establish a payment
21 schedule for payment of the cost of the hazardous service above that which
22 would be funded within the existing employer contribution rate. The employer
23 may extend the payment schedule to a maximum of thirty (30) years.
24 Payments made by the employer under this subsection shall be deposited to
25 the retirement allowance account of the proper retirement system and these
26 funds shall not be considered accumulated contributions of the individual
27 members. If the employer elects not to make the additional payment, the

1 employee may pay the cost of converting the service and provide payment for
 2 the cost as provided by KRS 61.552(9). Payments made by the employee
 3 under this subsection shall not be picked up, as described in KRS 61.560(4),
 4 by the employer. If neither the employer nor employee makes the payment,
 5 the service prior to hazardous coverage shall remain nonhazardous. The
 6 provisions of this paragraph shall not apply to members who begin
 7 participating in the systems administered by Kentucky Retirement Systems on
 8 or after January 1, 2014, **but prior to January 1, 2027, who make an election**
 9 **under subsection (3) of Section 1 of this Act, or who, prior to the effective**
 10 **date of this Act, made an election under Section 7 of this Act.**

11 (4) The normal retirement age, retirement allowance, hybrid cash balance plans except
 12 as provided by KRS 16.583(2)(b)2. and 16.584, other benefits, eligibility
 13 requirements, rights, and responsibilities of a member in a hazardous position, as
 14 prescribed by subsections (1), (2), and (3) of this section, and the responsibilities,
 15 rights, and requirements of his or her employer shall be as prescribed for a member
 16 and employer participating in the State Police Retirement System as provided for by
 17 KRS 16.505 to 16.652.

18 (5) Any person employed in a hazardous position after July 1, 1972, shall be required
 19 to undergo a thorough medical examination by a licensed physician, and a copy of
 20 the medical report of the physician shall be retained on file by the employee's
 21 department or county and made available to the system upon request.

22 (6) If doubt exists regarding the benefits payable to a hazardous position employee
 23 under this section, the board shall determine the benefits payable under KRS 61.510
 24 to 61.705 or 16.505 to 16.652.

25 ➔Section 17. KRS 61.597 is amended to read as follows:

26 (1) A member of the Kentucky Employees Retirement System who is participating in a
 27 nonhazardous position, whose participation in the systems begins on or after

1 January 1, 2014, and those members making an election pursuant to KRS 61.5955,
2 shall receive the retirement benefits provided by this section in lieu of the
3 retirement benefits provided under KRS 61.559 and 61.595. The retirement benefit
4 provided by this section shall be known as the hybrid cash balance plan and shall
5 operate as another benefit tier within the Kentucky Employees Retirement System.

6 (2) The hybrid cash balance plan shall provide a retirement benefit based upon the
7 member's accumulated account balance, which shall include:

8 (a) Contributions made by the member as provided by KRS 16.505 to 16.652 and
9 61.510 to 61.705, except for employee contributions prescribed by KRS
10 61.702(3)(b);

11 (b) An employer pay credit of four percent (4%) of the creditable compensation
12 earned by the employee for each month the employee is contributing to the
13 hybrid cash balance plan provided by this section; and

14 (c) Interest credits added annually to the member's accumulated account balance
15 as provided by this section.

16 (3) (a) Member contributions and employer pay credits as provided by subsection
17 (2)(a) and (b) of this section shall be credited to the member's account
18 monthly as contributions are reported and posted to the system in accordance
19 with KRS 61.675.

20 (b) Interest credits, as provided by subsection (2)(c) of this section, shall be
21 credited to the member's account annually on June 30 of each fiscal year, as
22 determined by subsection (4) of this section.

23 (4) (a) On June 30 of each fiscal year, the system shall determine if the member
24 contributed to the hybrid cash balance plan or the County Employees
25 Retirement System during the fiscal year.

26 (b) If the member contributed to the hybrid cash balance plan or the County
27 Employees Retirement System during the fiscal year, the interest credit added

1 to the member's account for that fiscal year shall be determined by
2 multiplying the member's accumulated account balance on June 30 of the
3 preceding fiscal year by a percentage increase equal to:

- 4 1. Four percent (4%); plus
- 5 2. Seventy-five percent (75%) of the system's geometric average
6 investment return in excess of the four percent (4%) rate of return.

7 (c) If the member did not contribute to the hybrid cash balance plan or the County
8 Employees Retirement System during the fiscal year, the interest credit added
9 to the member's account for that fiscal year shall be determined by
10 multiplying the member's accumulated account balance on June 30 of the
11 preceding fiscal year by a percentage increase equal to four percent (4%).

12 (d) For purposes of this subsection, "system's geometric average net investment
13 return":

- 14 1. Means the annual average geometric investment return, net of
15 administrative and investment fees and expenses, over the last five (5)
16 fiscal years as of the date the interest is credited to the member's
17 account; and
- 18 2. Shall be expressed as a percentage and based upon the system in which
19 the member has an account.

20 (e) No employer pay credits or interest credits shall be provided to a member who
21 has taken a refund of contributions as provided by KRS 61.625 or who has
22 retired and annuitized his or her accumulated account balance as prescribed
23 by this section.

24 (5) (a) Upon termination of employment, a member who has less than five (5) years
25 of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who
26 elects to take a refund of his or her accumulated account balance as provided
27 by KRS 61.625, shall forfeit the accumulated employer credit, and shall only

1 receive a refund of his or her accumulated contributions.

2 (b) Upon termination of employment, a member who has five (5) or more years
3 of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who
4 elects to take a refund of his or her accumulated account balance as provided
5 by KRS 61.625, shall receive a full refund of his or her accumulated account
6 balance.

7 (6) A member participating in the hybrid cash balance plan provided by this section
8 may retire:

9 (a) At his or her normal retirement date, provided he or she has earned five (5) or
10 more years of service credited under KRS 16.543(1), 61.543(1), 78.615(1), or
11 another state-administered retirement system; or

12 (b) If the member is at least age fifty-seven (57) and has an age and years of
13 service total of at least eighty-seven (87) years. The years of service used to
14 determine eligibility for retirement under this paragraph shall only include
15 years of service credited under KRS 16.543(1), 61.543(1), 78.615(1), or
16 another state-administered retirement system.

17 **(7) A member who has hazardous service credit presumed under Section 1 of this Act**
18 **to be service credit earned immediately prior to January 1, 2014, and**
19 **nonhazardous service credit earned on or after January 1, 2014, in the hybrid**
20 **cash balance plan or the County Employees Retirement System, who is eligible**
21 **for a reduced or unreduced benefit under Sections 2 and 3 of this Act when his or**
22 **her hazardous service credit and nonhazardous service credit are consolidated**
23 **pursuant to Section 19 of this Act, shall be eligible to retire from the hybrid cash**
24 **balance plan at the same time with a benefit amount calculated by the board's**
25 **actuary to reflect the earlier commencement of benefits. The actuarial calculation**
26 **of benefits shall not apply if the member satisfies the requirements provided in**
27 **subsection (6) of this section.**

1 ~~(8)~~[(7)] A member eligible to retire under subsection (6) of this section may elect to:

2 (a) Receive a monthly retirement allowance payable for life by having his or her
3 accumulated account balance annuitized by the retirement systems in
4 accordance with the actuarial assumptions and actuarial methods adopted by
5 the board and in effect on the member's retirement date;

6 (b) Receive the actuarial equivalent of his or her retirement allowance calculated
7 under paragraph (a) of this subsection payable under one (1) of the options set
8 forth in KRS 61.635, except for the option provided by KRS 61.635(11); or

9 (c) Take a refund of his or her account balance as provided by KRS 61.625.

10 ~~(9)~~[(8)] The provisions of this section shall not apply to members who began
11 participating in the Kentucky Employees Retirement System prior to January 1,
12 2014, except for those members who make an election pursuant to KRS 61.5955.

13 ➔Section 18. KRS 61.615 is amended to read as follows:

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

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

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

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

27 (2) (a) Each recipient of a disability retirement allowance who is engaged in gainful

1 employment shall notify the Authority upon beginning the employment. If the
2 member fails to notify the Authority of the gainful employment, the Authority
3 may recover the payment of a disability retirement allowance made during the
4 gainful employment.

5 (b) The system may reduce or discontinue a disability retirement allowance if the
6 Authority's medical examiner selected under KRS 61.665 or vocational expert
7 selected under this section determines that:

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

14 2. A recipient of a disability allowance resulting solely from mental illness
15 is, prior to his or her normal retirement date, gainfully employed in a
16 position with the same or similar duties, or in a position with duties
17 requiring greater residual functional capacity, as the position from which
18 he or she was disabled.

19 (3) The system may reduce or discontinue a disability retirement allowance if the
20 Authority's medical examiner determines that a recipient of a disability retirement
21 allowance is, prior to his or her normal retirement date, no longer incapacitated by
22 the bodily injury, mental illness, or disease for which he or she receives a disability
23 retirement allowance.

24 (4) (a) The system shall have full power and exclusive authority to reduce or
25 discontinue a disability retirement allowance, and the Authority shall utilize
26 the services of a medical examiner as provided in KRS 61.665 or a vocational
27 expert selected under this section, in determining whether to continue, reduce,

1 or discontinue a disability retirement allowance under this section.

2 (b) The Authority shall select one (1) medical examiner to evaluate the forms and
3 employment and medical information submitted by the person. If only
4 employment information is submitted, the Authority may select one (1)
5 vocational expert to evaluate the forms and employment information
6 submitted by the person. If there is objective medical evidence of a mental
7 impairment, the medical examiner may request the Authority's licensed
8 mental health professional to assist in determining the level of the mental
9 impairment.

10 (c) The medical examiner or vocational expert shall be paid a reasonable amount
11 by the Authority for each case evaluated.

12 (d) 1. The medical examiner or vocational expert shall recommend that
13 disability retirement allowance be continued, reduced, or discontinued.

14 2. If the medical examiner or vocational expert recommends that the
15 disability retirement allowance be continued, the system shall make
16 retirement payments in accordance with the retirement plan selected by
17 the person.

18 3. a. If the medical examiner or vocational expert recommends that the
19 disability retirement allowance be reduced or discontinued, the
20 Authority shall send notice of the recommendation by United
21 States first-class mail to the person's last address on file in the
22 retirement office, by electronic mail to the person's last electronic
23 mail address on file in the retirement office, or by other electronic
24 means.

25 b. The person shall have sixty (60) days from the day that the
26 Authority sent the notice to file at the retirement office additional
27 supporting employment or medical information and certify to the

1 retirement office that the forms and additional supporting
2 employment information or medical information are ready to be
3 evaluated by the medical examiner or vocational expert or to
4 appeal the recommendation of the medical examiner or vocational
5 expert to reduce or discontinue the disability retirement allowance
6 by filing at the retirement office a request for a formal hearing.

7 c. If the person fails or refuses to file at the retirement office the
8 forms, the additional supporting employment information, and
9 current medical information or to appeal the recommendation of
10 the medical examiner or vocational expert to reduce or discontinue
11 the disability retirement allowance, his or her retirement allowance
12 shall be discontinued on the first day of the month following the
13 expiration of the period of the sixty (60) days from the day the
14 Authority sent the notice of the recommendation by United States
15 first-class mail to the person's last address on file in the retirement
16 office, by electronic mail to the person's last electronic mail
17 address on file in the retirement office, or by other electronic
18 means.

19 (e) 1. The medical examiner shall make a recommendation based upon the
20 evaluation of additional supporting employment and medical
21 information submitted in accordance with paragraph (d)3.b. of this
22 subsection, or the vocational expert shall make a recommendation upon
23 the evaluation of additional supporting employment information
24 submitted in accordance with paragraph (d)3.b. of this subsection.

25 2. If the medical examiner or vocational expert recommends that the
26 disability retirement allowance be continued, the system shall make
27 disability retirement payments in accordance with the retirement plan

1 selected by the person.

- 2 3. a. If the medical examiner recommends that the disability retirement
3 allowance be reduced or discontinued based upon the evaluation of
4 additional supporting employment information and medical
5 information, or if the vocational expert recommends that the
6 disability allowance be reduced or discontinued based upon the
7 evaluation of additional supporting employment information, the
8 Authority shall send notice of this recommendation by United
9 States first-class mail to the person's last address on file in the
10 retirement office, by electronic mail to the person's last electronic
11 mail address on file in the retirement office, or by other electronic
12 means.
- 13 b. The person shall have sixty (60) days from the day that the
14 Authority sent the notice of the recommendation to appeal the
15 recommendation to reduce or discontinue the disability retirement
16 allowance by filing at the retirement office a request for formal
17 hearing.
- 18 c. If the person fails or refuses to appeal the recommendation of the
19 medical examiner or vocational expert to reduce or discontinue the
20 disability retirement allowance, his or her retirement allowance
21 shall be discontinued on the first day of the month following the
22 expiration of the period of the sixty (60) days from the day the
23 Authority sent the notice of the recommendation by United States
24 first-class mail to the person's last address on file in the retirement
25 office, by electronic mail to the person's last electronic mail
26 address on file in the retirement office, or by other electronic
27 means.

- 1 (f) Any person whose disability benefits have been reduced or discontinued,
2 pursuant to paragraph (d)3.a. or (e)3.a. of this subsection, may file at the
3 retirement office a request for formal hearing to be conducted in accordance
4 with KRS Chapter 13B. The right to demand a formal hearing shall be limited
5 to a period of sixty (60) days after the person had notice, as described in
6 paragraph (d) or (e) of this subsection. The request for formal hearing shall be
7 filed with the Authority, at the retirement office in Frankfort. The request for
8 formal hearing shall include a short and plain statement of the reasons the
9 reduction, discontinuance, or denial of disability retirement is being contested.
- 10 (g) Failure of the person to request a formal hearing within the period of time
11 specified shall preclude the person from proceeding any further with
12 contesting the reduction or discontinuation of disability retirement allowance,
13 except as provided in subsection (7)(d) of this section. This paragraph shall
14 not limit the person's right to appeal to a court.
- 15 (h) A final order of the board shall be based on substantial evidence appearing in
16 the record as a whole and shall set forth the decision of the board and the facts
17 and law upon which the decision is based. If the board orders that the person's
18 disability retirement allowance be discontinued or reduced, the order shall
19 take effect on the first day of the month following the day the system sent the
20 order by United States first-class mail to the person's last address on file in the
21 retirement office, by electronic mail to the person's last electronic mail
22 address on file in the retirement office, or by other electronic means. Judicial
23 review of the final board order shall not operate as a stay and the system shall
24 discontinue or reduce the person's disability retirement allowance as provided
25 in this section.
- 26 (i) Notwithstanding any other provisions of this section, the system may require
27 the person to submit to one (1) or more medical or psychological

1 examinations at any time. The system shall be responsible for any costs
2 associated with any examinations of the person requested by the medical
3 examiner or the system for the purpose of providing medical information
4 deemed necessary by the medical examiner or the system. Notice of the time
5 and place of the examination shall be provided to the person or his or her legal
6 representative. If the person fails or refuses to submit to one (1) or more
7 medical examinations, his or her rights to further disability retirement
8 allowance shall cease.

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

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

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

16 (7) If a disability retirement allowance is reduced or discontinued for a person who
17 began participating in the system prior to January 1, 2014, or a person in a
18 hazardous position who began participating on or after January 1, 2027, or a
19 person who is presumed under Section 1 of this Act to have begun participating
20 in a hazardous position immediately prior to January 1, 2014, the person may
21 apply for early retirement benefits as provided under KRS 61.559, subject to the
22 following provisions:

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

25 (b) If the person has returned to employment with an employer participating in
26 the Kentucky Employees Retirement System, State Police Retirement System,
27 or County Employees Retirement System, the service and creditable

1 compensation shall be used in recomputing his or her benefit, except that the
2 person's final compensation shall not be less than the final compensation last
3 used in determining his or her retirement allowance;

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

5 (d) 1. The person shall remain eligible for reinstatement of his or her disability
6 allowance upon reevaluation until his or her normal retirement age. The
7 person shall apply for reinstatement of disability benefits in accordance
8 with the provisions of this paragraph.

9 2. An application for reinstatement of disability benefits shall be
10 administered as an application under KRS 61.600, except:

11 a. Only the bodily injuries, mental illnesses, diseases, or conditions
12 for which the person was originally approved for disability
13 benefits shall be considered. Bodily injuries, mental illnesses,
14 diseases, or conditions that came into existence after the person's
15 last day of paid employment shall not be considered as a basis for
16 reinstatement of disability benefits. Bodily injuries, mental
17 illnesses, diseases, or conditions alleged by the person as being
18 incapacitating, but which were not the basis for the award of
19 disability retirement benefits, shall not be considered;

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

26 c. A person whose disability allowance was discontinued under
27 subsection (3) of this section shall provide with the application

1 new objective medical evidence not previously considered by the
2 Authority's medical examiner; and

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

5 3. If the person establishes that the disability benefits should be reinstated,
6 the retirement system shall pay disability benefits effective from the first
7 day of the month following the month in which the person applied for
8 reinstatement of the disability benefits; and

9 (e) Upon attaining normal retirement age, the person shall receive the higher of
10 either his or her disability retirement allowance or his or her early retirement
11 allowance.

12 (8) If a disability retirement allowance is reduced or discontinued for a person who
13 began participating in the system on or after January 1, 2014, **or a member who**
14 **makes an election under subsection (3) of Section 1 of this Act, or who, prior to**
15 **the effective date of this Act, made an election under Section 7 of this Act,** the
16 person shall remain eligible for reinstatement of his or her disability allowance as
17 provided under subsection (7)(d) of this section.

18 (9) No disability retirement allowance shall be reduced or discontinued by the system
19 after the person's normal retirement date except in case of reemployment as
20 provided for by KRS 61.637. If a disability retirement allowance has been reduced
21 or discontinued, except if the person is reemployed as provided for by KRS 61.637,
22 the retirement allowance shall be reinstated upon attainment of the person's normal
23 retirement date to the retirement allowance prior to adjustment. No reinstated
24 payment shall be less than the person is receiving upon attainment of the person's
25 normal retirement date.

26 ➔Section 19. KRS 61.680 is amended to read as follows:

27 (1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to

1 any deduction from his or her compensation required by KRS 6.500 to 6.535,
 2 16.505 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions
 3 thereof. Thereafter, employee contributions shall be picked up by the employer
 4 pursuant to KRS 61.560(4).

5 (2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.505 to
 6 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714:

7 1. Upon death, disability, or service retirement, a member's accounts under
 8 the Legislators' Retirement Plan, State Police Retirement System,
 9 Kentucky Employees Retirement System, County Employees
 10 Retirement System, and Teachers' Retirement System, except for service
 11 prohibited by KRS 161.623(2), shall be consolidated for the purpose of
 12 determining eligibility and amount of benefits, including:

13 a. ~~those~~ Members who participate in the hybrid cash balance plan
 14 within the Kentucky Employees Retirement System, the County
 15 Employees Retirement System, and the State Police Retirement
 16 System, on or after January 1, 2014; and ~~;~~

17 **b. Members who are presumed under Section 1 of this Act to begin**
 18 **participating in a hazardous position immediately prior to**
 19 **January 1, 2014, and have nonhazardous service credit in the**
 20 **hybrid cash balance plan of either the Kentucky Employees**
 21 **Retirement System or the County Employees Retirement System;**

22 and regardless of the transition of administration of the County
 23 Employees Retirement System to the County Employees Retirement
 24 System board of trustees;

25 2. Vested service credit in a retirement system, other than the Teachers'
 26 Retirement System, sponsored by a Kentucky institution of higher
 27 education and accepted by the Kentucky Employees Retirement System

- 1 or the County Employees Retirement System, may be used to determine
2 eligibility for twenty-seven (27) year retirement for an employee who
3 begins participating before September 1, 2008, but not the amount of
4 benefits;
- 5 3. The computation of benefits shall be based on the applicable formula in
6 each system and service credit in each system, but the final
7 compensation, excluding compensation earned under KRS 161.155(10),
8 shall be determined as if all service were in one (1) system, **including**
9 **for those members who are presumed under Section 1 of this Act to**
10 **begin participating in a hazardous position immediately prior to**
11 **January 1, 2014, and have nonhazardous service credit in the hybrid**
12 **cash balance plan of either the Kentucky Employees Retirement**
13 **System or the County Employees Retirement System;**
- 14 4. If the member has prior service in more than one (1) system
15 administered by Kentucky Retirement Systems, he or she shall obtain at
16 least twelve (12) months' current service in each system in which he or
17 she has prior service in order to validate the prior service in each system
18 for purposes of determining consolidated benefits under this subsection;
19 and
- 20 5. Upon the determination of benefits, each system shall pay the applicable
21 amount of benefits due the member.
- 22 (b) The provisions of paragraph (a) of this subsection shall be waived if the
23 member:
- 24 1. Notifies the system of his or her desire to maintain separate retirement
25 accounts in the State Police Retirement System, Kentucky Employees
26 Retirement System, or County Employees Retirement System; or
- 27 2. Fails to simultaneously retire from all state-administered retirement

1 systems in which the member has an account or fails to retire from any
2 other systems not administered by Kentucky Retirement Systems within
3 one (1) month of the member's effective retirement date in the systems
4 administered by Kentucky Retirement Systems.

5 (c) If the member has not contributed at least one (1) year in a system in which he
6 or she has prior service, his or her current service in the system shall be valid
7 for purposes of determining eligibility and in computation of benefits on a
8 consolidated basis.

9 (3) (a) A member with service credit in the Kentucky Employees Retirement System,
10 State Police Retirement System, or the County Employees Retirement System
11 who becomes the holder of an office entitling him or her to membership in the
12 Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not
13 elect within thirty (30) days after taking office in such service to participate in
14 the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have
15 elected to retain membership in the system in which he or she is a member,
16 either the Kentucky Employees Retirement System, State Police Retirement
17 System, or the County Employees Retirement System. In that event, the
18 agency employing the member shall withhold employee contributions, or
19 picked-up employee contributions after August 2, 1982, make employer
20 contributions and remit these contributions to the system in which the member
21 retained his or her membership.

22 (b) Any person entitled to membership in the Judicial Retirement Plan or the
23 Legislators' Retirement Plan, who does not elect within thirty (30) days after
24 taking office to participate in the plan, in accordance with KRS 6.505 or
25 21.360, and who at the time of taking office is not a contributing member of,
26 or does not have service credit in, any of the retirement systems mentioned in
27 this section, or the Teachers' Retirement System, shall participate in the

1 Kentucky Employees Retirement System.

2 (c) A member of one (1) of the state-administered retirement plans who ceases to
3 contribute to the plan as provided in KRS 21.360 and who is employed in a
4 nonelected position by an agency participating in the Kentucky Retirement
5 Systems or Kentucky Teachers' Retirement System shall be deemed to have
6 elected membership in the system in which the employer of the nonelected
7 position participates. A member of one (1) of the state-administered
8 retirement plans who ceases to contribute to the plan as provided in KRS
9 21.360 and who is not employed in a nonelected position by an agency
10 participating in the Kentucky Retirement Systems shall be deemed to have
11 elected membership in the Kentucky Employees Retirement System.

12 (4) (a) Prior to July 1, 1976, a person entering the service of an employer
13 participating in the Kentucky Employees Retirement System or the County
14 Employees Retirement System with service credit in the Teachers' Retirement
15 System and who desires to retain membership in the Teachers' Retirement
16 System, and who is permitted by that system to continue, shall be exempt
17 from participating in the Kentucky Employees Retirement System or the
18 County Employees Retirement System.

19 (b) Any person who has elected to retain membership in the Teachers' Retirement
20 System as provided in paragraph (a) of this subsection may cancel his or her
21 election and participate in the system under which his or her position would
22 normally participate, if he or she elects to cancel his or her option prior to
23 January 1, 1977.

24 (c) Any member of the General Assembly who upon election is a contributing
25 member of the Teachers' Retirement System and who does not elect within
26 thirty (30) days after taking office to participate in the Legislators' Retirement
27 Plan, in accordance with KRS 6.505, shall during his or her term of office

1 participate in the Kentucky Employees Retirement System unless an election
2 to retain membership in the Teachers' Retirement System is filed in writing
3 within ninety (90) days after his or her term of office begins. No contributions
4 may be made to the Teachers' Retirement System for the same period of
5 service under the Legislators' Retirement Plan or the Kentucky Employees
6 Retirement System as a member of the General Assembly, but contributions
7 made to the Teachers' Retirement System while a member of the General
8 Assembly shall be transferred to the Legislators' Retirement Plan, as provided
9 for in KRS 6.535, when the member elects to join the Legislators' Retirement
10 Plan, and service credit in the Legislators' Retirement Plan shall be granted as
11 provided for in KRS 6.505(5).

12 (5) Any member of the Kentucky Employees Retirement System or County Employees
13 Retirement System who is working in a position covered by one (1) of these
14 retirement systems and his or her employee contributions, service credit and
15 employer contributions made on his or her behalf are being transferred to the other
16 retirement system shall contribute to the system in which his or her employer
17 participates, or after August 1, 1982, the employer shall pick up the employee
18 contributions, and no further contributions or service credit shall be transferred to
19 the system in which he or she elected to retain membership, as subsection (2) of this
20 section eliminates the necessity of the transfers.

21 (6) (a) Except as provided by KRS 61.545(3)(b)2., any member of the Kentucky
22 Employees Retirement System or County Employees Retirement System who
23 is working in more than one (1) position covered by the same retirement
24 system, shall have his or her wages and contributions consolidated and his or
25 her retirement account administered as a single account. If part-time positions
26 are involved, an accumulation of all hours worked within the same retirement
27 system shall be used to determine eligibility under KRS 61.510(21).

- 1 (b) The provisions of this subsection shall not apply to an individual serving as a
2 volunteer who is receiving compensation from the employer equal to or less
3 than a nominal fee as defined by KRS 61.510 and 78.510 if the compensation
4 paid to the volunteer is excluded from the definition of creditable
5 compensation as provided by KRS 61.510(13) or 78.510(13).
- 6 (7) (a) Notwithstanding the provisions of subsection (2) of this section, a person who
7 does not have the amount of service required for service retirement in the
8 State Police Retirement System, Kentucky Employees Retirement System,
9 County Employees Retirement System, Legislators' Retirement Plan, or
10 Teachers' Retirement System, but who is a member of one (1) of the systems
11 or is a former member of one (1) or more of the systems with valid service
12 credit therein, shall become eligible for service retirement benefits attributable
13 to the amount of his or her actual service credit in each system in which he or
14 she has service credit when his or her combined service credit in all the
15 systems, plus any service credit he or she has in the Judicial Retirement Plan,
16 is equal to that required for service retirement in each respective system. The
17 computation of benefits shall be based on the applicable formula in each
18 system and service credit in each system, except that total service in all
19 systems, unless prohibited by KRS 161.623(2), shall be used to determine the
20 reduction for early retirement, if any. Except as provided in KRS 21.360, the
21 final compensation shall be determined by using the creditable compensation
22 reported to the State Police Retirement System, Kentucky Employees
23 Retirement System, County Employees Retirement System, Legislators'
24 Retirement Plan, or Teachers' Retirement System and only as much of the
25 compensation earned in the Judicial Retirement Plan as is needed to satisfy
26 the final compensation requirement applicable in the respective retirement
27 systems.

1 (b) Paragraph (a) of this subsection shall be waived if the member fails to
 2 simultaneously retire from all state-administered retirement systems in which
 3 the member has an account or fails to retire from any other systems not
 4 administered by Kentucky Retirement Systems within one (1) month of the
 5 member's effective retirement date in the systems administered by the
 6 Kentucky Retirement Systems.

7 (8) Each retirement system from which the member retires shall pay a retirement
 8 allowance upon receipt of required forms and documents, except that no retirement
 9 system shall pay a retirement allowance or annuity until all forms and documents
 10 are filed at all retirement systems in compliance with each system's requirements.

11 ➔Section 20. KRS 78.510 is amended to read as follows:

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

13 (1) "System" means the County Employees Retirement System created by KRS 78.510
 14 to 78.852;

15 (2) "Board" means the board of trustees of the system as provided in KRS 78.782;

16 (3) "County" means any county, or nonprofit organization created and governed by a
 17 county, counties, or elected county officers, sheriff and his or her employees,
 18 county clerk and his or her employees, circuit clerk and his or her deputies, former
 19 circuit clerks or former circuit clerk deputies, or political subdivision or
 20 instrumentality, including school boards, cities, charter county governments, urban-
 21 county governments, consolidated local governments, or unified local governments
 22 participating in the system by order appropriate to its governmental structure, as
 23 provided in KRS 78.530, and if the board is willing to accept the agency,
 24 organization, or corporation, the board being hereby granted the authority to
 25 determine the eligibility of the agency to participate;

26 (4) "School board" means:

27 (a) Any board of education participating in the system by order appropriate to its

- 1 governmental structure, as provided in KRS 78.530, and if the board is willing
2 to accept the agency or corporation, the board being hereby granted the
3 authority to determine the eligibility of the agency to participate; or
- 4 (b) A public charter school as defined in KRS 160.1590 if the public charter
5 school satisfies the criteria set by the Internal Revenue Service to participate
6 in a governmental retirement plan;
- 7 (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- 8 (6) "Employee" means every regular full-time appointed or elective officer or
9 employee of a participating county and the coroner of a participating county,
10 whether or not he or she qualifies as a regular full-time officer. The term shall not
11 include persons engaged as independent contractors, seasonal, emergency,
12 temporary, and part-time workers. In case of any doubt, the board shall determine if
13 a person is an employee within the meaning of KRS 78.510 to 78.852;
- 14 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected
15 officials of a county, or any authority of the county having the power to appoint or
16 elect an employee to office or employment in the county;
- 17 (8) "Member" means any employee who is included in the membership of the system
18 or any former employee whose membership has not ceased under KRS 78.535;
- 19 (9) "Service" means the total of current service and prior service as defined in this
20 section;
- 21 (10) "Current service" means the number of years and months of employment as an
22 employee, on and after July 1, 1958, for which creditable compensation is paid and
23 employee contributions deducted, except as otherwise provided;
- 24 (11) "Prior service" means the number of years and completed months, expressed as a
25 fraction of a year, of employment as an employee, prior to July 1, 1958, for which
26 creditable compensation was paid. An employee shall be credited with one (1)
27 month of prior service only in those months he or she received compensation for at

1 least one hundred (100) hours of work. Twelve (12) months of current service in the
2 system shall be required to validate prior service;

3 (12) "Accumulated contributions" means the sum of all amounts deducted from the
4 compensation of a member and credited to his or her individual account in the
5 members' account, including employee contributions picked up after August 1,
6 1982, pursuant to KRS 78.610(4), together with interest credited, on the amounts,
7 and any other amounts the member shall have contributed thereto, including interest
8 credited thereon. "Accumulated contributions" shall not include employee
9 contributions that are deposited into accounts established pursuant to 26 U.S.C. sec.
10 401(h) within the fund established in KRS 78.520, as prescribed by KRS
11 78.5536(3)(b);

12 (13) "Creditable compensation":

13 (a) Except as limited by paragraph (c) of this subsection, means all salary, wages,
14 and fees, including payments for compensatory time, paid to the employee as
15 a result of services performed for the employer or for time during which the
16 member is on paid leave, which are includable on the member's federal form
17 W-2 wage and tax statement under the heading "wages, tips, other
18 compensation", including employee contributions picked up after August 1,
19 1982, pursuant to KRS 78.610(4). The creditable compensation of fee officers
20 who receive salary, fees, maintenance, or other perquisites as a result of their
21 official duties is the gross amount received decreased by the cost of salary
22 paid deputies and clerks and the cost of office supplies and other official
23 expenses;

24 (b) Includes:

25 1. Lump-sum bonuses, severance pay, or employer-provided payments for
26 purchase of service credit, which shall be averaged over the employee's
27 service with the system in which it is recorded if it is equal to or greater

- 1 than one thousand dollars (\$1,000);
- 2 2. Cases where compensation includes maintenance and other perquisites,
- 3 but the board shall fix the value of that part of the compensation not paid
- 4 in money;
- 5 3. Lump-sum payments for creditable compensation paid as a result of an
- 6 order of a court of competent jurisdiction, the Personnel Board, or the
- 7 Kentucky Commission on Human Rights, or for any creditable
- 8 compensation paid in anticipation of settlement of an action before a
- 9 court of competent jurisdiction, the Personnel Board, or the Kentucky
- 10 Commission on Human Rights, including notices of violations of state
- 11 or federal wage and hour statutes or violations of state or federal
- 12 discrimination statutes, which shall be credited to the fiscal year during
- 13 which the wages were earned or should have been paid by the employer.
- 14 This subparagraph shall also include lump-sum payments for reinstated
- 15 wages pursuant to KRS 61.569, which shall be credited to the period
- 16 during which the wages were earned or should have been paid by the
- 17 employer;
- 18 4. Amounts which are not includable in the member's gross income by
- 19 virtue of the member having taken a voluntary salary reduction provided
- 20 for under applicable provisions of the Internal Revenue Code; and
- 21 5. Elective amounts for qualified transportation fringes paid or made
- 22 available on or after January 1, 2001, for calendar years on or after
- 23 January 1, 2001, that are not includable in the gross income of the
- 24 employee by reason of 26 U.S.C. sec. 132(f)(4); and
- 25 (c) Excludes:
- 26 1. Living allowances, expense reimbursements, lump-sum payments for
- 27 accrued vacation leave, sick leave except as provided in KRS 78.616(5),

- 1 and other items determined by the board;
- 2 2. For employees who begin participating on or after September 1, 2008,
- 3 lump-sum payments for compensatory time;
- 4 3. Training incentive payments for city officers paid as set out in KRS
- 5 64.5277 to 64.5279;
- 6 4. For employees who begin participating on or after August 1, 2016,
- 7 nominal fees paid for services as a volunteer; and
- 8 5. Any salary or wages paid to an employee for services as a Kentucky
- 9 State Police school resource officer as defined by KRS 158.441;

10 (14) "Final compensation" means:

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

- 1 year period is less than twenty-four (24), one (1) or more additional fiscal
2 years shall be used;
- 3 (c) For a member who begins participating before September 1, 2008, who is
4 employed in a hazardous position, as provided in KRS 78.5520, the creditable
5 compensation of the member during the three (3) fiscal years he or she was
6 paid at the highest average monthly rate divided by the number of months of
7 service credit during that three (3) year period multiplied by twelve (12). The
8 three (3) years may be fractional and need not be consecutive. If the number
9 of months of service credit during the three (3) year period is less than twenty-
10 four (24), one (1) or more additional fiscal years, which may contain less than
11 twelve (12) months of service credit, shall be used;
- 12 (d) For a member who begins participating on or after September 1, 2008, but
13 prior to January 1, 2014, who is employed in a nonhazardous position, the
14 creditable compensation of the member during the five (5) complete fiscal
15 years immediately preceding retirement divided by five (5). Each fiscal year
16 used to determine final compensation must contain twelve (12) months of
17 service credit. If the member does not have five (5) complete fiscal years that
18 each contain twelve (12) months of service credit, then one (1) or more
19 additional fiscal years, which may contain less than twelve (12) months of
20 service credit, shall be added until the number of months in the final
21 compensation calculation is at least sixty (60) months; or
- 22 (e) For a member who begins participating on or after September 1, 2008, but
23 prior to January 1, 2014, **or a member who begins participating on or after**
24 **January 1, 2027, or a member who is presumed under Section 1 of this Act**
25 **to begin participating immediately prior to January 1, 2014,** who is
26 employed in a hazardous position as provided in KRS 78.5520, the creditable
27 compensation of the member during the three (3) complete fiscal years he or

1 she was paid at the highest average monthly rate divided by three (3). Each
2 fiscal year used to determine final compensation must contain twelve (12)
3 months of service credit. If the member does not have three (3) complete
4 fiscal years that each contain twelve (12) months of service credit, then one
5 (1) or more additional fiscal years, which may contain less than twelve (12)
6 months of service credit, shall be added until the number of months in the
7 final compensation calculation is at least thirty-six (36) months;

8 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
9 calculated during the twelve (12) month period immediately preceding the
10 member's effective retirement date, and shall include employee contributions
11 picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be
12 certified to the system by the employer and the following equivalents shall be used
13 to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8)
14 hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-
15 half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks,
16 twelve (12) months, one (1) year;

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

19 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
20 basis of the actuarial tables adopted by the board. In cases of disability retirement,
21 the options authorized by KRS 61.635 shall be computed by adding ten (10) years
22 to the age of the member, unless the member has chosen the Social Security
23 adjustment option as provided for in KRS 61.635(8), in which case the member's
24 actual age shall be used. For members who begin participating in the system prior
25 to January 1, 2014, or who begin participating in a hazardous position in the
26 system on or after January 1, 2027, or who are presumed under Section 1 of this
27 Act to begin participating in a hazardous position in the system immediately prior

- 1 to January 1, 2014, no disability retirement option shall be less than the same
2 option computed under early retirement;
- 3 (18) "Normal retirement date", unless otherwise provided in KRS 78.510 to 78.852,
4 means:
- 5 (a) For a member with service in a nonhazardous position, the sixty-fifth birthday
6 of a member;
- 7 (b) For a member with service in a hazardous position who begins participating
8 before September 1, 2008, the first day of the month following a member's
9 fifty-fifth birthday; or
- 10 (c) For a member with service in a hazardous position who begins participating
11 on or after September 1, 2008, the first day of the month following a
12 member's sixtieth birthday;
- 13 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
14 following June 30, which shall also be the plan year. The "fiscal year" shall be the
15 limitation year used to determine contribution and benefits limits as set out in 26
16 U.S.C. sec. 415;
- 17 (20) "Agency reporting official" means the person designated by the participating
18 employer who shall be responsible for forwarding all employer and employee
19 contributions and a record of the contributions to the system and for performing
20 other administrative duties pursuant to KRS 78.510 to 78.852;
- 21 (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean
22 all positions that average one hundred (100) or more hours per month, determined
23 by using the number of hours actually worked in a calendar or fiscal year, or eighty
24 (80) or more hours per month in the case of noncertified employees of school
25 boards, determined by using the number of hours actually worked in a calendar or
26 school year, unless otherwise specified, except:
- 27 (a) Seasonal positions, which although temporary in duration, are positions which

1 coincide in duration with a particular season or seasons of the year and that
2 may recur regularly from year to year, in which case the period of time shall
3 not exceed nine (9) months, except for employees of school boards, in which
4 case the period of time shall not exceed six (6) months;

5 (b) Emergency positions which are positions utilized by the employer during:
6 1. An emergency as determined by the employer for a period not
7 exceeding thirty (30) working days and are nonrenewable; or
8 2. A state of emergency declared by the President of the United States or
9 the Governor of the Commonwealth of Kentucky that are created or
10 filled specifically for addressing the employer's needs during and as a
11 result of the declared emergency;

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

15 (d) Probationary positions which are positions of employment with a participating
16 employer that do not exceed twelve (12) months and that are used uniformly
17 by the participating agency on new employees who would otherwise be
18 eligible for participation in the system. Probationary positions shall not be
19 renewable by the participating employer for the same employee, unless the
20 employee has not been employed with the participating employer for a period
21 of at least twelve (12) months; or

22 (e) Part-time positions that are positions that may be permanent in duration, but
23 that require less than a calendar or fiscal year average of one hundred (100)
24 hours of work per month, determined by using the number of months actually
25 worked within a calendar or fiscal year, in the performance of duty, except in
26 case of noncertified employees of school boards, the school term average shall
27 be eighty (80) hours of work per month, determined by using the number of

1 months actually worked in a calendar or school year, in the performance of
2 duty;

3 (22) "Alternate participation plan" means a method of participation in the system as
4 provided for by KRS 78.530(3);

5 (23) "Retired member" means any former member receiving a retirement allowance or
6 any former member who has on file at the retirement office the necessary
7 documents for retirement benefits and is no longer contributing to the system;

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

11 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the
12 member in accordance with KRS 61.542 or 61.705 to receive any available benefits
13 in the event of the member's death. As used in KRS 78.5536, beneficiary shall not
14 mean an estate, trust, or trustee;

15 (26) "Recipient" means the retired member, the person or persons designated as
16 beneficiary by the member and drawing a retirement allowance as a result of the
17 member's death, or a dependent child drawing a retirement allowance. An alternate
18 payee of a qualified domestic relations order shall not be considered a recipient,
19 except for purposes of KRS 61.623;

20 (27) "Person" means a natural person;

21 (28) "School term or year" means the twelve (12) months from July 1 through the
22 following June 30;

23 (29) "Retirement office" means the Kentucky Public Pensions Authority office building
24 in Frankfort, unless otherwise designated by the Kentucky Public Pensions
25 Authority;

26 (30) "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 (31) "Participating" means an employee is currently earning service credit in the system
6 as provided in KRS 78.615;
- 7 (32) "Month" means a calendar month;
- 8 (33) "Membership date" means the date upon which the member began participating in
9 the system as provided in KRS 78.615;
- 10 (34) "Participant" means a member, as defined by subsection (8) of this section, or a
11 retired member, as defined by subsection (23) of this section;
- 12 (35) "Qualified domestic relations order" means any judgment, decree, or order,
13 including approval of a property settlement agreement, that:
- 14 (a) Is issued by a court or administrative agency; and
- 15 (b) Relates to the provision of child support, alimony payments, or marital
16 property rights to an alternate payee;
- 17 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
18 participant, who is designated to be paid retirement benefits in a qualified domestic
19 relations order;
- 20 (37) "Accumulated employer credit" means the employer pay credit deposited to the
21 member's account and interest credited on such amounts as provided by KRS
22 78.5512 and 78.5516;
- 23 (38) "Accumulated account balance" means:
- 24 (a) For members who began participating in the system prior to January 1, 2014,
25 the member's accumulated contributions; or
- 26 (b) For members who began participating in the system on or after January 1,
27 2014, in the hybrid cash balance plan as provided by KRS 78.5512 and

1 78.5516, or a member who makes an election under subsection (3) of
2 Section 1 of this Act, or who, prior to the effective date of this Act, made an
3 election under Section 7 of this Act, the combined sum of the member's
4 accumulated contributions and the member's accumulated employer credit;

5 (39) "Volunteer" means an individual who:

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

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

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

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

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

26 (43) "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. Under this method,
2 the percentage of payroll shall be projected to remain constant for all years
3 remaining in the set period and the unfunded actuarially accrued liability shall be
4 projected to be fully amortized at the conclusion of the set period;

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

8 (45) "Last day of paid employment" means the last date employer and employee
9 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
10 78.615 to the retirement office in order for the employee to receive current service
11 credit for the month. Last day of paid employment does not mean a date the
12 employee receives payment for accrued leave, whether by lump sum or otherwise,
13 if that date occurs twenty-four (24) or more months after previous contributions;

14 (46) "Objective medical evidence" means reports of examinations or treatments; medical
15 signs which are anatomical, physiological, or psychological abnormalities that can
16 be observed; psychiatric signs which are medically demonstrable phenomena
17 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
18 or contact with reality; or laboratory findings which are anatomical, physiological,
19 or psychological phenomena that can be shown by medically acceptable laboratory
20 diagnostic techniques, including but not limited to chemical tests,
21 electrocardiograms, electroencephalograms, X-rays, and psychological tests;

22 (47) "Hazardous disability" as used in KRS 78.510 to 78.852 means a disability which
23 results in an employee's total incapacity to continue as an employee in a hazardous
24 position, but the employee is not necessarily deemed to be totally and permanently
25 disabled to engage in other occupations for remuneration or profit;

26 (48) "Act in line of duty" means, for employees in hazardous positions under KRS
27 78.5520:

- 1 (a) A single act occurring which was required in the performance of the principal
2 duties of the hazardous position as defined by the job description; or
- 3 (b) A single act of violence committed against the employee that is found to be
4 related to his or her job duties, whether or not it occurs at his or her job site;
- 5 (49) "Dependent child" means a child in the womb and a natural or legally adopted child
6 of the member who has neither attained age eighteen (18) nor married or who is an
7 unmarried full-time student who has not attained age twenty-two (22). Solely in the
8 case of a member who dies as a direct result of an act in line of duty as defined in
9 this section, dies as a result of a duty-related injury as defined in KRS 61.621,
10 becomes totally and permanently disabled as a direct result of an act in the line of
11 duty as defined in this section, or becomes disabled as a result of a duty-related
12 injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS
13 61.621(5)(a), "dependent child" also means a naturally or legally adopted disabled
14 child of the member, regardless of the child's age, if the child has been determined
15 to be eligible for federal Social Security disability benefits or is being claimed as a
16 qualifying child for tax purposes due to the child's total and permanent disability;
- 17 (50) "Normal retirement age" means the age at which the member meets the
18 requirements for his or her normal retirement date as provided by subsection (18) of
19 this section;
- 20 (51) "Disability retirement date" means the first day of the month following the last day
21 of paid employment;
- 22 (52) "Monthly average pay" means:
- 23 (a) In the case of a member who dies as a direct result of an act in line of duty as
24 defined in KRS 16.505 or who dies as a result of a duty-related injury as
25 defined in KRS 61.621, the higher of the member's monthly final rate of pay
26 or the average monthly creditable compensation earned by the deceased
27 member during his or her last twelve (12) months of employment; or

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

9 (53) "Authority" means the Kentucky Public Pensions Authority as provided by KRS
 10 61.505;

11 (54) "Executive director" means the executive director of the Kentucky Public Pensions
 12 Authority; and

13 (55) "Gainful employment" means work in any capacity that is or may be performed
 14 with regularity and is or may be usually done for pay, whether pay is received or
 15 not received, including seasonal, volunteer, part-time, and on-call work.

16 ➔Section 21. KRS 78.545 is amended to read as follows:

17 The following matters shall be administered for the County Employees Retirement
 18 System in the same manner subject to the same limitations and requirements as provided
 19 for the Kentucky Employees Retirement System as follows:

- 20 (1) Statement of member and employer, as provided for by KRS 61.540;
- 21 (2) Beneficiary to be designated by member, change, rights, as provided for by KRS
 22 61.542;
- 23 (3) Service credit determination, as provided for by KRS 61.545;
- 24 (4) Retirement application procedure, effective retirement date, as provided for by KRS
 25 61.590;
- 26 (5) Refund of contributions, conditions, as provided for by KRS 61.625;
- 27 (6) Refund of contributions, death after retirement, as provided for by KRS 61.630;

- 1 (7) Recontribution and delayed contribution payments, purchase of service credit,
2 interest, and installment payments, as provided for by KRS 61.552;
- 3 (8) Optional retirement plans, as provided for by KRS 61.635;
- 4 (9) Board of trustees, conflict of interest, as provided for by KRS 61.655;
- 5 (10) Custodian of funds, payments made, when, as provided for by KRS 61.660;
- 6 (11) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- 7 (12) Correction of errors in records, as provided for by KRS 61.685;
- 8 (13) Exemptions of retirement allowances, and qualified domestic relations orders, as
9 provided for by KRS 61.690;
- 10 (14) Credit for service prior to membership date, as provided for by KRS 61.526;
- 11 (15) Members' account, confidential, as provided for by KRS 61.661;
- 12 (16) Consent of employees to deductions and reciprocal arrangement between systems,
13 as provided for by KRS 61.680;
- 14 (17) Reinstated employee, contributions on creditable compensation, as provided for by
15 KRS 61.569;
- 16 (18) Statement to be made under oath, good faith reliance, as provided for in KRS
17 61.699;
- 18 (19) Direct deposit of recipient's retirement allowance as provided for in KRS 61.623;
- 19 (20) Death or disability from a duty-related injury as provided in KRS 61.621;
- 20 (21) Payment of small accounts upon death of member, retiree, or recipient without
21 formal administration of the estate as provided in KRS 61.703;
- 22 (22) Employer payment of increases in creditable compensation and adjustments to
23 creditable compensation during the last five (5) years of employment as provided
24 by KRS 61.598;
- 25 (23) Calculation of retirement allowance, as provided by KRS 61.599;~~and~~
- 26 (24) Benefit election for members of the Kentucky Retirement Systems as provided by
27 KRS 61.5955; **and**

1 **(25) Benefit change for members of the State Police Retirement System, members in a**
 2 **hazardous position in the Kentucky Employees Retirement System, and members**
 3 **in a hazardous position in the County Employees Retirement System, as provided**
 4 **by Section 1 of this Act.**

5 Effective April 1, 2021, as it relates to KRS 61.590, 61.598, 61.655, 61.665, and 61.703,
 6 references to "Kentucky Retirement Systems" or "systems administered by Kentucky
 7 Retirement Systems" as it relates to benefit eligibility shall include the County
 8 Employees Retirement System and references to "Kentucky Retirement Systems" or the
 9 "Kentucky Retirement Systems board of trustees" as it relates to administrative decisions,
 10 duties, requirements, or conflict of interest provisions shall for purposes of the County
 11 Employees Retirement System mean the County Employees Retirement System or
 12 County Employees Retirement System board of trustees, as applicable.

13 ➔Section 22. KRS 78.5512 is amended to read as follows:

- 14 (1) A member of the County Employees Retirement System who is participating in a
 15 nonhazardous position and who began participating in the system on or after
 16 January 1, 2014, or a member who makes an election pursuant to KRS 61.5955,
 17 shall receive the retirement benefits provided by this section in lieu of the
 18 retirement benefits provided under KRS 78.5510. The retirement benefit provided
 19 by this section shall be known as the hybrid cash balance plan and shall operate as
 20 another benefit tier within the County Employees Retirement System.
- 21 (2) The hybrid cash balance plan shall provide a retirement benefit based upon the
 22 member's accumulated account balance, which shall include:
- 23 (a) Contributions made by the member as provided by KRS 78.510 to 78.852,
 24 except for employee contributions prescribed by KRS 78.5536(3)(b);
 - 25 (b) An employer pay credit of four percent (4%) of the creditable compensation
 26 earned by the employee for each month the employee is contributing to the
 27 hybrid cash balance plan provided by this section; and

- 1 (c) Interest credits added annually to the member's accumulated account balance
2 as provided by this section.
- 3 (3) (a) Member contributions and employer pay credits as provided by subsection
4 (2)(a) and (b) of this section shall be credited to the member's account
5 monthly as contributions are reported and posted to the system in accordance
6 with KRS 78.625.
- 7 (b) Interest credits, as provided by subsection (2)(c) of this section, shall be
8 credited to the member's account annually on June 30 of each fiscal year, as
9 determined by subsection (4) of this section.
- 10 (4) (a) On June 30 of each fiscal year, the system shall determine if the member
11 contributed to the hybrid cash balance plan or the Kentucky Retirement
12 Systems during the fiscal year.
- 13 (b) If the member contributed to the hybrid cash balance plan or the Kentucky
14 Retirement Systems during the fiscal year, the interest credit added to the
15 member's account for that fiscal year shall be determined by multiplying the
16 member's accumulated account balance on June 30 of the preceding fiscal
17 year by a percentage increase equal to:
- 18 1. Four percent (4%); plus
19 2. Seventy-five percent (75%) of the system's geometric average net
20 investment return in excess of a four percent (4%) rate of return.
- 21 (c) If the member did not contribute to the hybrid cash balance plan or the
22 Kentucky Retirement Systems during the fiscal year, the interest credit added
23 to the member's account for that fiscal year shall be determined by
24 multiplying the member's accumulated account balance on June 30 of the
25 preceding fiscal year by four percent (4%).
- 26 (d) For purposes of this subsection, "system's geometric average net investment
27 return":

- 1 1. Means the annual average geometric investment return, net of
2 administrative and investment fees and expenses, over the last five (5)
3 fiscal years as of the date the interest is credited to the member's
4 account; and
- 5 2. Shall be expressed as a percentage and based upon the system in which
6 the member has an account.
- 7 (e) No employer pay credits or interest credits shall be provided to a member who
8 has taken a refund of contributions as provided by KRS 61.625 or who has
9 retired and annuitized his or her accumulated account balance as prescribed
10 by this section.
- 11 (5) (a) Upon termination of employment, a member who has less than five (5) years
12 of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who
13 elects to take a refund of his or her accumulated account balance as provided
14 by KRS 61.625, shall forfeit the accumulated employer credit, and shall only
15 receive a refund of his or her accumulated contributions.
- 16 (b) Upon termination of employment, a member who has five (5) or more years
17 of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who
18 elects to take a refund of his or her accumulated account balance as provided
19 by KRS 61.625, shall receive a full refund of his or her accumulated account
20 balance.
- 21 (6) A member participating in the hybrid cash balance plan provided by this section
22 may retire:
- 23 (a) At his or her normal retirement age, provided he or she has earned five (5) or
24 more years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1),
25 or another state-administered retirement system; or
- 26 (b) If the member is at least age fifty-seven (57) and has an age and years of
27 service total of at least eighty-seven (87) years. The years of service used to

1 determine eligibility for retirement under this paragraph shall only include
2 years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1), or
3 another state-administered retirement system.

4 **(7) A member who has hazardous service credit presumed under Section 1 of this Act**
5 **to be service credit earned immediately prior to January 1, 2014, and**
6 **nonhazardous service credit earned on or after January 1, 2014, in the hybrid**
7 **cash balance plan or the Kentucky Employees Retirement System, who is eligible**
8 **for a reduced or unreduced benefit under Sections 2 and 3 of this Act when his or**
9 **her hazardous service credit and nonhazardous service credit are consolidated**
10 **pursuant to Section 19 of this Act, shall be eligible to retire from the hybrid cash**
11 **balance plan at the same time with a benefit amount calculated by the board's**
12 **actuary to reflect the earlier commencement of benefits. The actuarial calculation**
13 **of benefits shall not apply if the member satisfies the requirements provided in**
14 **subsection (6) of this section.**

15 ~~(8)~~(7) A member eligible to retire under subsection (6) of this section may elect to:

- 16 (a) Receive a monthly retirement allowance payable for life by having his or her
17 accumulated account balance annuitized by the system in accordance with the
18 actuarial assumptions and actuarial methods adopted by the board and in
19 effect on the member's retirement date;
- 20 (b) Receive the actuarial equivalent of his or her retirement allowance calculated
21 under paragraph (a) of this subsection payable under one (1) of the options set
22 forth in KRS 61.635, except for the option provided by KRS 61.635(11); or
- 23 (c) Take a refund of his or her account balance as provided by KRS 61.625.

24 ~~(9)~~(8) The provisions of this section shall not apply to members who began
25 participating in the Kentucky Employees Retirement System, County Employees
26 Retirement System, or the State Police Retirement System prior to January 1, 2014,
27 except as provided by KRS 61.5955.

1 ➔Section 23. KRS 78.5520 is amended to read as follows:

2 (1) For purposes of this section:

3 (a) "Hazardous position" for employees who began participating in the County
4 Employees Retirement System prior to September 1, 2008, means any
5 position whose principal duties involve active law enforcement, including the
6 positions of probation and parole officer, active fire suppression or
7 prevention, correctional officers with duties that routinely and regularly
8 require face-to-face contact with inmates, or other positions, including but not
9 limited to paramedics and emergency medical technicians, with duties that
10 require frequent exposure to a high degree of danger or peril and also require
11 a high degree of physical conditioning; and

12 (b) "Hazardous position" for employees who begin participating in the County
13 Employees Retirement System on or after September 1, 2008, means police
14 officers and firefighters as defined in KRS 61.315(1), paramedics,
15 correctional officers with duties that routinely and regularly require face-to-
16 face contact with inmates, and emergency medical technicians, if:

- 17 1. The employee's duties require frequent exposure to a high degree of
18 danger or peril and a high degree of physical conditioning; and
19 2. The employee's duties are not primarily clerical or administrative.

20 (2) (a) Each employer may request of the board hazardous coverage for those
21 positions as defined in subsection (1) of this section. Upon request, each
22 employer shall certify to the system, in the manner prescribed by the board,
23 the names of all employees working in a hazardous position as defined in
24 subsection (1) of this section for which coverage is requested. The
25 certification of the employer shall bear the approval of the agent or agency
26 responsible for the budget of the employer indicating that the required
27 employer contributions have been provided for in the budget of the employer.

1 The system shall determine whether the employees whose names have been
2 certified by the employer are working in positions meeting the definition of a
3 hazardous position as provided by subsection (1) of this section.

4 (b) Each employer shall also certify, under penalty of perjury in accordance with
5 KRS Chapter 523, that each employee's actual job duties are accurately
6 reflected in the job description provided to the system. The system shall
7 determine whether the employees whose names have been certified by the
8 employer are working in positions meeting the definition of a hazardous
9 position as defined in subsection (1) of this section.

10 (c) The board shall have the authority to remove any employee from hazardous
11 coverage if the board determines the employee is not working in a hazardous
12 position or if the employee is classified in a hazardous position but has
13 individual job duties that do not meet the definition of a hazardous position or
14 are not accurately reflected in the job descriptions filed by the employer with
15 the system.

16 (3) (a) If the employer participated in the system prior to electing hazardous
17 coverage, the employer may pay to the system the cost of converting the
18 nonhazardous service to hazardous service from the date of participation to
19 the date the payment is made, or the employer may establish a payment
20 schedule for payment of the cost of the hazardous service above that which
21 would be funded within the existing employer contribution rate. The employer
22 may extend the payment schedule to a maximum of thirty (30) years.
23 Payments made by the employer under this subsection shall be deposited to
24 the retirement allowance account of the proper retirement or retiree health
25 fund and shall not be considered accumulated contributions of the individual
26 members.

27 (b) If the employer elects not to make the additional payment as provided by

1 paragraph (a) of this subsection, the employee may pay the cost of converting
 2 the service and provide payment for the cost as provided by KRS 61.552(9).
 3 Payments made by the employee under this subsection shall not be picked up,
 4 as described in KRS 78.610(4), by the employer.

5 (c) If neither the employer nor employee makes the payment, the service prior to
 6 hazardous position coverage shall remain nonhazardous.

7 (d) The provisions of this subsection shall not apply to members who begin
 8 participating in the system on or after January 1, 2014, **but prior to January**
 9 **1, 2027, who make an election under subsection (3) of Section 1 of this Act,**
 10 **or who, prior to the effective date of this Act, made an election under**
 11 **Section 7 of this Act.**

12 (4) Any person employed in a hazardous position shall be required to undergo a
 13 thorough medical examination by a licensed physician, and a copy of the medical
 14 report of the physician shall be retained on file by the person's employer and made
 15 available to the system upon request.

16 (5) If doubt exists regarding the benefits payable to a hazardous position employee
 17 under this section, the board shall determine the benefits payable under KRS 78.510
 18 to 78.852.

19 ➔Section 24. KRS 78.5528 is amended to read as follows:

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

- 22 1. Review and investigate all employment information and forms
 23 submitted by a disability recipient under this section and KRS 78.5526;
 24 and
- 25 2. Report in writing to the Authority the conclusions and recommendations
 26 upon all matters referred for review and investigation.

27 (b) A vocational expert providing services to the Authority shall have a master's

1 degree or higher degree in counseling or rehabilitation, an American Board of
2 Vocational Experts certification, or a certification as a Certified Rehabilitation
3 Counselor, Certified Disability Management Specialist, Associate Disability
4 Case Manager, Licensed Rehabilitation Counselor, or Certified Case
5 Manager.

6 (2) (a) Each recipient of a disability retirement allowance who is engaged in gainful
7 employment shall notify the Authority upon beginning the employment. If the
8 member fails to notify the Authority of the gainful employment, the Authority
9 may recover the payments of a disability retirement allowance made during
10 the gainful employment.

11 (b) The system may reduce or discontinue a recipient's disability allowance if the
12 Authority's medical examiner selected under KRS 61.665 or vocational expert
13 selected under this section determines that:

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

20 2. A recipient of a disability retirement allowance resulting solely from
21 mental illness is, prior to his or her normal retirement date, employed in
22 a position with the same or similar duties, or in a position with duties
23 requiring greater residual functional capacity, as the position from which
24 he or she was disabled.

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

1 the bodily injury, mental illness, or disease for which he or she receives a disability
2 retirement allowance.

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

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

16 (c) The medical examiner or vocational expert shall be paid a reasonable amount
17 by the Authority for each case evaluated.

18 (d) 1. The medical examiner or vocational expert shall recommend that the
19 disability retirement allowance be continued, reduced, or discontinued.

20 2. If the medical examiner or vocational expert recommends that the
21 disability retirement allowance be continued, the system shall make
22 retirement payments in accordance with the retirement plan selected by
23 the person.

24 3. a. If the medical examiner or vocational expert recommends that the
25 disability retirement allowance be reduced or discontinued, the
26 Authority shall send notice of the recommendation by United
27 States first-class mail to the person's last address on file in the

1 retirement office, by electronic mail to the person's last electronic
2 mail address on file in the retirement office, or by other electronic
3 means.

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

13 c. If the person fails or refuses to file at the retirement office the
14 forms, the additional supporting employment information, and
15 current medical information or to appeal the recommendation of
16 the medical examiner or vocational expert to reduce or discontinue
17 the disability retirement allowance, his or her retirement allowance
18 shall be discontinued on the first day of the month following the
19 expiration of the period of the sixty (60) days from the day the
20 Authority sent the notice of the recommendation to the person's
21 last address on file in the retirement office, by electronic mail to
22 the person's last electronic mail address on file in the retirement
23 office, or by other electronic means.

24 (e) 1. The medical examiner shall make a recommendation based upon the
25 evaluation of additional supporting employment and medical
26 information submitted in accordance with paragraph (d)3.b. of this
27 subsection, or the vocational expert shall make a recommendation based

1 upon the additional supporting employment information submitted in
2 accordance with paragraph (d)3.b. of this subsection.

3 2. If the medical examiner or vocational expert recommends that the
4 disability retirement allowance be continued, the system shall make
5 disability retirement payments in accordance with the retirement plan
6 selected by the person.

7 3. a. If the medical examiner recommends that the disability retirement
8 allowance be reduced or discontinued based upon the evaluation of
9 additional supporting employment information and medical
10 information, or if the vocational expert recommends that the
11 disability retirement allowance be reduced or discontinued based
12 upon the evaluation of additional employment information, the
13 Authority shall send notice of this recommendation by United
14 States first-class mail to the person's last address on file in the
15 retirement office, by electronic mail to the person's last electronic
16 mail address on file in the retirement office, or by other electronic
17 means.

18 b. The person shall have sixty (60) days from the day that the
19 Authority sent the notice of the recommendation to appeal the
20 recommendation to reduce or discontinue the disability retirement
21 allowance by filing at the retirement office a request for formal
22 hearing.

23 c. If the person fails or refuses to appeal the recommendation of the
24 medical examiner or vocational expert to reduce or discontinue the
25 disability retirement allowance, his or her retirement allowance
26 shall be discontinued on the first day of the month following the
27 expiration of the period of the sixty (60) days from the day the

1 Authority sent the notice of the recommendation to the person's
2 last address on file in the retirement office, by electronic mail to
3 the person's last electronic mail address on file in the retirement
4 office, or by other electronic means.

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

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

19 (h) A final order of the board shall be based on substantial evidence appearing in
20 the record as a whole and shall set forth the decision of the board and the facts
21 and law upon which the decision is based. If the board orders that the person's
22 disability retirement allowance be discontinued or reduced, the order shall
23 take effect on the first day of the month following the day the Authority sent
24 the order to the person's last address on file in the retirement office, by
25 electronic mail to the person's last electronic mail address on file in the
26 retirement office, or by other electronic means. Judicial review of the final
27 board order shall not operate as a stay and the system shall discontinue or

- 1 reduce the person's disability retirement allowance as provided in this section.
- 2 (i) Notwithstanding any other provisions of this section, the system may require
- 3 the person to submit to one (1) or more medical or psychological
- 4 examinations at any time. The system shall be responsible for any costs
- 5 associated with any examinations of the person requested by the medical
- 6 examiner or the system for the purpose of providing medical information
- 7 deemed necessary by the medical examiner or the system. Notice of the time
- 8 and place of the examination shall be provided to the person or his or her legal
- 9 representative. If the person fails or refuses to submit to one (1) or more
- 10 medical examinations, his or her rights to further disability retirement
- 11 allowance shall cease.
- 12 (j) All requests for a hearing pursuant to this section shall be made in writing.
- 13 (5) The board may establish an appeals committee whose members shall be appointed
- 14 by the chair and who shall have the authority to act upon the recommendations and
- 15 reports of the hearing officer pursuant to this section on behalf of the board. The
- 16 board may also establish a joint appeals committee with the Kentucky Retirement
- 17 Systems.
- 18 (6) Any person aggrieved by a final order of the board may seek judicial review after
- 19 all administrative appeals have been exhausted by filing a petition for judicial
- 20 review in the Franklin Circuit Court in accordance with KRS Chapter 13B.
- 21 (7) If a disability retirement allowance is reduced or discontinued for a person who
- 22 began participating prior to January 1, 2014, **or a person in a hazardous position**
- 23 **who began participating on or after January 1, 2027, or a person who is**
- 24 **presumed under Section 1 of this Act to have begun participating in a hazardous**
- 25 **position immediately prior to January 1, 2014,** the person may apply for early
- 26 retirement benefits as provided under KRS 78.5510 or 78.5514, as applicable,
- 27 subject to the following provisions:

- 1 (a) The person may not change his or her beneficiary or payment option;
- 2 (b) If the person has returned to employment with an employer participating in
3 the County Employees Retirement System, Kentucky Employees Retirement
4 System, or State Police Retirement System, the service and creditable
5 compensation shall be used in recomputing his or her benefit, except that the
6 person's final compensation shall not be less than the final compensation last
7 used in determining his or her retirement allowance;
- 8 (c) The benefit shall be reduced as provided by KRS 78.5510(4) or 78.5514(4);
- 9 (d) 1. The person shall remain eligible for reinstatement of his or her disability
10 allowance upon reevaluation until his or her normal retirement age. The
11 person shall apply for reinstatement of disability benefits in accordance
12 with the provisions of this paragraph.
- 13 2. An application for reinstatement of disability benefits shall be
14 administered as an application under KRS 78.5524 or 78.5526, as
15 applicable, except:
- 16 a. Only the bodily injuries, mental illnesses, diseases, or conditions
17 for which the person was originally approved for disability
18 benefits shall be considered. Bodily injuries, mental illnesses,
19 diseases, or conditions that came into existence after the person's
20 last day of paid employment shall not be considered as a basis for
21 reinstatement of disability benefits. Bodily injuries, mental
22 illnesses, diseases, or conditions alleged by the person as being
23 incapacitating, but which were not the basis for the award of
24 disability retirement benefits, shall not be considered;
- 25 b. A person whose disability allowance was discontinued under
26 subsection (2) of this section, who is still employed in the same
27 position on which his or her disability allowance was

- 1 discontinued, shall submit with the application employment
2 information detailing the changes to the position evidencing cause
3 for reinstatement;
- 4 c. A person whose disability allowance was discontinued under
5 subsection (3) of this section shall provide with the application
6 new objective medical evidence not previously considered by the
7 Authority's medical examiner; and
- 8 d. The application for reinstatement shall be reviewed by one (1)
9 medical examiner or vocational expert.
- 10 3. If the person establishes that the disability benefits should be reinstated,
11 the system shall pay disability benefits effective from the first day of the
12 month following the month in which the person applied for
13 reinstatement of the disability benefits; and
- 14 (e) Upon attaining normal retirement age, the person shall receive the higher of
15 either his or her disability retirement allowance or his or her early retirement
16 allowance.
- 17 (8) If a disability retirement allowance is reduced or discontinued for a person who
18 began participating in the system on or after January 1, 2014, **or a member who**
19 **makes an election under subsection (3) of Section 1 of this Act, or who, prior to**
20 **the effective date of this Act, made an election under Section 7 of this Act,** the
21 person shall remain eligible for reinstatement of his or her disability allowance as
22 provided under subsection (7)(d) of this section.
- 23 (9) No disability retirement allowance shall be reduced or discontinued by the system
24 after the person's normal retirement date except in case of reemployment as
25 provided for by KRS 78.5540. If a disability retirement allowance has been reduced
26 or discontinued, except if the person is reemployed as provided for by KRS
27 78.5540, the retirement allowance shall be reinstated upon attainment of the

1 person's normal retirement date to the retirement allowance prior to adjustment. No
2 reinstated payment shall be less than the person is receiving upon attainment of the
3 person's normal retirement date.

4 ➔Section 25. KRS 78.5524 is amended to read as follows:

5 The disability retirement provisions contained in this section shall apply to a person
6 whose last date of paid employment was in a hazardous position.

7 (1) (a) For purposes of this section:

8 1. "Total and permanent disability" means a disability which results in the
9 member's incapacity to engage in any occupation for remuneration or
10 profit. Loss by severance of both hands at or above the wrists, or both
11 feet at or above the ankles, or one (1) hand above the wrist and one (1)
12 foot above the ankle, or the complete, irrevocable loss of the sight of
13 both eyes shall be considered as total and permanent; and

14 2. "Hazardous disability" means a disability which results in an employee's
15 total incapacity to continue as an employee in a hazardous position, but
16 the employee is not necessarily deemed to be totally and permanently
17 disabled to engage in other occupations for remuneration or profit.

18 (b) In determining whether the disability meets the requirement of this section,
19 any reasonable accommodation provided by the employer as provided in 42
20 U.S.C. sec. 12111(9) and 29 C.F.R. pt. 1630 shall be considered.

21 (c) If the board determines that the total and permanent disability of a member
22 receiving a retirement allowance under this section has ceased, then the board
23 shall determine if the member has a hazardous disability as defined by KRS
24 78.510.

25 (2) Any person may qualify to retire on disability, subject to the following:

26 (a) The person shall have sixty (60) months of service, twelve (12) of which shall
27 be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The

- 1 service requirement shall be waived if the disability is a total and permanent
2 disability or a hazardous disability and is a direct result of an act in line of
3 duty;
- 4 (b) For a person whose membership date is prior to August 1, 2004, the person
5 shall not be eligible for an unreduced retirement allowance;
- 6 (c) The person's application shall be on file in the retirement office no later than
7 twenty-four (24) months after the person's last day of paid employment, as
8 defined in KRS 78.510, in a regular full-time position that has been approved
9 as a hazardous position in accordance with KRS 78.5520;
- 10 (d) The person shall receive a satisfactory determination pursuant to KRS 61.665;
11 and
- 12 (e) A person's disability application based on the same claim of incapacity shall
13 be accepted and reconsidered for disability if accompanied by new objective
14 medical evidence. The application shall be on file in the retirement office no
15 later than twenty-four (24) months after the person's last day of paid
16 employment in a regular full-time hazardous position.
- 17 (3) Upon the examination of the objective medical evidence by licensed physicians
18 pursuant to KRS 61.665, it shall be determined that:
- 19 (a) The incapacity results from bodily injury, mental illness, or disease. For
20 purposes of this section, "injury" means any physical harm or damage to the
21 human organism other than disease or mental illness;
- 22 (b) The incapacity is deemed to be permanent; and
- 23 (c) The incapacity does not result directly or indirectly from:
- 24 1. Injury intentionally self-inflicted while sane or insane; or
25 2. Bodily injury, mental illness, disease, or condition which pre-existed
26 membership in the system or reemployment, whichever is most recent,
27 unless:

- 1 a. The disability results from bodily injury, mental illness, disease, or
- 2 a condition which has been substantially aggravated by an injury
- 3 or accident arising out of or in the course of employment; or
- 4 b. The person has at least sixteen (16) years' current or prior service
- 5 for employment with employers participating in the County
- 6 Employees Retirement System or the Kentucky Retirement
- 7 Systems.

8 For purposes of this subparagraph, "reemployment" shall not mean a

9 change of employment between employers participating in the County

10 Employees Retirement System or the Kentucky Retirement Systems

11 with no loss of service credit.

- 12 (4) (a) 1. An incapacity shall be deemed to be permanent for the purpose of
- 13 hazardous disability if it is expected to result in death or can be expected
- 14 to last for a continuous period of not less than twelve (12) months from
- 15 the person's last day of paid employment in a hazardous position.
- 16 2. The determination of a permanent incapacity for the purpose of
- 17 hazardous disability shall be based on the medical evidence contained in
- 18 the member's file and the member's residual functional capacity and
- 19 physical exertion requirements.
- 20 3. The determination of a total and permanent incapacity shall be based on
- 21 the medical evidence contained in the member's file and the member's
- 22 residual functional capacity.

- 23 (b) The person's residual functional capacity shall be the person's capacity for
- 24 work activity on a regular and continuing basis. The person's physical ability
- 25 shall be assessed in light of the severity of the person's physical, mental, and
- 26 other impairments. The person's ability to walk, stand, carry, push, pull, reach,
- 27 handle, and other physical functions shall be considered with regard to

1 physical impairments. The person's ability to understand, remember, and carry
2 out instructions and respond appropriately to supervision, coworkers, and
3 work pressures in a work setting shall be considered with regard to mental
4 impairments. Other impairments, including skin impairments, epilepsy, visual
5 sensory impairments, postural and manipulative limitations, and
6 environmental restrictions, shall be considered in conjunction with the
7 person's physical and mental impairments to determine residual functional
8 capacity.

9 (c) The person's physical exertion requirements shall be determined based on the
10 following standards:

- 11 1. Sedentary work shall be work that involves lifting no more than ten (10)
12 pounds at a time and occasionally lifting or carrying articles such as
13 large files, ledgers, and small tools. Although a sedentary job primarily
14 involves sitting, occasional walking and standing may also be required
15 in the performance of duties.
- 16 2. Light work shall be work that involves lifting no more than twenty (20)
17 pounds at a time with frequent lifting or carrying of objects weighing up
18 to ten (10) pounds. A job shall be in this category if lifting is
19 infrequently required but walking and standing are frequently required,
20 or if the job primarily requires sitting with pushing and pulling of arm or
21 leg controls. If the person has the ability to perform substantially all of
22 these activities, the person shall be deemed capable of light work. A
23 person deemed capable of light work shall be deemed capable of
24 sedentary work unless the person has additional limitations such as the
25 loss of fine dexterity or inability to sit for long periods.
- 26 3. Medium work shall be work that involves lifting no more than fifty (50)
27 pounds at a time with frequent lifting or carrying of objects weighing up

1 to twenty-five (25) pounds. If the person is deemed capable of medium
2 work, the person shall be deemed capable of light and sedentary work.

3 4. Heavy work shall be work that involves lifting no more than one
4 hundred (100) pounds at a time with frequent lifting or carrying of
5 objects weighing up to fifty (50) pounds. If the person is deemed
6 capable of heavy work, the person shall also be deemed capable of
7 medium, light, and sedentary work.

8 5. Very heavy work shall be work that involves lifting objects weighing
9 more than one hundred (100) pounds at a time with frequent lifting or
10 carrying of objects weighing fifty (50) or more pounds. If the person is
11 deemed capable of very heavy work, the person shall be deemed capable
12 of heavy, medium, light, and sedentary work.

13 (5) Upon disability retirement, an employee may receive a disability retirement
14 allowance payable during his or her lifetime which shall be:

15 (a) For a member who began participating in the system prior to August 1, 2004,
16 an annual retirement allowance payable monthly and determined in the same
17 manner as for retirement at his or her normal retirement date with years of
18 service and final compensation being determined as of the date of his or her
19 disability, except that service shall be added beginning with his or her last
20 date of paid employment and continuing to his or her fifty-fifth birthday. The
21 maximum service credit added shall not exceed the total service the member
22 had on his or her last day of paid employment, and the maximum service
23 credit for calculating his or her retirement allowance, including his or her total
24 service and service added under this section, shall not exceed twenty (20)
25 years;

26 (b) For a member who begins participating on or after August 1, 2004, but prior
27 to January 1, 2014, *or who begins participating in a hazardous position on*

- 1 or after January 1, 2027, or who is presumed under Section 1 of this Act to
2 begin participating in a hazardous position immediately prior to January 1,
3 2014, the higher of twenty-five percent (25%) of the member's monthly final
4 rate of pay or the retirement allowance determined in the same manner as for
5 retirement at his or her normal retirement date with years of service and final
6 compensation being determined as of the date of his or her disability; or
- 7 (c) For a member who begins participating on or after January 1, 2014, but prior
8 to January 1, 2027, in the hybrid cash balance plan as provided by KRS
9 78.5516, who makes an election under subsection (3) of Section 1 of this
10 Act, or who, prior to the effective date of this Act, made an election under
11 Section 7 of this Act, the disability retirement allowance shall be the higher of
12 twenty-five percent (25%) of the member's monthly final rate of pay or the
13 retirement allowance determined in the same manner as for retirement at his
14 or her normal retirement date under KRS 78.5516.
- 15 (6) If the member receives a satisfactory determination of hazardous disability pursuant
16 to KRS 61.665 and the disability is the direct result of an act in line of duty as
17 defined in KRS 78.510, the member's retirement allowance shall be calculated as
18 follows:
- 19 (a) For the disabled member, benefits as provided in subsection (5) of this section
20 except that the monthly retirement allowance payable shall not be less than
21 twenty-five percent (25%) of the member's monthly final rate of pay; and
- 22 (b) For each dependent child of the member on his or her disability retirement
23 date, who is alive at the time any particular payment is due, a monthly
24 payment equal to ten percent (10%) of the disabled member's monthly final
25 rate of pay; however, total maximum dependent children's benefit shall not
26 exceed forty percent (40%) of the member's monthly final rate of pay. The
27 payments shall be payable to each dependent child, or to a legally appointed

1 guardian or as directed by the system.

2 (7) If the member receives a satisfactory determination of total and permanent
3 disability pursuant to KRS 61.665 and the disability is the direct result of an act in
4 line of duty as defined in KRS 78.510, the member's retirement allowance shall be
5 calculated as follows:

6 (a) For the disabled member, the benefits as provided in subsection (5) of this
7 section, except that the monthly retirement allowance payable shall not be less
8 than seventy-five percent (75%) of the member's monthly average pay; and

9 (b) For each dependent child of the member on his or her disability retirement
10 date, who is alive at the time any particular payment is due, a monthly
11 payment equal to ten percent (10%) of the disabled member's monthly
12 average pay, except that:

13 1. Member and dependent children payments under this subsection shall
14 not exceed one hundred percent (100%) of the member's monthly
15 average pay; and

16 2. Total maximum dependent children's benefits shall not exceed twenty-
17 five percent (25%) of the member's monthly average pay while the
18 member is living and forty percent (40%) of the member's monthly
19 average pay after the member's death. The payments shall be payable to
20 each dependent child, or to a legally appointed guardian or as directed
21 by the system, and shall be divided equally among all dependent
22 children.

23 (8) No benefit provided in this section shall be reduced as a result of any change in the
24 extent of disability of any retired member who is normal retirement age or older.

25 (9) If a regular full-time member in a hazardous position has been approved for
26 benefits under a hazardous disability, the board shall, upon request of the member,
27 permit the member to receive the hazardous disability allowance while accruing

1 benefits in a nonhazardous position, subject to proper medical review of the
2 nonhazardous position's job description by the Authority's medical examiner.

3 ➔Section 26. KRS 78.616 is amended to read as follows:

- 4 (1) Any employer participating in the County Employees Retirement System which has
5 formally adopted a sick-leave program that is universally administered to its
6 employees may purchase service credit with the retirement system for up to six (6)
7 months of unused sick leave for each retiring employee.
- 8 (2) Participation under this section shall be at the option of each participating
9 employer. The election to participate shall be made by the governing authority of
10 the participating employer and shall be certified in writing to the system on forms
11 prescribed by the board. The certification shall provide for equal treatment of all
12 employees participating under this section.
- 13 (3) (a) Upon the member's notification of retirement as prescribed in KRS 61.590,
14 the employer shall certify the retiring employee's unused, accumulated sick-
15 leave balance to the system. The member's sick-leave balance, expressed in
16 days, shall be divided by the average number of working days per month in
17 county service and rounded to the nearest number of whole months. A
18 maximum of six (6) months of the member's sick-leave balance, expressed in
19 months, shall be added to his or her service credit for the purpose of
20 determining his or her annual retirement allowance under KRS 78.510 to
21 78.852 and for the purpose of determining whether the member is eligible to
22 receive a retirement allowance under KRS 78.510 to 78.852, except as
23 provided by paragraph (d) of this subsection. Accumulated sick-leave in
24 excess of six (6) months shall be added to the member's service credit if the
25 member or employer pays to the retirement system the value of the additional
26 service credit based on the formula adopted by the board, subject to the
27 restrictions provided by paragraph (d) of this subsection.

- 1 (b) The employer may elect to pay fifty percent (50%) of the cost of the sick
2 leave in excess of six (6) months on behalf of its employees. The employee
3 shall pay the remaining fifty percent (50%). The payment by the employer
4 shall not be deposited to the member's account. Service credit shall not be
5 credited to the member's account until both the employer's and employee's
6 payments are received by the retirement system.
- 7 (c) Once the employer elects to pay all or fifty percent (50%) of the cost on
8 behalf of its employees, it shall continue to pay the same portion of the cost.
- 9 (d) For a member who begins participating in the retirement system on or after
10 September 1, 2008, but prior to January 1, 2014, **or who begins participating**
11 **in a hazardous position on or after January 1, 2027, or who is presumed**
12 **under Section 1 of this Act to begin participating in a hazardous position**
13 **immediately prior to January 1, 2014,** whose employer has established a
14 sick-leave program under subsections (1) to (4) and (6) of this section:
- 15 1. The member shall receive no more than twelve (12) months of service
16 credit upon retirement for accumulated unused sick leave accrued while
17 contributing to the retirement system from which the retirement benefit
18 is to be paid;
 - 19 2. The service added to the member's service credit shall be used for
20 purposes of determining the member's annual retirement allowance
21 under KRS 78.510 to 78.852;
 - 22 3. The service added to the member's service credit shall not be used to
23 determine whether a member is eligible to receive a retirement
24 allowance under KRS 78.510 to 78.852; and
 - 25 4. The cost of the service provided by this paragraph shall be paid by the
26 employer.
- 27 (4) The system shall compute the cost of the sick-leave credit of each retiring employee

1 and bill each employer with whom the employee accrued sick leave accordingly.

2 The employer shall remit payment within thirty (30) days from receipt of the bill.

3 (5) (a) As an alternative to subsections (1), (3), (4), and (6) of this section, any
4 agency participating in the County Employees Retirement System which has
5 formally adopted a sick-leave program that is universally administered to its
6 employees, or administered to a majority of eligible employees in accordance
7 with subsection (6) of this section, shall, at the time of termination, or as
8 provided in KRS 161.155 in the case of school boards, compensate the
9 employee for unused sick-leave days the employee has accumulated which it
10 is the uniform policy of the agency to allow.

11 (b) The rate of compensation for each unused sick-leave day shall be based on the
12 daily salary rate calculated from the employee's current rate of pay. Payment
13 for unused sick-leave days shall be incorporated into the employee's final
14 compensation if the employee and employer make the regular employee and
15 employer contributions, respectively, on the sick-leave payment.

16 (c) The number of sick-leave days for which the employee is compensated shall
17 be divided by the average number of working days per month in county
18 service and rounded to the nearest number of whole months. This number of
19 months shall be added to the employee's total service credit and to the number
20 of months used to determine creditable compensation, pursuant to KRS
21 78.510, but no more than sixty (60) months shall be used to determine final
22 compensation. For an employee who begins participating on or after
23 September 1, 2008, but prior to January 1, 2014, *or who begins participating*
24 *in a hazardous position on or after January 1, 2027, or who is presumed*
25 *under Section 1 of this Act to begin participating in a hazardous position*
26 *immediately prior to January 1, 2014,* the number of months added to the
27 employee's total service credit under this paragraph shall not exceed twelve

1 (12) months, and the additional service shall not be used to determine whether
 2 a member is eligible to receive a retirement allowance under KRS 78.510 to
 3 78.852.

4 (6) Any city of the first class that has two (2) or more sick-leave programs for its
 5 employees may purchase service credit with the retirement system for up to six (6)
 6 months of unused sick leave for each retiring employee who participates in the sick-
 7 leave program administered to a majority of the eligible employees of the city. An
 8 employee participating in a sick-leave program administered to a minority of the
 9 eligible employees shall become eligible for the purchase of service credit under
 10 this subsection when the employee commences participating in the sick-leave
 11 program that is administered to a majority of the eligible employees of the city.

12 (7) The provisions of this section shall not apply to:

13 (a) Employees ***in a nonhazardous position*** who begin participating in the system
 14 on or after January 1, 2014; ~~or~~ or

15 (b) ***Employees making an election under subsection (3) of Section 1 of this Act,***
 16 ***or who, prior to the effective date of this Act, made an election under***
 17 ***Section 7 of this Act;***

18 and no service credit shall be provided for accumulated sick leave balances of those
 19 employees ***described in paragraphs (a) and (b) of this subsection*** ~~who begin~~
 20 ~~participating in the system on or after January 1, 2014~~.

21 ➔ Section 27. KRS 78.640 is amended to read as follows:

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

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

26 (b) For members who begin participating ***in a nonhazardous position*** in the
 27 system on or after January 1, 2014, ***or a member who makes an election***

1 under subsection (3) of Section 1 of this Act, or who, prior to the effective
2 date of this Act, made an election under Section 7 of this Act, the employer
3 pay credit and interest credited on such amounts as provided by KRS 78.5512
4 and 78.5516 shall be credited.

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

10 (2) Each member's contribution or contribution picked up by the employer shall be
11 credited to the individual account of the contributing member, except as provided
12 by KRS 78.5536(3)(b).

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

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

19 (c) For a member who begins participating on or after September 1, 2008, but
20 prior to January 1, 2014, or who begins participating in a hazardous position
21 on or after January 1, 2027, for his or her service in a hazardous position,
22 or who is presumed under Section 1 of this Act to begin participating in a
23 hazardous position immediately prior to January 1, 2014, interest shall be
24 credited to his or her individual account at a rate of two and one-half percent
25 (2.5%) per annum on the accumulated contributions of the member on June
26 30 of the preceding fiscal year.

27 (d) For a member who begins participating in a nonhazardous position on or

1 after January 1, 2014, in the hybrid cash balance plan, or a member who
2 makes an election under subsection (3) of Section 1 of this Act, or who,
3 prior to the effective date of this Act, made an election under Section 7 of
4 this Act, interest shall be credited in accordance with KRS 78.5512 and
5 78.5516.

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

8 (4) (a) Upon the retirement of a member who began participating in the system prior
9 to January 1, 2014, or who began participating in a hazardous position on or
10 after January 1, 2027, or who is presumed under Section 1 of this Act to
11 have begun participating in a hazardous position immediately prior to
12 January 1, 2014, his or her accumulated account balance shall be transferred
13 from the members' account to the retirement allowance account.

14 (b) Upon the retirement of a member who began participating in a nonhazardous
15 position in the system on or after January 1, 2014, or a member who makes
16 an election under subsection (3) of Section 1 of this Act, or who, prior to the
17 effective date of this Act, made an election under Section 7 of this Act, who
18 elects to annuitize his or her accumulated account balance as prescribed by
19 KRS 78.5512~~(8)(7)~~(a) or (b) or 78.5516(7)(a) or (b), the member's
20 accumulated account balance shall be transferred to the retirement allowance
21 account.