

1 AN ACT relating to office space leases for the Kentucky Public Pensions Authority
2 and declaring an emergency.

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

4 ➔Section 1. KRS 61.505 is amended to read as follows:

- 5 (1) There is created an eight (8) member Kentucky Public Pensions Authority whose
6 purpose shall be to administer and operate:
- 7 (a) A single personnel system for the staffing needs of the Kentucky Retirement
8 Systems and the County Employees Retirement System;
 - 9 (b) A system of accounting that is developed by the Authority for the Kentucky
10 Retirement Systems and the County Employees Retirement System;
 - 11 (c) Day-to-day administrative needs of the Kentucky Retirement Systems and the
12 County Employees Retirement System, including but not limited to:
 - 13 1. Benefit counseling and administration;
 - 14 2. Information technology and services, including a centralized website for
15 the Authority, the Kentucky Retirement Systems, and the County
16 Employees Retirement System;
 - 17 3. Legal services;
 - 18 4. Employer reporting and compliance;
 - 19 5. Processing and distribution of benefit payments, and other financial,
20 investment administration, and accounting duties as directed by the
21 Kentucky Retirement Systems board of trustees or the County
22 Employees Retirement System board of trustees;
 - 23 6. All administrative actions, orders, decisions, and determinations
24 necessary to carry out benefit functions required by the Kentucky
25 Retirement Systems and the County Employees Retirement System
26 statutes, including but not limited to administration of reduced and
27 unreduced retirement benefits, disability retirement, reemployment after

- 1 retirement, service purchases, computation of sick-leave credit costs,
2 correction of system records, qualified domestic relations orders, and
3 pension spiking determinations; and
- 4 7. Completing and compiling financial data and reports;
- 5 (d) Any jointly held assets used for the administration of the Kentucky
6 Retirement Systems and the County Employees Retirement System, including
7 but not limited to real estate, office space, equipment, and supplies;
- 8 (e) The hiring of a single actuarial consulting firm who shall serve both the
9 Kentucky Retirement Systems and the County Employees Retirement System;
- 10 (f) The hiring of a single external certified public accountant who shall perform
11 audits for both the Kentucky Retirement Systems and the County Employees
12 Retirement System;
- 13 (g) The promulgation of administrative regulations as an authority or on behalf of
14 the Kentucky Retirement Systems and the County Employees Retirement
15 System, individually or collectively, provided such regulations are not
16 inconsistent with the provisions of this section and KRS 16.505 to 16.652,
17 61.505, 61.510 to 61.705, and 78.510 to 78.852, necessary or proper in order
18 to carry out the provisions of this section and duties authorized by KRS
19 16.505 to 16.652 and 61.510 to 61.705;
- 20 (h) A system of contracting management for administrative services; and
- 21 (i) Other tasks or duties as directed solely or jointly by the boards of the
22 Kentucky Retirement Systems or the County Employees Retirement System.
- 23 (2) The eight (8) member Kentucky Public Pensions Authority shall be composed of
24 the following individuals:
- 25 (a) The chair of the Kentucky Retirement Systems board of trustees;
- 26 (b) The chair of the County Employees Retirement System board of trustees;
- 27 (c) The investment committee chair of the Kentucky Retirement Systems board

1 of trustees, unless the investment committee chair is also the chair of the
2 board of trustees in which case the chair of the Kentucky Retirement Systems
3 shall appoint an individual who serves on the investment committee;

4 (d) The investment committee chair of the County Employees Retirement System
5 board of trustees, unless the investment committee chair is also the chair of
6 the County Employees Retirement System board of trustees in which case the
7 chair of the County Employees Retirement System shall appoint an individual
8 who serves on the investment committee;

9 (e) Two additional (2) trustees of the Kentucky Retirement Systems board of
10 trustees selected by the chair of the Kentucky Retirement Systems board of
11 trustees of which one (1) shall be a trustee who was elected by the
12 membership of one (1) of the systems administered by Kentucky Retirement
13 Systems and one (1) shall be a trustee of Kentucky Retirement Systems who
14 was appointed by the Governor; and

15 (f) Two additional (2) trustees of the County Employees Retirement System
16 board of trustees selected by the chair of the County Employees Retirement
17 System board of trustees of which one (1) shall be a trustee who was elected
18 by the membership of the County Employees Retirement System and one (1)
19 shall be a trustee of the County Employees Retirement System who was
20 appointed by the Governor.

21 (3) The Kentucky Public Pensions Authority is hereby granted the powers and
22 privileges of a corporation, including but not limited to the following powers:

23 (a) To sue and be sued in its corporate name;

24 (b) To make bylaws not inconsistent with the law and in accordance with its
25 duties as provided by this section;

26 (c) To conduct the business and promote the purposes for which it was formed;

27 (d) To carry out the obligations of the Authority subject to KRS Chapters 45,

1 45A, 56, and 57, except that the Authority may purchase or lease suitable
2 office space for administration and operation of the retirement systems
3 administered by the Authority notwithstanding KRS Chapter 56;

4 (e) To purchase fiduciary liability insurance; and

5 (f) The Kentucky Public Pensions Authority shall reimburse any Authority
6 member, officer, or employee for any legal expense resulting from a civil
7 action arising out of the performance of his or her official duties. The hourly
8 rate of reimbursement for any contract for legal services under this paragraph
9 shall not exceed the maximum hourly rate provided in the Legal Services
10 Duties and Maximum Rate Schedule promulgated by the Government
11 Contract Review Committee established pursuant to KRS 45A.705, unless a
12 higher rate is specifically approved by the secretary of the Finance and
13 Administration Cabinet or his or her designee.

14 (4) Any vacancy which may occur in an appointed position on the Kentucky Public
15 Pensions Authority shall be filled in the same manner which provides for the
16 selection of the particular member of the Authority. No person shall serve in more
17 than one (1) position as a member of the Authority and if a person holds more than
18 one (1) position as a member of the Authority, he or she shall resign a position.

19 (5) (a) Membership on the Authority shall not be incompatible with any other office
20 unless a constitutional incompatibility exists. No Authority member shall
21 serve in more than one (1) position as a member of the Authority.

22 (b) An Authority member shall be removed from office upon conviction of a
23 felony or for a finding of a violation of any provision of KRS 11A.020 or
24 11A.040 by a court of competent jurisdiction.

25 (c) A current or former employee of the County Employees Retirement System,
26 Kentucky Retirement Systems, or the Kentucky Public Pensions Authority
27 shall not be eligible to serve as a member of the Authority.

- 1 (6) Kentucky Public Pensions Authority members who do not otherwise receive a
2 salary from the State Treasury shall receive a per diem of eighty dollars (\$80) for
3 each day they are in session or on official duty, and they shall be reimbursed for
4 their actual and necessary expenses in accordance with state administrative
5 regulations and standards, except that the members shall not receive a per diem or
6 receive reimbursements on the same day they receive a per diem or reimbursements
7 for service to the Kentucky Retirement Systems board of trustees or County
8 Employees Retirement Systems board of trustees.
- 9 (7) (a) The Authority shall meet at least once in each quarter of the year and may
10 meet in special session upon the call of the chair or the executive director of
11 the Authority.
- 12 (b) The Authority shall elect a chair and a vice chair. The chair shall not serve
13 more than four (4) consecutive years as chair or vice chair of the Authority.
14 The vice chair shall not serve more than four (4) consecutive years as chair or
15 vice chair of the Authority. A member who has served four (4) consecutive
16 years as chair or vice chair of the Authority may be elected chair or vice chair
17 of the Authority after an absence of two (2) years from the positions.
- 18 (c) A majority of the Authority members shall constitute a quorum and all actions
19 taken by the Authority shall be by affirmative vote of a majority of the
20 Authority members present.
- 21 (d) The Authority shall post on the Authority's website and shall make available
22 to the public:
- 23 1. All meeting notices and agendas of the Authority. Notices and agendas
24 shall be posted to the Authority's website at least seventy-two (72) hours
25 in advance of the Authority's meetings, except in the case of special or
26 emergency meetings as provided by KRS 61.823;
 - 27 2. All Authority minutes or other materials that require adoption or

1 ratification by the Authority. The items listed in this subparagraph shall
2 be posted within three (3) business days of adoption or ratification of the
3 Authority;

4 3. All bylaws, policies, or procedures adopted or ratified by the Authority;
5 and

6 4. A listing of the members of the Authority and membership on each
7 committee established by the Authority.

8 (8) (a) The Kentucky Public Pensions Authority shall appoint or contract for the
9 services of an executive director and a chief auditor and fix the compensation
10 and other terms of employment for these positions without limitation of the
11 provisions of KRS Chapter 18A, 45A, and KRS 64.640. The executive
12 director shall be the chief administrative officer of the Authority, the
13 Kentucky Retirement Systems board of trustees, and the County Employees
14 Retirement System board of trustees. The chief auditor shall report directly to
15 the Kentucky Public Pensions Authority members to perform internal audit
16 functions as directed by the Authority. The executive director and chief
17 auditor shall work cooperatively with the chief executive officers of the
18 Kentucky Retirement Systems and the County Employees Retirement System.
19 The Authority shall annually conduct a performance evaluation of the
20 executive director and chief auditor.

21 (b) The Kentucky Public Pensions Authority shall authorize the executive
22 director, or the chief auditor in the case of employees under the direct
23 supervision of the chief auditor, to appoint the employees deemed necessary
24 to transact the duties of the Authority for the purposes outlined in subsection
25 (1) of this section. After April 14, 2022, approval by the Authority shall be
26 required for a petition to the secretary of the Personnel Cabinet for the
27 creation of any new unclassified position pursuant to KRS 18A.115(1)(e), (g),

1 (h), and (i).

2 (c) Effective April 1, 2021, the Kentucky Public Pensions Authority shall assume
3 responsibility of administering the staff of the Kentucky Retirement Systems
4 in order to provide the services established by this section.

5 (d) 1. All employees of the Kentucky Public Pensions Authority, except for
6 the executive director, the chief auditor, and no more than six (6)
7 unclassified employees of the Office of Investments employed pursuant
8 to KRS 18A.115(1)(e), (g), (h), and (i), shall be subject to the state
9 personnel system established pursuant to KRS 18A.005 to 18A.204 and
10 shall have their salaries determined by the secretary of the Personnel
11 Cabinet.

12 2. The employees exempted from the classified service under this
13 paragraph shall not be subject to the salary limitations specified in KRS
14 64.640(2) and (3).

15 3. The Kentucky Public Pensions Authority shall adopt a written salary and
16 classification plan fixing a range of compensation and written terms of
17 employment for any of the unclassified employees of the Office of
18 Investments it authorizes under this paragraph. The Authority shall
19 authorize the executive director to appoint up to six (6) unclassified
20 employees of the Office of Investments subject to the compensation
21 ranges and terms of employment the Authority has established. The
22 Authority may amend the written salary and classification plan adopted
23 under this paragraph at any time.

24 (e) The Authority shall annually review, approve, and submit a report to the
25 Public Pension Oversight Board detailing the number of employees of the
26 Authority, the salary paid to each employee, and the change in the salaries of
27 each individual employed by the Authority over the prior year.

- 1 (f) The Authority shall require the executive director and the employees as it
2 thinks proper to execute bonds for the faithful performance of their duties
3 notwithstanding the limitations of KRS Chapter 62.
- 4 (g) Notwithstanding any other provision of statute to the contrary, including but
5 not limited to any provision of KRS Chapter 12, the Governor shall have no
6 authority to change any provision of this section by executive order or action,
7 including but not limited to reorganizing, replacing, amending, or abolishing
8 the membership of the Kentucky Public Pensions Authority.
- 9 (9) All employees of the Authority shall serve during its will and pleasure.
10 Notwithstanding any statute to the contrary, employees shall not be considered
11 legislative agents under KRS 6.611.
- 12 (10) The Attorney General, or an assistant designated by him or her, may attend each
13 meeting of the Authority and may receive the agenda, board minutes, and other
14 information distributed to Authority members upon request. The Attorney General
15 may act as legal adviser and attorney for the Authority, and the Authority may
16 contract for legal services, notwithstanding the limitations of KRS Chapter 12 or
17 13B.
- 18 (11) (a) 1. All expenses incurred by or on behalf of the Kentucky Public Pensions
19 Authority shall be paid by the systems administered by the Kentucky
20 Retirement Systems or the County Employees Retirement System and
21 shall be prorated, assigned, or allocated to each system as determined by
22 Kentucky Public Pensions Authority.
- 23 2. Until June 30, 2024, any additional initial costs determined by the
24 Authority to be attributable solely to establishing a separate County
25 Employees Retirement System board and the Kentucky Public Pensions
26 Authority as provided by this section and KRS 78.782 shall be paid by
27 the County Employees Retirement System. Until June 30, 2024, any

1 additional ongoing annual administrative and investment expenses that
2 occur after the establishment of a separate County Employees
3 Retirement System board and the Kentucky Public Pensions Authority
4 that are determined by the Authority to be a direct result of establishing
5 a separate County Employees Retirement System board and the
6 Kentucky Public Pensions Authority shall be paid by the County
7 Employees Retirement System. Beginning on and after July 1, 2024, any
8 annual administrative and investment expenses shall be prorated,
9 assigned, or allocated to each system as determined by the Kentucky
10 Public Pensions Authority as provided by subparagraph 1. of this
11 paragraph but without attribution to the establishment of a separate
12 County Employees Retirement System board and the Kentucky Public
13 Pensions Authority.

14 3. In order to evaluate the results of establishing a separate County
15 Employees Retirement System board and the Kentucky Public Pensions
16 Authority, on or before November 15, 2022, and on or before November
17 15 following the close of each successive fiscal year, the Kentucky
18 Public Pensions Authority shall report to the Public Pension Oversight
19 Board the annual administrative and investment expenses of the
20 Kentucky Retirement Systems and the County Employees Retirement
21 System. The report shall include but not be limited to the process or
22 manner the Authority used to prorate, assign, or allocate to each system
23 its share of the expenses, the amount of expenses prorated, assigned, or
24 allocated to each system itemized by category, and any efforts by the
25 systems or the Authority to reduce administrative costs and staffing
26 needs.

27 (b) Any other statute to the contrary notwithstanding, authorization for all

1 expenditures relating to the administrative operations of the Kentucky Public
2 Pensions Authority, the Kentucky Retirement Systems, and the County
3 Employees Retirement System shall be contained in the biennial budget unit
4 request, branch budget recommendation, and the financial plan adopted by the
5 General Assembly pursuant to KRS Chapter 48. The Kentucky Public
6 Pensions Authority shall approve the biennial budget unit request prior to its
7 submission by the Authority. The request from the Kentucky Public Pensions
8 Authority shall include any specific administrative expenses requested by the
9 Kentucky Retirement Systems board of trustees or the County Employees
10 Retirement System board of trustees pursuant to KRS 61.645(13) or
11 78.782(13), as applicable, that are not otherwise expenses specified by
12 paragraph (a) of this subsection.

13 (12) (a) An Authority member shall discharge his or her duties as a member of the
14 Authority, including his or her duties as a member of a committee of the
15 Authority:

- 16 1. In good faith;
- 17 2. On an informed basis; and
- 18 3. In a manner he or she honestly believes to be in the best interest of the
19 County Employees Retirement System and the Kentucky Retirement
20 Systems, as applicable.

21 (b) An Authority member discharges his or her duties on an informed basis if,
22 when he or she makes an inquiry into the business and affairs of the
23 Authority, system, or systems or into a particular action to be taken or
24 decision to be made, he or she exercises the care an ordinary prudent person
25 in a like position would exercise under similar circumstances.

26 (c) In discharging his or her duties, an Authority member may rely on
27 information, opinions, reports, or statements, including financial statements

- 1 and other financial data, if prepared or presented by:
- 2 1. One (1) or more officers or employees of the Authority whom the
3 Authority member honestly believes to be reliable and competent in the
4 matters presented;
 - 5 2. Legal counsel, public accountants, actuaries, or other persons as to
6 matters the Authority member honestly believes are within the person's
7 professional or expert competence; or
 - 8 3. A committee of the Authority of which he or she is not a member if the
9 Authority member honestly believes the committee merits confidence.
- 10 (d) An Authority member shall not be considered as acting in good faith if he or
11 she has knowledge concerning the matter in question that makes reliance
12 otherwise permitted by paragraph (c) of this subsection unwarranted.
- 13 (e) Any action taken as a member of the Authority, or any failure to take any
14 action as an Authority member, shall not be the basis for monetary damages
15 or injunctive relief unless:
- 16 1. The Authority member has breached or failed to perform the duties of
17 the member's office in compliance with this section; and
 - 18 2. In the case of an action for monetary damages, the breach or failure to
19 perform constitutes willful misconduct or wanton or reckless disregard
20 for human rights, safety, or property.
- 21 (f) A person bringing an action for monetary damages under this section shall
22 have the burden of proving by clear and convincing evidence the provisions of
23 paragraph (e)1. and 2. of this subsection, and the burden of proving that the
24 breach or failure to perform was the legal cause of damages suffered by the
25 Kentucky Retirement Systems or County Employees Retirement System, as
26 applicable.
- 27 (g) In discharging his or her administrative duties under this section, an Authority

1 member shall strive to administer the systems in an efficient and cost-
2 effective manner for the taxpayers of the Commonwealth of Kentucky and
3 shall take all actions available under the law to contain costs for the trusts,
4 including costs for participating employers, members, and retirees.

5 ➔Section 2. Whereas the efficient administration of the Kentucky Public
6 Pensions Authority is critical to system employees, system employers, and the
7 Commonwealth of Kentucky, an emergency is declared to exist, and this Act takes effect
8 upon its passage and approval by the Governor or upon its otherwise becoming a law.