

1 AN ACT relating to disability retirement benefits in the County Employees  
2 Retirement System.

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

4 ➔Section 1. KRS 78.5522 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 nonhazardous position.

7 (1) Any person may qualify to retire on disability, subject to the following conditions:

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

10 ***The service requirement shall be waived if the person is working in a***  
11 ***nonhazardous position that could be certified as a hazardous position based***  
12 ***upon KRS 78.5520, and is injured in line of duty resulting in an incapacity***  
13 ***to continue as an employee in the position that could be certified as a***  
14 ***hazardous position;***

15 (b) For a person whose membership date is prior to August 1, 2004, the person  
16 shall not be eligible for an unreduced retirement allowance;

17 (c) The person's application shall be on file in the retirement office no later than  
18 twenty-four (24) months after the person's last day of paid employment in a  
19 regular full-time position, as defined in KRS 78.510; and

20 (d) The person shall receive a satisfactory determination pursuant to KRS 61.665.

21 (2) A person's disability reapplication based on the same claim of incapacity shall be  
22 accepted and reconsidered for disability if accompanied by new objective medical  
23 evidence. The reapplication shall be on file in the retirement office no later than  
24 twenty-four (24) months after the person's last day of paid employment in a regular  
25 full-time position.

26 (3) Upon the examination of the objective medical evidence by licensed physicians  
27 pursuant to KRS 61.665, it shall be determined that:

- 1 (a) The person, since his or her last day of paid employment, has been mentally  
2 or physically incapacitated to perform the job, or jobs of like duties, from  
3 which he or she received his or her last paid employment. In determining  
4 whether the person may return to a job of like duties, any reasonable  
5 accommodation by the employer as provided in 42 U.S.C. sec. 12111(9) and  
6 29 C.F.R. pt. 1630 shall be considered;
- 7 (b) The incapacity is a result of bodily injury, mental illness, or disease. For  
8 purposes of this section, "injury" means any physical harm or damage to the  
9 human organism other than disease or mental illness;
- 10 (c) The incapacity is deemed to be permanent; and
- 11 (d) The incapacity does not result directly or indirectly from bodily injury, mental  
12 illness, disease, or condition which pre-existed membership in the system or  
13 reemployment, whichever is most recent. For purposes of this subsection,  
14 reemployment shall not mean a change of employment between employers  
15 participating in the Kentucky Retirement Systems or the County Employees  
16 Retirement System with no loss of service credit.
- 17 (4) Subsection (3)(d) of this section shall not apply if:
- 18 (a) The incapacity is a result of bodily injury, mental illness, disease, or condition  
19 which has been substantially aggravated by an injury or accident arising out of  
20 or in the course of employment; or
- 21 (b) The person has at least sixteen (16) years' current or prior service for  
22 employment with employers participating in the Kentucky Retirement  
23 Systems or the County Employees Retirement System.
- 24 (5) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result  
25 in death or can be expected to last for a continuous period of not less  
26 than twelve (12) months from the person's last day of paid employment  
27 in a regular full-time position.

- 1           2. The determination of a permanent incapacity shall be based on the  
2           medical evidence contained in the member's file and the member's  
3           residual functional capacity and physical exertion requirements.
- 4           (b) The person's residual functional capacity shall be the person's capacity for  
5           work activity on a regular and continuing basis. The person's physical ability  
6           shall be assessed in light of the severity of the person's physical, mental, and  
7           other impairments. The person's ability to walk, stand, carry, push, pull, reach,  
8           handle, and other physical functions shall be considered with regard to  
9           physical impairments. The person's ability to understand, remember, and carry  
10          out instructions and respond appropriately to supervision, coworkers, and  
11          work pressures in a work setting shall be considered with regard to mental  
12          impairments. Other impairments, including skin impairments, epilepsy, visual  
13          sensory impairments, postural and manipulative limitations, and  
14          environmental restrictions, shall be considered in conjunction with the  
15          person's physical and mental impairments to determine residual functional  
16          capacity.
- 17          (c) The person's physical exertion requirements shall be determined based on the  
18          following standards:
- 19               1. Sedentary work shall be work that involves lifting no more than ten (10)  
20               pounds at a time and occasionally lifting or carrying articles such as  
21               large files, ledgers, and small tools. Although a sedentary job primarily  
22               involves sitting, occasional walking and standing may also be required  
23               in the performance of duties.
- 24               2. Light work shall be work that involves lifting no more than twenty (20)  
25               pounds at a time with frequent lifting or carrying of objects weighing up  
26               to ten (10) pounds. A job shall be in this category if lifting is  
27               infrequently required but walking and standing are frequently required,

1 or if the job primarily requires sitting with pushing and pulling of arm or  
2 leg controls. If the person has the ability to perform substantially all of  
3 these activities, the person shall be deemed capable of light work. A  
4 person deemed capable of light work shall be deemed capable of  
5 sedentary work unless the person has additional limitations such as the  
6 loss of fine dexterity or inability to sit for long periods.

7 3. Medium work shall be work that involves lifting no more than fifty (50)  
8 pounds at a time with frequent lifting or carrying of objects weighing up  
9 to twenty-five (25) pounds. If the person is deemed capable of medium  
10 work, the person shall be deemed capable of light and sedentary work.

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

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

21 (6) Upon disability retirement, an employee may receive a disability retirement  
22 allowance during his or her lifetime which shall be:

23 (a) For a member who began participating prior to August 1, 2004, an annual  
24 retirement allowance payable monthly and determined in the same manner as  
25 for retirement at his or her normal retirement date with years of service and  
26 final compensation being determined as of the date of his or her disability,  
27 except that service credit shall be added to the person's total service beginning

- 1 with his or her last date of paid employment and continuing to his or her  
2 sixty-fifth birthday; however, the maximum service credit added shall not  
3 exceed the total service the person had upon his or her last day of paid  
4 employment, and the maximum combined service credit for calculating his or  
5 her disability retirement allowance, including total service and added service,  
6 shall not exceed twenty-five (25) years. If, however, a person covered by this  
7 paragraph has accumulated twenty-five (25) or more years of total service, he  
8 or she shall receive added service necessary to bring his or her combined  
9 service credit, including total and added service, to twenty-seven (27) years;
- 10 (b) For a member who began participating on or after August 1, 2004, but prior to  
11 January 1, 2014, the higher of twenty percent (20%) of the member's monthly  
12 final rate of pay or the monthly retirement allowance determined in the same  
13 manner as for retirement at his or her normal retirement date with years of  
14 service and final compensation being determined as of the date of his or her  
15 disability; or
- 16 (c) For a member who begins participating on or after January 1, 2014, in the  
17 hybrid cash balance plan as provided by KRS 78.5512, the higher of twenty  
18 percent (20%) of the member's monthly final rate of pay or the retirement  
19 allowance determined in the same manner as for retirement at his or her  
20 normal retirement date under KRS 78.5512.
- 21 (7) No benefit provided in this section shall be reduced as a result of any change in the  
22 extent of disability of any retired member who is normal retirement age or older.
- 23 (8) A person whose last day of paid employment was in a nonhazardous position who  
24 is totally and permanently disabled due to a duty-related injury may be eligible for  
25 benefits based upon the definitions, criteria, and requirements specified by KRS  
26 61.621.
- 27 ➔Section 2. Notwithstanding KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to

1 78.852, or any provision of Section 1 of this Act to the contrary, a person whose last day  
2 of paid employment was in a nonhazardous position on or after January 1, 2022, but prior  
3 to the effective date of this Act, that could be certified as a hazardous position pursuant to  
4 KRS 78.5520, who is injured in line of duty may apply for disability retirement benefits  
5 pursuant to Section 1 of this Act if the person submits an application on or before January  
6 1, 2027, using an application form and process developed by the Kentucky Public  
7 Pensions Authority.