

1 AN ACT relating to Kentucky Retirement Systems employers.

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

3 ➔Section 1. KRS 61.522 is amended to read as follows:

4 Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to the  
5 contrary:

6 (1) For purposes of this section:

7 (a) "Active member" means a member who is participating in the system;

8 (b) "Employer" means the governing body of a department, as defined by KRS  
9 61.510, or a county as defined by KRS 78.510;

10 (c) "Employer's effective cessation date" means:

11 1. The last day of the system's plan year in the year in which the employer  
12 has elected to cease participation in the system, provided the employer  
13 has met the requirements of this section and has given the Kentucky  
14 Retirement Systems sufficient notice as provided by administrative  
15 regulations promulgated by the systems; or

16 2. For Kentucky Employees Retirement System employers making an  
17 election to cease participating under the provisions of subsection (8) of  
18 this section, it shall be June 30, 2021~~[2020]~~; and

19 (d) "Inactive member" means a member who is not participating with the system;

20 (2) Any employer participating in the Kentucky Employees Retirement System or the  
21 County Employees Retirement System on July 1, 2015, except as limited by  
22 subsection (6) of this section, may:

23 (a) Voluntarily cease participation in its respective retirement system subject to  
24 the requirements and restrictions of this section;

25 (b) Be required to involuntarily cease participation in the system under the  
26 provisions of this section if the board has determined the employer is no  
27 longer qualified to participate in a governmental plan or has failed to comply

- 1 with the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852; or
- 2 (c) If the employer is participating in the Kentucky Employees Retirement  
3 System, request an estimate of the cost of voluntarily ceasing participation in  
4 the system prior to officially making a request to cease participation. For those  
5 Kentucky Employees Retirement System nonhazardous employers who are  
6 considering ceasing participating in the system under the provisions of  
7 subsection (8) of this section on June 30, 2021~~[2020]~~, the request for an  
8 estimate to voluntarily cease participating must be made prior to December  
9 31, 2020~~[2019]~~, and the estimate shall be provided to that employer within  
10 sixty (60) days of the request, except that no estimate shall be required to be  
11 provided prior to January 31, 2021~~[2020]~~;
- 12 (3) (a) If an employer desires to voluntarily cease participation in the Kentucky  
13 Employees Retirement System or the County Employees Retirement System  
14 as provided by subsection (2)(a) of this section:
- 15 1. The employer shall adopt a resolution requesting to cease participation  
16 in the system and shall submit the resolution to the board for its  
17 approval. The board shall not be able to deny a resolution to cease  
18 participation in the Kentucky Employees Retirement System for any  
19 employer who seeks to voluntarily cease participation in the system as  
20 provided by subsection (8) of this section;
  - 21 2. Except as provided by subsection (8)(d) of this section, the cessation of  
22 participation in the system shall apply to all employees of the employer;
  - 23 3. The employer shall pay for all administrative costs of an actuarial study  
24 to be completed by the Kentucky Retirement Systems' consulting actuary  
25 and for any other administrative costs for discontinuing participation in  
26 the system as determined by the board and as provided by this section;
  - 27 4. The employer shall provide an alternative retirement program for

1 employees who will no longer be covered by the system, which may  
2 include a voluntary defined contribution plan but, for Kentucky  
3 Employees Retirement System employers with effective cessation dates  
4 occurring on or after June 30, 2021~~[2020]~~, the alternative retirement  
5 program shall not include a defined benefit plan which by its nature can  
6 have an unfunded liability;

7 5. If the alternative retirement program established by the employer meets  
8 the qualification requirements under 26 U.S.C. sec. 401(a) or 26 U.S.C.  
9 sec. 403(b) and is capable of accepting trustee-to-trustee transfers of  
10 both pre-tax and post-tax contributions, employees of the employer  
11 ceasing participation may, except for those employees continuing to  
12 participate in the system as provided by subsection (8)(d)2. of this  
13 section, seek to transfer his or her account balance to the employer's  
14 qualified alternate retirement program within sixty (60) days of the  
15 employer's effective cessation date. An employee's election to transfer  
16 his or her account balance within sixty (60) days of the employer's  
17 effective cessation date is an irrevocable waiver of the right to obtain  
18 service credits in the system for the time worked for the employer  
19 ceasing participation;

20 6. The employer shall pay to the system by lump sum or in installments as  
21 provided by subsection (8) of this section, if eligible, the full actuarial  
22 cost, except as provided by subsection (8)(g)4. of this section, of the  
23 benefits accrued by its current and former employees in the system as  
24 determined separately for the pension fund and the insurance fund by the  
25 actuarial study required by subparagraph 3. of this paragraph. If the  
26 employer makes an election for employees to continue to participate in  
27 the system as provided by subsection (8)(d)2. of this section, the cost

1 shall also include the present value of future normal costs of those  
2 employees who will continue to participate in the system after the  
3 employer's effective cessation date. The full actuarial cost shall not  
4 include any employee who seeks a transfer of his or her account balance  
5 within sixty (60) days of the employer's effective cessation date as  
6 provided by subparagraph 5. of this paragraph. The actuarial cost shall  
7 be fixed, and the employer shall not be subject to any increases or  
8 subsequent adjustments, once the lump sum is paid or the installment  
9 payments have commenced; and

10 7. Kentucky Employees Retirement System employers ceasing  
11 participating under the provisions of subsection (8) of this section who  
12 elect to pay their actuarial costs by a lump sum shall make the full lump-  
13 sum payment by June 30, 2022~~[2021]~~, and shall pay interest on the  
14 principal amount beginning on July 1, 2021~~[2020]~~, equal to a rate of five  
15 and one-quarter percent (5.25%) per annum for pension costs and at a  
16 rate of six and one-quarter percent (6.25%) per annum for retiree health  
17 costs until the lump-sum payment is made. If the ceasing employer fails  
18 to make the full lump-sum payment by June 30, 2022~~[2021]~~, the ceasing  
19 employer shall make installments as provided by subsection (8)(g) of  
20 this section, and the ceasing employer shall have the costs recalculated  
21 based upon making installment payments as provided by this section and  
22 shall be required to make up any missed installment payments as  
23 determined by the system.

24 (b) If the board determines an employer must involuntarily cease participation in  
25 the system as provided by subsection (2)(b) of this section:

26 1. The cessation of participation in the system shall apply to all employees  
27 of the employer;

- 1           2.    The employer shall pay for all administrative costs of an actuarial study  
2                   to be completed by the Kentucky Retirement Systems' consulting actuary  
3                   and for any other administrative costs for discontinuing participation in  
4                   the system as determined by the board and as provided by this section;  
5                   and
- 6           3.    The employer shall pay by lump sum to the system the full actuarial cost  
7                   of the benefits accrued by its current and former employees in the  
8                   system as determined separately for the pension fund and the insurance  
9                   fund by the actuarial study required by subparagraph 2. of this  
10                  paragraph. The actuarial cost shall be fixed, and the employer shall not  
11                  be subject to any increases or subsequent adjustments, once the lump  
12                  sum is paid.

13                  A Kentucky Employees Retirement System employer who ceases participation  
14                  in the systems under this paragraph shall not establish or contribute to on  
15                  behalf of its employees a defined benefit plan which by its nature can have an  
16                  unfunded liability;

17 (4) Any employee hired on or after the employer's effective cessation date by an  
18 employer who has ceased participation in the system as provided by this section  
19 shall not, regardless of his or her membership date in the systems administered by  
20 Kentucky Retirement Systems, be eligible to participate in the Kentucky Employees  
21 Retirement System or the County Employees Retirement System through the  
22 employer that ceased participation for the duration of his or her employment with  
23 that employer;

24 (5) If an employer has ceased participation in the system as provided by this section:  
25 (a) The rights of recipients and the vested rights of inactive members accrued as  
26 of the employer's effective cessation date shall not be impaired or reduced in  
27 any manner as a result of the employer ceasing participation in the system; and

1 (b) Except as provided by subsection (8)(d)2. of this section, employees of the  
2 employer ceasing participation shall accrue benefits through the employer's  
3 effective cessation date but shall not accrue any additional benefits in the  
4 Kentucky Employees Retirement System or the County Employees Retirement  
5 System, including earning years of service credit through the ceased employer,  
6 after the employer's effective cessation date for as long as they remain  
7 employed by the employer. The day after the employer's effective cessation  
8 date, each employee described by this paragraph, except as provided by  
9 subsection (8)(d)2. of this section, shall be considered an inactive member  
10 with respect to his or her employment with the employer that ceased  
11 participation and, subject to the provisions and limitations of KRS 61.510 to  
12 61.705 and 78.510 to 78.852, shall:

- 13 1. Retain his or her accounts with the Kentucky Employees Retirement  
14 System or the County Employees Retirement System and have those  
15 accounts credited with interest in accordance with KRS 61.510 to  
16 61.705 and 78.510 to 78.852;
- 17 2. Retain his or her vested rights in accordance with paragraph (a) of this  
18 subsection; and
- 19 3. Be eligible to take a refund of his or her accumulated account balance in  
20 accordance with KRS 61.625 or any other available distribution if  
21 eligible;

22 (6) (a) Kentucky Employees Retirement System employers who are county attorney  
23 offices, Commonwealth's attorney offices, local and district health  
24 departments governed by KRS Chapter 212, master commissioners, executive  
25 branch agencies whose employees are subject to KRS 18A.005 to 18A.200,  
26 state-administered retirement systems, state-supported universities and  
27 community colleges, property valuation administration offices, or employers

1 in the legislative or judicial branch of Kentucky state government, shall not be  
2 eligible to voluntarily discontinue participation in the Kentucky Employees  
3 Retirement System, except that:

- 4 1. Any employer who is a nonstock nonprofit corporation organized under  
5 KRS Chapter 273 may voluntarily cease participation; and
- 6 2. Local and district health departments governed by KRS Chapter 212,  
7 state-supported universities and community colleges, and the Kentucky  
8 Higher Education Student Loan Corporation may voluntarily cease  
9 participation in the Kentucky Employees Retirement System solely  
10 under the provisions and requirements of subsection (8) of this section.

11 (b) Only the employers in the County Employees Retirement System who are a  
12 nonstock nonprofit corporation organized under KRS Chapter 273 may  
13 voluntarily cease participation in the County Employees Retirement System;

14 (7) For purposes of this section, the full actuarial cost shall be determined by the  
15 Kentucky Retirement Systems' consulting actuary separately for the pension fund  
16 and the insurance fund using the assumptions and methodology established by the  
17 system specifically for determining the full actuarial cost of ceasing participation as  
18 of the employer's effective cessation date. For purposes of determining the full  
19 actuarial cost, the assumed rate of return used to calculate the cost shall be the lesser  
20 of the assumed rate of return utilized in the system's most recent actuarial valuation  
21 or the yield on a thirty (30) year United States treasury bond as of the employer's  
22 effective cessation date, but shall in no case be lower than:

23 (a) Except as provided by paragraphs (b) to (e) of this subsection, the assumed  
24 rate of return utilized in the system's most recent actuarial valuation minus  
25 three and one-half percent (3.5%);

26 (b) Four and one-half percent (4.5%) for those Kentucky Employees Retirement  
27 System employers who voluntarily cease participation under the provisions of

1 subsection (8) of this section who pay the costs of ceasing participation by  
2 lump-sum payment by June 30, 2022~~[2021]~~, and who do not make an election  
3 for their employees to continue to participate in the system after the  
4 employer's effective cessation date as provided by subsection (8)(d)3. of this  
5 section;

6 (c) Three and one-half percent (3.5%) for those Kentucky Employees Retirement  
7 System employers who voluntarily cease participation under the provisions of  
8 subsection (8) of this section who pay the costs of ceasing participation by  
9 lump-sum payment by June 30, 2022~~[2021]~~, and who do make an election for  
10 employees to continue to participate in the system after the employer's  
11 effective cessation date as provided by subsection (8)(d)2. of this section;

12 (d) Three and one-half percent (3.5%) for those Kentucky Employees Retirement  
13 System employers who voluntarily cease participation under the provisions of  
14 subsection (8) of this section who pay the costs of ceasing participation by  
15 installment payments and who do not make an election for employees to  
16 continue to participate in the system after the employer's effective cessation  
17 date as provided by subsection (8)(d)3. of this section; or

18 (e) Three percent (3%) for those Kentucky Employees Retirement System  
19 employers who voluntarily cease participation under the provisions of  
20 subsection (8) of this section who pay the costs of ceasing participation by  
21 installment payments and who do make an election for employees to continue  
22 to participate in the system after the employer's effective cessation date as  
23 provided by subsection (8)(d)2. of this section;

24 (8) Notwithstanding the provisions of this section, any Kentucky Employees  
25 Retirement System employer who is eligible to voluntarily cease participating as  
26 provided by subsection (6) of this section may, on or after April 1, 2021~~[2020]~~, but  
27 prior to May 1, 2021~~[2020]~~, elect to voluntarily cease participating in the systems

1 for its nonhazardous employees by submitting a resolution in accordance with  
2 subsection (3)(a)1. of this section. If an employer makes an election to voluntarily  
3 cease participation by submitting a resolution as provided by this subsection:

4 (a) The board shall accept any election to cease participation on or before June  
5 30, 2021~~[2020]~~, and the employer's effective cessation date shall be June 30,  
6 2021~~[2020]~~. Prior to May 1, 2021~~[2020]~~, an employer may rescind a  
7 previously submitted election to cease participation;

8 (b) Nonhazardous employees hired on or after the employer's effective cessation  
9 date by an employer who has ceased participation in the system as provided by  
10 this section shall not, regardless of his or her membership date in the systems  
11 administered by Kentucky Retirement Systems, be eligible to participate in the  
12 Kentucky Employees Retirement System through the employer that ceased  
13 participation for the duration of his or her employment with that ceasing  
14 employer;

15 (c) Nonhazardous employees hired prior to the employer's effective cessation  
16 date, who began participating in the systems administered by Kentucky  
17 Retirement Systems on or after January 1, 2014, and who are participating in  
18 the hybrid cash balance plan as provided by KRS 61.597, shall continue to  
19 contribute and earn service credit in the systems through the employer's  
20 effective cessation date. After the employer's effective cessation date, the  
21 employee shall participate in the alternative retirement plan established by the  
22 employer as provided by subsection (3)(a)4. of this section. A nonhazardous  
23 employee covered by this paragraph who elects to transfer his or her account  
24 balance within sixty (60) days of the employer's effective cessation date as  
25 provided by subsection (3)(a)5. of this section, shall, notwithstanding KRS  
26 61.597, receive a transfer of the employee's accumulated account balance,  
27 including the entire accumulated employer credit, regardless of the employee's

1           years of service credit;

- 2           (d) 1. The employer shall, in the resolution submitted in accordance with  
3           subsection (3)(a)1. of this section, make an election as to whether or not  
4           nonhazardous employees hired prior to the employer's effective  
5           cessation date, who began participating in the systems administered by  
6           Kentucky Retirement Systems prior to January 1, 2014, who are  
7           participating in the systems administered by Kentucky Retirement  
8           Systems through the employer, will continue to participate in the system  
9           after the employer's effective cessation date.
- 10          2. If the employer makes an election for the employees described by this  
11          paragraph to continue participating in the system after the employer's  
12          effective cessation date, these employees will continue to contribute and  
13          earn service credit in the systems for as long as they remain employed by  
14          the employer in a regular full-time position that is eligible to participate  
15          in the systems, except in the event the employer fails to make  
16          installment payments as provided by KRS 61.675(4). Any costs for the  
17          present value of future normal costs of the employees covered by this  
18          subparagraph who will contribute and earn service in the system after  
19          the employer's effective cessation date shall be included in the cost  
20          calculation established by subsection (7) of this section.
- 21          3. If the employer does not make an election for the employees described  
22          by this paragraph to continue participating in the system after the  
23          employer's effective cessation date, these employees shall continue to  
24          contribute and earn service credit in the systems through the employer's  
25          effective cessation date. After the employer's effective cessation date,  
26          these employees shall participate in the alternative retirement plan  
27          established by the employer as provided by subsection (3)(a)4. of this

1 section;

2 (e) The cost of ceasing participating to an individual employer shall be equal to  
3 the cost determined under subsection (7) of this section and shall include the  
4 costs of those employees who continue to participate in the system as  
5 provided by paragraph (d)2. of this subsection;

6 (f) The employer may pay the full actuarial cost of ceasing participation by lump-  
7 sum payment or in installments as provided by paragraph (g) of this  
8 subsection;

9 (g) If the employer elects to pay the costs in installment payments, the cost of  
10 ceasing participation as provided by this subsection shall be financed by the  
11 systems using the following method:

12 1. Annual payments occurring on or after July 1, 2021~~[2020]~~, shall be a set  
13 dollar value and shall be paid in monthly installments. In fiscal year  
14 2021-2022~~[2020-2021]~~, the set dollar value shall be equal to the higher  
15 of the actual contributions paid by the employer in fiscal year 2020-  
16 2021~~[2019-2020]~~ or the annualized average of the creditable  
17 compensation reported to the systems by the ceasing employer over the  
18 last sixty (60) months occurring prior to July 1, 2019, for which  
19 contributions were paid by the ceasing employer, and multiplied by an  
20 employer rate of forty-nine and forty-seven one-hundredths percent  
21 (49.47%). Annual payments, for fiscal years occurring on or after July 1,  
22 2022~~[2021]~~, which shall be paid monthly, shall be increased by one and  
23 one-half percent (1.5%) annually and shall be paid until the cost as  
24 provided by subsection (7) of this section and as adjusted annually by  
25 subparagraphs 2. and 3. of this paragraph are paid in full or until an  
26 employer as described by subparagraph 4. of this paragraph has paid for  
27 thirty (30) years from the effective cessation date;

- 1           2. Interest shall be assigned to the principal amount annually beginning on  
2           July 1, 2021[2020], and for each July 1 thereafter, that is equal to a rate  
3           of five and one-quarter percent (5.25%) per annum for pension costs and  
4           at a rate of six and one-quarter percent (6.25%) per annum for retiree  
5           health costs;
- 6           3. If an employer is not projected by the systems to pay off the full  
7           actuarial costs to cease participation with interest as provided by  
8           subparagraph 2. of this paragraph at the conclusion of the thirty (30) year  
9           installment period from the employer's effective cessation date, and the  
10          employer makes an election for employees to continue to participate in  
11          the system after the employer's effective cessation date as provided by  
12          paragraph (d)2. of this subsection, then the systems shall adjust the base  
13          value for the first annual payments occurring on or after July 1,  
14          2021[2020], in order to keep the maximum period of installments to  
15          thirty (30) years; and
- 16          4. If an employer is not projected by the systems to pay off the full  
17          actuarial costs to cease participation with interest as provided by  
18          subparagraph 2. of this paragraph at the conclusion of the thirty (30) year  
19          installment period from the employer's effective cessation date, and the  
20          employer does not make an election for employees to continue to  
21          participate in the system after the employer's effective cessation date as  
22          provided by paragraph (d)3. of this subsection, the employer shall pay  
23          the amount determined by subparagraph 1. of this paragraph for thirty  
24          (30) years from the effective cessation date and no additional costs shall  
25          be billed to a ceasing employer after the conclusion of the thirty (30)  
26          year period nor shall the employer be subject to adjustments under  
27          subparagraph 3. of this paragraph. The system may request in future

1 biennial executive branch budgets the additional funding needed on an  
2 annual basis to fully pay off the installments at the conclusion of the  
3 thirty (30) year period for the employers described by this paragraph,  
4 and it is the intent of the General Assembly to pay the additional funding  
5 needed by appropriation in the biennial executive branch budget.

6 An employer ceasing participation who is making installment payments as  
7 provided by this paragraph may at any time pay off a portion of the remaining  
8 balance or the entire remaining balance and shall not be charged any interest  
9 for periods beyond the pay-off date for the balance that is paid off;

10 (h) Kentucky Employees Retirement System employers eligible to cease  
11 participation under the provisions of this subsection who do not make an  
12 election to cease participation in the system prior to May 1, 2021~~[2020]~~, shall  
13 be required to pay the full actuarially determined contributions established by  
14 KRS 61.565 and 61.702 for fiscal years occurring on or after July 1,  
15 2021~~[2020]~~; and

16 (i) Kentucky Employees Retirement System employers who elect to cease  
17 participation in the system as provided by this subsection who are currently  
18 receiving a distribution of general fund appropriations in the biennial  
19 executive branch budget under the provisions of 2018 Ky. Acts ch. 169, Part I,  
20 G., 4., (5), 2018 Ky. Acts ch. 169, Part I, G., 5., (2), or 2018 Ky. Acts ch. 169,  
21 Part I, G., 9., (2) to help pay employer contributions to the system shall  
22 continue to receive the same level of distribution of general fund  
23 appropriations to help pay the costs of ceasing participation until such time  
24 that the employer's full actuarial costs of ceasing participation are paid off;

25 (9) The Kentucky Retirement Systems shall promulgate administrative regulations  
26 pursuant to KRS Chapter 13A to administer this section;

27 (10) (a) Any employer who voluntarily ceases participation, or who is required to

1 involuntarily cease participation as provided in this section, shall hold the  
2 Commonwealth and the Kentucky Retirement Systems, including board  
3 members and employees of the Kentucky Retirement Systems, harmless from  
4 damages, attorney's fees and costs from legal claims for any cause of action  
5 brought by any member or retired member of the departing employer related  
6 to the employer's cessation of participation as set forth in this section.

7 (b) Any employer who is voluntarily ceasing participation under the provisions of  
8 subsection (8) of this section shall be required to pledge any security in any  
9 relevant real estate, chattel paper, deposit accounts, documents, goods covered  
10 by documents, instruments, investment property, letters of credit rights, and  
11 money to the costs of ceasing participation until all costs of ceasing  
12 participation are paid in full; and

13 (11) Notwithstanding any other provision of statute to the contrary, the provisions of  
14 KRS 61.510 to 61.705 and 78.510 to 78.852, and the administrative regulations  
15 promulgated thereunder, shall prevail regarding any question of participation in the  
16 systems of any employer or any employee of an employer who ceases participation  
17 in the Kentucky Employees Retirement System.