

1 AN ACT relating to retirement.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) *Effective April 1, 2021:*

6 (a) *Except as provided by Section 2 of this Act, the administration of the*
7 *County Employees Retirement System shall be transferred from the*
8 *Kentucky Retirement Systems board of trustees to the County Employees*
9 *Retirement System board of trustees established by Section 3 of this Act.*

10 (b) *Except as provided by Section 2 of this Act, the administration of the*
11 *Kentucky Employees Retirement System and the State Police Retirement*
12 *System shall continue to be the responsibility of the Kentucky Retirement*
13 *Systems board of trustees as amended by Section 4 of this Act.*

14 (c) *The Kentucky Public Pensions Authority established by Section 2 of this Act*
15 *shall provide personnel needs, day-to-day administrative needs, and other*
16 *duties specified by Section 2 of this Act to the Kentucky Retirement Systems*
17 *board of trustees and the County Employees Retirement System board of*
18 *trustees. The staff of the Kentucky Retirement Systems shall become the*
19 *staff of the Kentucky Public Pensions Authority.*

20 (2) *It is the intent of the General Assembly to enact legislation in the 2021 Regular*
21 *Session to create separate statutory structures as it relates to benefits for the*
22 *Kentucky Retirement Systems and the County Employees Retirement System that*
23 *are currently shared by the Kentucky Employees Retirement System, the County*
24 *Employees Retirement System, and the State Police Retirement System while*
25 *retaining shared statutes that relate to administrative provisions that will be the*
26 *responsibility of the Kentucky Public Pensions Authority.*

27 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) There is created an eight (8) member Kentucky Public Pensions Authority whose
3 purpose shall be to administer and operate:

4 (a) A single personnel system for the staffing needs of the Kentucky Retirement
5 Systems and the County Employees Retirement System;

6 (b) A system of accounting that is developed by the authority for the Kentucky
7 Retirement Systems and the County Employees Retirement System;

8 (c) Day-to-day administrative needs of the Kentucky Retirement Systems and
9 the County Employees Retirement System including but not limited to:

10 1. Benefit counseling and administration;

11 2. Information technology and services, including a centralized Web site
12 for the authority, the Kentucky Retirement Systems, and the County
13 Employees Retirement System;

14 3. Legal services;

15 4. Employer reporting and compliance;

16 5. Processing and distribution of benefit payments, and other financial,
17 investment administration, and accounting duties as directed by the
18 Kentucky Retirement Systems board of trustees or the County
19 Employees Retirement System board of trustees; and

20 6. Completing and compiling financial data and reports.

21 (d) Any jointly held assets used for the administration of the Kentucky
22 Retirement Systems and the County Employees Retirement System,
23 including but not limited to real estate, office space, equipment, and
24 supplies. Perimeter Park West Incorporated shall be considered a jointly
25 held asset; and

26 (e) Other tasks or duties as directed solely or jointly by the boards of the
27 Kentucky Retirement Systems or the County Employees Retirement System.

1 (2) The eight (8) member Kentucky Public Pensions Authority shall be composed of
2 the following individuals:

3 (a) The chair of the Kentucky Retirement Systems board of trustees;

4 (b) The chair of the County Employees Retirement System board of trustees;

5 (c) The investment committee chair of the Kentucky Retirement Systems board
6 of trustees, unless the investment committee chair is also the chair of the
7 board of trustees in which case the chair of the Kentucky Retirement
8 Systems shall appoint an individual who serves on the investment
9 committee;

10 (d) The investment committee chair of the County Employees Retirement
11 System board of trustees, unless the investment committee chair is also the
12 chair of the County Employees Retirement System board of trustees in
13 which case the chair of the County Employees Retirement System shall
14 appoint an individual who serves on the investment committee;

15 (e) Two additional (2) trustees of the Kentucky Retirement Systems board of
16 trustees selected by the chair of the Kentucky Retirement Systems board of
17 trustees of which one (1) shall be a trustee who was elected by the
18 membership of one (1) of the systems administered by Kentucky Retirement
19 Systems and one (1) shall be a trustee of Kentucky Retirement Systems who
20 was appointed by the Governor; and

21 (f) Two additional (2) trustees of the County Employees Retirement System
22 board of trustees selected by the chair of the County Employees Retirement
23 System board of trustees of which one (1) shall be a trustee who was elected
24 by the membership of the County Employees Retirement System and one (1)
25 shall be a trustee of the County Employees Retirement System who was
26 appointed by the Governor.

27 (3) The Kentucky Public Pensions Authority is hereby granted the powers and

1 privileges of a corporation, including but not limited to the following powers:

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

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

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

6 (d) To carry out the obligations of the authority subject to KRS Chapters 45,
7 45A, 56, and 57;

8 (e) To purchase fiduciary liability insurance;

9 (f) The Kentucky Public Pensions Authority shall reimburse any authority
10 member, officer, or employee for any legal expense resulting from a civil
11 action arising out of the performance of his or her official duties. The
12 hourly rate of reimbursement for any contract for legal services under this
13 paragraph shall not exceed the maximum hourly rate provided in the Legal
14 Services Duties and Maximum Rate Schedule promulgated by the
15 Government Contract Review Committee established pursuant to KRS
16 45A.705, unless a higher rate is specifically approved by the secretary of the
17 Finance and Administration Cabinet or his or her designee.

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

24 (5) (a) Membership on the authority shall not be incompatible with any other
25 office unless a constitutional incompatibility exists. No authority member
26 shall serve in more than one (1) position as a member of the authority.

27 (b) An authority member shall be removed from office upon conviction of a

1 felony or for a finding of a violation of any provision of KRS 11A.020 or
2 11A.040 by a court of competent jurisdiction.

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

6 (6) Kentucky Public Pensions Authority members who do not otherwise receive a
7 salary from the State Treasury shall receive a per diem of eighty dollars (\$80) for
8 each day they are in session or on official duty, and they shall be reimbursed for
9 their actual and necessary expenses in accordance with state administrative
10 regulations and standards, except that the members shall not receive a per diem
11 or receive reimbursements on the same day they receive a per diem or
12 reimbursements for service to the Kentucky Retirement Systems board of trustees
13 or County Employees Retirement Systems board of trustees.

14 (7) (a) The authority shall meet at least once in each quarter of the year and may
15 meet in special session upon the call of the chair or the executive director of
16 the authority.

17 (b) The authority shall elect a chair and a vice chair. The chair shall not serve
18 more than four (4) consecutive years as chair or vice chair of the authority.
19 The vice chair shall not serve more than four (4) consecutive years as chair
20 or vice chair of the authority. A member who has served four (4)
21 consecutive years as chair or vice chair of the authority may be elected
22 chair or vice chair of the authority after an absence of two (2) years from
23 the positions.

24 (c) A majority of the authority members shall constitute a quorum and all
25 actions taken by the authority shall be by affirmative vote of a majority of
26 the authority members present.

27 (d) The authority shall post on the authority's Web site and shall make

1 available to the public:

2 1. All meeting notices and agendas of the authority. Notices and agendas
3 shall be posted to the authority's Web site at least seventy-two (72)
4 hours in advance of the authority's meetings, except in the case of
5 special or emergency meetings as provided by KRS 61.823;

6 2. All authority minutes or other materials that require adoption or
7 ratification by the authority. The items listed in this subparagraph
8 shall be posted within seventy-two (72) hours of adoption or
9 ratification of the authority;

10 3. All bylaws, policies, or procedures adopted or ratified by the authority;
11 and

12 4. A listing of the members of the authority and membership on each
13 committee established by the authority.

14 (8) (a) The Kentucky Public Pensions Authority shall appoint or contract for the
15 services of an executive director and fix the compensation and other terms
16 of employment for this position without limitation of the provisions of KRS
17 Chapter 18A and Section 30 of this Act. The executive director shall be the
18 chief administrative officer of the authority, the Kentucky Retirement
19 Systems board of trustees, and the County Employees Retirement System
20 board of trustees. The executive director shall work cooperatively with the
21 chief executive officers of the Kentucky Retirement Systems and the County
22 Employees Retirement System.

23 (b) The Kentucky Public Pensions Authority shall authorize the executive
24 director to appoint the employees deemed necessary to transact the duties of
25 the authority for the purposes outlined in subsection (1) of this section.
26 Anything in the Kentucky Revised Statutes to the contrary notwithstanding,
27 the power over and control of determining and maintaining an adequate

1 complement of employees shall be under the exclusive jurisdiction of the
2 authority.

3 (c) Effective April 1, 2021, the Kentucky Public Pensions Authority shall
4 assume responsibility of administering the staff of the Kentucky Retirement
5 Systems in order to provide the services established by this section. Effective
6 July 1, 2021, all employees of the Kentucky Retirement Systems shall be
7 transferred to a personnel system adopted by the Kentucky Public Pensions
8 Authority. Employees of the Kentucky Public Pensions Authority covered by
9 the personnel system adopted by the authority shall be:

10 1. Notwithstanding KRS 61.520, provided retirement coverage in the
11 Kentucky Employees Retirement System in accordance with KRS
12 61.510 to 61.705;

13 2. Provided the same health insurance coverage as all other state
14 government employees as provided in Section 15 of this Act;

15 3. Eligible to participate in the deferred compensation system provided
16 for all state government employees as provided in KRS 18A.230 to
17 18A.275;

18 4. Provided the same life insurance coverage provided all state employees
19 as provided in KRS 18A.205 to 18A.215;

20 5. Reimbursed for all reasonable and necessary travel expenses and
21 disbursements incurred or made in the performance of official duties
22 in accordance with KRS Chapter 45;

23 6. Ensured equal employment opportunity regardless of race, color,
24 gender, religion, national origin, disability, sexual orientation, or age;

25 7. Given those holidays and rights granted to state employees as provided
26 in KRS 18A.190;

27 8. Paid a salary not less than the salary paid as of the date of transfer to

1 the personnel system, unless voluntarily demoted or involuntarily
2 demoted for cause;

3 9. Credited with all accumulated sick leave, compensatory time, and
4 annual leave accumulated in accordance with KRS Chapter 18A, and
5 for an employee leaving service, the authority shall attest to the
6 employee's accumulated sick leave, compensatory time, and annual
7 leave which shall be credited with other employers to the extent
8 provided for by statute or policy;

9 10. Classified with status upon transfer to the personnel system on July 1,
10 2021, if the employee was classified with status as a merit employee
11 under KRS Chapter 18A. Any employee of the Kentucky Retirement
12 Systems transferred on July 1, 2021, during the probationary period
13 before earning classified status as a merit system employee under KRS
14 Chapter 18A shall transfer all accrued probationary time and the time
15 shall be credited to the probationary time required to attain classified
16 status in the personnel system;

17 11. Ensured a grievance appeal procedure and the employee's right to
18 have a representative present at each step of the grievance procedure;
19 and

20 12. Ensured of the right of appeal in a manner consistent with the
21 provisions of KRS 18A.095 to the Kentucky Personnel Board and
22 employees classified with status in the personnel system shall not be
23 dismissed, demoted, suspended, or otherwise penalized except for
24 cause.

25 (d) The Kentucky Public Pensions Authority shall adopt a fair, equitable, and
26 comprehensive personnel policy with a minimum of the following
27 provisions for the personnel system:

- 1 1. A code of conduct including provisions describing performance of
2 duties, abuse of position, conflicts of interest, and outside
3 employment;
- 4 2. An appointments plan including provisions describing the appointing
5 authority, appointments, equal employment policy, sexual harassment
6 policy, and drug-free workplace policy;
- 7 3. A classification plan including provisions describing class
8 specifications, position actions, and employee actions;
- 9 4. A compensation plan based on qualifications, experience, and
10 responsibilities and including provisions which describe a salary
11 schedule, salary adjustments, and salary advancements;
- 12 5. Separations, disciplinary actions, and appeal policies including
13 provisions describing classified with status, exemptions from classified
14 with status, lay-offs, abolishment of position, dismissals and
15 notification of dismissal, dismissals during probationary period,
16 disciplinary actions, right of appeal, grievance and appeal procedures,
17 and an employee grievance and appeal committee;
- 18 6. Service and benefits regulations including provisions describing hours
19 of work, fringe benefits, workers' compensation, payroll deductions,
20 holidays, inclement weather days, compensatory time, retirement,
21 resignations, employee evaluations, and political activities; and
- 22 7. Leave policies including provisions describing special leave, annual
23 leave, court leave and jury duty, military leave, voting leave,
24 educational leave, sick leave, family medical leave, leave without pay,
25 absence without leave, and blood donation leave.
- 26 (e) The authority shall annually report to the Public Pension Oversight Board
27 the number of employees of the authority, the salary paid to each employee,

1 and the change in the salaries of each individual employed by the authority
2 over the prior year.

3 (f) The authority shall require the executive director and the employees as it
4 thinks proper to execute bonds for the faithful performance of their duties
5 notwithstanding the limitations of KRS Chapter 62.

6 (g) Notwithstanding any other provision of statute to the contrary, including
7 but not limited to any provision of KRS Chapter 12, the Governor shall have
8 no authority to change any provision of this section by executive order or
9 action including but not limited to reorganizing, replacing, amending, or
10 abolishing the membership of the Kentucky Public Pensions Authority.

11 (9) All employees of the authority shall serve during its will and pleasure.
12 Notwithstanding any statute to the contrary, employees shall not be considered
13 legislative agents under KRS 6.611.

14 (10) The Attorney General, or an assistant designated by him or her, may attend each
15 meeting of the authority and may receive the agenda, board minutes, and other
16 information distributed to authority members upon request. The Attorney
17 General may act as legal adviser and attorney for the authority, and the authority
18 may contract for legal services, notwithstanding the limitations of KRS Chapter
19 12 or 13B.

20 (11) All expenses incurred by or on behalf of the Kentucky Public Pensions Authority
21 shall be paid by the systems administered by the Kentucky Retirement Systems or
22 the County Employees Retirement System and shall be prorated, assigned, or
23 allocated to each system as determined by Kentucky Public Pensions Authority.

24 (12) (a) An authority member shall discharge his or her duties as a member of the
25 authority, including his or her duties as a member of a committee of the
26 authority:

27 1. In good faith;

1 2. On an informed basis; and

2 3. In a manner he or she honestly believes to be in the best interest of the
3 County Employees Retirement System and the Kentucky Retirement
4 Systems, as applicable.

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

10 (c) In discharging his or her duties, an authority member may rely on
11 information, opinions, reports, or statements, including financial
12 statements and other financial data, if prepared or presented by:

13 1. One (1) or more officers or employees of the authority whom the
14 authority member honestly believes to be reliable and competent in the
15 matters presented;

16 2. Legal counsel, public accountants, actuaries, or other persons as to
17 matters the authority member honestly believes are within the person's
18 professional or expert competence; or

19 3. A committee of the authority of which he or she is not a member if the
20 authority member honestly believes the committee merits confidence.

21 (d) An authority member shall not be considered as acting in good faith if he or
22 she has knowledge concerning the matter in question that makes reliance
23 otherwise permitted by paragraph (c) of this subsection unwarranted.

24 (e) Any action taken as a member of the authority, or any failure to take any
25 action as an authority member, shall not be the basis for monetary damages
26 or injunctive relief unless:

27 1. The authority member has breached or failed to perform the duties of

1 the member's office in compliance with this section; and

2 2. In the case of an action for monetary damages, the breach or failure
3 to perform constitutes willful misconduct or wanton or reckless
4 disregard for human rights, safety, or property.

5 (f) A person bringing an action for monetary damages under this section shall
6 have the burden of proving by clear and convincing evidence the provisions
7 of paragraph (e)1. and 2. of this subsection, and the burden of proving that
8 the breach or failure to perform was the legal cause of damages suffered by
9 the Kentucky Retirement Systems or County Employees Retirement System,
10 as applicable.

11 (g) In discharging his or her administrative duties under this section, an
12 authority member shall strive to administer the systems in an efficient and
13 cost-effective manner for the taxpayers of the Commonwealth of Kentucky.

14 ➔SECTION 3. A NEW SECTION OF KRS 78.510 TO 78.852 IS CREATED TO
15 READ AS FOLLOWS:

16 (1) The County Employees Retirement System shall be administered by the board of
17 trustees composed of nine (9) members, who shall be selected as follows:

18 (a) Three (3) trustees, who shall be members or retired from the County
19 Employees Retirement System, elected by the members and retired members
20 of the County Employees Retirement System, of which:

21 1. Two (2) shall have a majority of his or her service credit earned in the
22 County Employees Retirement System in a nonhazardous position;
23 and

24 2. One (1) shall have a majority of his or her service credit earned in the
25 County Employees Retirement System in a hazardous position;

26 (b) Six (6) trustees appointed by the Governor, subject to Senate confirmation
27 in accordance with KRS 11.160 for each appointment or reappointment. Of

1 the six (6) trustees appointed by the Governor:

2 1. One (1) trustee with retirement experience shall be appointed from a
3 list of three (3) applicants submitted by the Kentucky League of Cities;

4 2. One (1) trustee with investment experience shall be appointed from a
5 list of three (3) applicants submitted by the Kentucky League of Cities;

6 3. One (1) trustee with retirement experience shall be appointed from a
7 list of three (3) applicants submitted by the Kentucky Association of
8 Counties;

9 4. One (1) trustee with investment experience shall be appointed from a
10 list of three (3) applicants submitted by the Kentucky Association of
11 Counties;

12 5. One (1) trustee with retirement experience shall be appointed from a
13 list of three (3) applicants submitted by the Kentucky School Boards
14 Association; and

15 6. One (1) trustee with investment experience shall be appointed from a
16 list of three (3) applicants submitted by the Kentucky School Boards
17 Association.

18 Notwithstanding the provisions of KRS 12.070(3), the Governor shall
19 appoint each individual trustee described by subparagraphs 1. to 6. of this
20 paragraph solely from each corresponding individual list required to be
21 submitted by the Kentucky League of Cities, the Kentucky Association of
22 Counties, or the Kentucky School Boards Association as provided by
23 subparagraphs 1. to 6. of this paragraph, and the Governor shall not be able
24 to reject the list of applicants submitted, request that another list be
25 provided, or use a list different from the one (1) individual list required to be
26 submitted for each specific appointment.

27 (c) For purposes of paragraph (b) of this subsection, a trustee with "investment

1 experience" means an individual who does not have a conflict of interest, as
2 provided by KRS 61.655, and who has at least ten (10) years of experience
3 in one (1) of the following areas of expertise:

4 1. A portfolio manager acting in a fiduciary capacity;

5 2. A professional securities analyst or investment consultant;

6 3. A current or retired employee or principal of a trust institution,
7 investment or finance organization, or endowment fund acting in an
8 investment-related capacity;

9 4. A chartered financial analyst in good standing as determined by the
10 CFA Institute; or

11 5. A university professor, teaching investment-related studies.

12 (d) For purposes of paragraph (b) of this subsection, a trustee with "retirement
13 experience" means an individual who does not have a conflict of interest, as
14 provided by KRS 61.655, and who has at least ten (10) years of experience
15 in one (1) of the following areas of expertise:

16 1. Experience in retirement or pension plan management;

17 2. A certified public accountant with relevant experience in retirement or
18 pension plan accounting;

19 3. An actuary with relevant experience in retirement or pension plan
20 consulting;

21 4. An attorney licensed to practice law in the Commonwealth of
22 Kentucky with relevant experience in retirement or pension plans; or

23 5. A current or former university professor whose primary area of
24 emphasis is economics or finance.

25 (2) The board is hereby granted the powers and privileges of a corporation, including
26 but not limited to the following powers:

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

- 1 **(b) To make bylaws not inconsistent with the law;**
- 2 **(c) To conduct the business and promote the purposes for which it was formed;**
- 3 **(d) Except as provided in subsection (6) of Section 5 of this Act, to contract for**
- 4 **investment counseling, actuarial, auditing, medical, and other professional**
- 5 **or technical services as required to carry out the obligations of the board**
- 6 **subject to the provisions of KRS Chapters 45, 45A, 56, and 57;**
- 7 **(e) To purchase fiduciary liability insurance;**
- 8 **(f) Except as provided in subsection (6) of Section 5 of this Act, to acquire,**
- 9 **hold, sell, dispose of, pledge, lease, or mortgage, the goods or property**
- 10 **necessary to exercise the board's powers and perform the board's duties**
- 11 **subject to KRS Chapters 45, 45A, and 56; and**
- 12 **(g) The board shall reimburse any trustee, officer, or employee for any legal**
- 13 **expense resulting from a civil action arising out of the performance of his**
- 14 **or her official duties. The hourly rate of reimbursement for any contract for**
- 15 **legal services under this paragraph shall not exceed the maximum hourly**
- 16 **rate provided in the Legal Services Duties and Maximum Rate Schedule**
- 17 **promulgated by the Government Contract Review Committee established**
- 18 **pursuant to KRS 45A.705, unless a higher rate is specifically approved by**
- 19 **the secretary of the Finance and Administration Cabinet or his or her**
- 20 **designee.**
- 21 **(3) Notwithstanding the provisions of subsection (1) of this section, each trustee shall**
- 22 **serve a term of four (4) years or until his or her successor is duly qualified except**
- 23 **as otherwise provided in this section. An elected or appointed trustee, shall not**
- 24 **serve more than three (3) consecutive four (4) year terms. An elected or appointed**
- 25 **trustee who has served three (3) consecutive terms may be elected or appointed**
- 26 **again after an absence of four (4) years from the board.**
- 27 **(4) (a) The trustees selected by the membership of the system shall be elected by**

1 ballot. For each trustee to be elected, the board may nominate, not less than
2 six (6) months before a term of office of a trustee is due to expire, three (3)
3 constitutionally eligible individuals.

4 (b) Individuals may be nominated by the system members by presenting to the
5 executive director, not less than four (4) months before a term of office of a
6 trustee is due to expire, a petition, bearing the name, last four digits of the
7 Social Security number, and signature of no less than one-tenth (1/10) of
8 the number voting in the last election by the system members.

9 (c) Within four (4) months of the nominations made in accordance with
10 paragraphs (a) and (b) of this subsection, the executive director shall cause
11 to be prepared an official ballot. The ballot shall carry the name, address,
12 and position title of each individual nominated by the board and by petition.
13 Provision shall also be made for write-in votes.

14 (d) Except as provided by paragraph (j) of this subsection, the ballots shall be
15 distributed to the eligible voters by mail to their last known residence
16 address.

17 (e) The ballots shall be addressed to the County Employees Retirement System
18 in care of a predetermined box number at a United States Post Office or
19 submitted electronically as provided by paragraph (j) of this subsection.
20 Access to this post office box shall be limited to the board's contracted firm.
21 The individual receiving a plurality of votes shall be declared elected.

22 (f) The eligible voter shall cast his or her ballot by selecting the candidate of
23 his or her choice. He or she shall sign and mail the ballot or submit the
24 electronic ballot at least thirty (30) days prior to the date the term to be filled
25 is due to expire. The latest mailing date, or date of submission in the case of
26 electronic ballots, shall be provided on the ballot.

27 (g) The board's contracted firm shall report in writing the outcome to the chair

1 of the board of trustees. Costs of an election shall be payable from the funds
2 of the system.

3 (h) For purposes of this subsection, an eligible voter shall be a person who was
4 a member of the system on December 31 of the year preceding the election
5 year.

6 (i) Each individual who submits a request to be nominated by the board under
7 paragraph (a) of this subsection and each individual who is nominated by
8 the membership under paragraph (b) of this subsection shall:

9 1. Complete an application developed by the system which shall include
10 but not be limited to a disclosure of any prior felonies and any
11 conflicts of interest that would hinder the individual's ability to serve
12 on the board;

13 2. Submit a resume detailing the individual's education and employment
14 history and a cover letter detailing the member's qualifications for
15 serving as trustee to the board; and

16 3. Authorize the system to have a criminal background check performed.
17 The criminal background check shall be performed by the Department
18 of Kentucky State Police.

19 (j) In lieu of the ballots mailed to members and retired members as provided by
20 this subsection, the systems may by promulgation of administrative
21 regulation pursuant to KRS Chapter 13A conduct trustee elections using
22 electronic ballots, except that the systems shall mail a paper ballot upon
23 request of any eligible voter.

24 (5) Any vacancy which may occur in an appointed position shall be filled in the same
25 manner which provides for the selection of the particular trustee, and any
26 vacancy which may occur in an elected position shall be filled by appointment by
27 a majority vote of the remaining elected trustees; however, any vacancy shall be

1 filled only for the duration of the unexpired term. In the event of a vacancy of an
2 elected trustee, the system shall notify members of the vacancy and the
3 opportunity to be considered for the vacant position. Any vacancy shall be filled
4 within ninety (90) days of the position becoming vacant.

5 (6) (a) Membership on the board of trustees shall not be incompatible with any
6 other office unless a constitutional incompatibility exists. No trustee shall
7 serve in more than one (1) position as trustee on the board and, if a trustee
8 holds more than one (1) position as trustee on the board, he shall resign a
9 position.

10 (b) A trustee shall be removed from office upon conviction of a felony or for a
11 finding of a violation of any provision of KRS 11A.020 or 11A.040 by a
12 court of competent jurisdiction.

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

16 (7) Trustees who do not otherwise receive a salary from the State Treasury shall
17 receive a per diem of eighty dollars (\$80) for each day they are in session or on
18 official duty, and they shall be reimbursed for their actual and necessary
19 expenses in accordance with state administrative regulations and standards.

20 (8) (a) The board shall meet at least once in each quarter of the year and may meet
21 in special session upon the call of the chair or the executive director.

22 (b) The board shall elect a chair and a vice chair. The chair shall not serve
23 more than four (4) consecutive years as chair or vice chair of the board.
24 The vice chair shall not serve more than four (4) consecutive years as chair
25 or vice chair of the board. A trustee who has served four (4) consecutive
26 years as chair or vice chair of the board may be elected chair or vice chair
27 of the board after an absence of two (2) years from the positions.

1 (c) A majority of the trustees shall constitute a quorum, and all actions taken
2 by the board shall be by affirmative vote of a majority of the trustees
3 present.

4 (9) (a) The board of trustees shall appoint or contract for the services of chief
5 executive officer and fix the compensation and other terms of employment
6 for this position without limitation of the provisions of KRS Chapters 18A
7 and 45A and Section 30 of this Act. The chief executive officer shall serve
8 as the legislative, legal, and executive advisor to the board and shall work
9 with the executive director of the Kentucky Public Pensions Authority to
10 carry out the provisions of KRS 78.510 to 78.852. The executive director of
11 the Kentucky Public Pensions Authority shall be the chief administrative
12 officer of the board.

13 (b) The board shall require the chief executive officer to execute bonds for the
14 faithful performance of his or her duties notwithstanding the limitations of
15 KRS Chapter 62.

16 (c) The board shall have a system of accounting established by the Kentucky
17 Public Pensions Authority.

18 (d) The board shall do all things, take all actions, and promulgate all
19 administrative regulations, not inconsistent with the provisions of KRS
20 78.510 to 78.852, necessary or proper in order to carry out the provisions of
21 KRS 78.510 to 78.852. Notwithstanding any other evidence of legislative
22 intent, it is hereby declared to be the controlling legislative intent that the
23 provisions of KRS 78.510 to 78.852 conform with federal statute or
24 regulation and meet the qualification requirements under 26 U.S.C. sec.
25 401(a), applicable federal regulations, and other published guidance.
26 Provisions of KRS 78.510 to 78.852 which conflict with federal statute or
27 regulation or qualification under 26 U.S.C. sec. 401(a), applicable federal

1 regulations, and other published guidance shall not be available. The board
2 shall have the authority to promulgate administrative regulations to
3 conform with federal statute and regulation and to meet the qualification
4 requirements under 26 U.S.C. sec. 401(a), including an administrative
5 regulation to comply with 26 U.S.C. sec. 401(a)(9).

6 (e) Notwithstanding any other provision of statute to the contrary, including
7 but not limited to any provision of KRS Chapter 12, the Governor shall have
8 no authority to change any provision of KRS 78.510 to 78.852 by executive
9 order or action, including but not limited to reorganizing, replacing,
10 amending, or abolishing the membership of the County Employees
11 Retirement System board of trustees.

12 (10) The chief executive officer of the board shall serve during its will and pleasure.
13 Notwithstanding any statute to the contrary, the chief executive officer shall not
14 be considered a legislative agent under KRS 6.611.

15 (11) The Attorney General, or an assistant designated by him or her, may attend each
16 meeting of the board and may receive the agenda, board minutes, and other
17 information distributed to trustees of the board upon request. The Attorney
18 General may act as legal adviser and attorney for the board, and the board may
19 contract for legal services, notwithstanding the limitations of KRS Chapter 12 or
20 13B.

21 (12) (a) The system shall publish an annual financial report showing all receipts,
22 disbursements, assets, and liabilities. The annual report shall include a copy
23 of an audit conducted in accordance with generally accepted auditing
24 standards. Except as provided by paragraph (b) of this subsection, the board
25 may select an independent certified public accountant or the Auditor of
26 Public Accounts to perform the audit. If the audit is performed by an
27 independent certified public accountant, the Auditor of Public Accounts

1 shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but
2 may perform an audit at his or her discretion. All proceedings and records
3 of the board shall be open for inspection by the public. The system shall
4 make copies of the audit required by this subsection available for
5 examination by any member, retiree, or beneficiary in the offices of the
6 County Employees Retirement System and in other places as necessary to
7 make the audit available to all members, retirees, and beneficiaries. A copy
8 of the annual audit shall be sent electronically to the Legislative Research
9 Commission no later than ten (10) days after receipt by the board.

10 (b) At least once every five (5) years, the Auditor of Public Accounts shall
11 perform the audit described by this subsection, and the system shall
12 reimburse the Auditor of Public Accounts for all costs of the audit. The
13 Auditor of Public Accounts shall determine which fiscal year during the
14 five (5) year period the audit prescribed by this paragraph will be completed.

15 (13) All expenses incurred by or on behalf of the system and the board in the
16 administration of the system during a fiscal year shall be paid from the
17 retirement allowance account.

18 (14) Except as provided under subsection (16) of this section or KRS 61.665, any
19 person adversely affected by a decision of the board involving KRS 78.510 to
20 78.852 may appeal the decision of the board to the Franklin Circuit Court within
21 sixty (60) days of the board action.

22 (15) (a) A trustee shall discharge his or her duties as a trustee, including his or her
23 duties as a member of a committee:

24 1. In good faith;

25 2. On an informed basis; and

26 3. In a manner he or she honestly believes to be in the best interest of the
27 County Employees Retirement System.

1 (b) A trustee discharges his or her duties on an informed basis if, when he or
2 she makes an inquiry into the business and affairs of the system or into a
3 particular action to be taken or decision to be made, he or she exercises the
4 care an ordinary prudent person in a like position would exercise under
5 similar circumstances.

6 (c) In discharging his or her duties, a trustee may rely on information,
7 opinions, reports, or statements, including financial statements and other
8 financial data, if prepared or presented by:

9 1. One (1) or more officers or employees of the system or authority whom
10 the trustee honestly believes to be reliable and competent in the
11 matters presented;

12 2. Legal counsel, public accountants, actuaries, or other persons as to
13 matters the trustee honestly believes are within the person's
14 professional or expert competence; or

15 3. A committee of the board of trustees of which he or she is not a
16 member if the trustee honestly believes the committee merits
17 confidence.

18 (d) A trustee shall not be considered as acting in good faith if he or she has
19 knowledge concerning the matter in question that makes reliance otherwise
20 permitted by paragraph (c) of this subsection unwarranted.

21 (e) Any action taken as a trustee, or any failure to take any action as a trustee,
22 shall not be the basis for monetary damages or injunctive relief unless:

23 1. The trustee has breached or failed to perform the duties of the
24 trustee's office in compliance with this section; and

25 2. In the case of an action for monetary damages, the breach or failure
26 to perform constitutes willful misconduct or wanton or reckless
27 disregard for human rights, safety, or property.

1 (f) A person bringing an action for monetary damages under this section shall
2 have the burden of proving by clear and convincing evidence the provisions
3 of paragraph (e)1. and 2. of this subsection, and the burden of proving that
4 the breach or failure to perform was the legal cause of damages suffered by
5 the system.

6 (g) In discharging his or her administrative duties under this section, a trustee
7 shall strive to administer the system in an efficient and cost-effective
8 manner for the taxpayers of the Commonwealth of Kentucky.

9 (16) When an order by the system substantially impairs the benefits or rights of a
10 member, retired member, or recipient, except action which relates to entitlement
11 to disability benefits, the affected member, retired member, or recipient may
12 request a hearing to be held in accordance with KRS Chapter 13B. The board
13 may establish an appeals committee whose members shall be appointed by the
14 chair and who shall have authority to act upon the recommendations and reports
15 of the hearing officer on behalf of the board. The member, retired member,
16 recipient, or employer aggrieved by a final order of the board following the
17 hearing may appeal the decision to the Franklin Circuit Court, in accordance
18 with KRS Chapter 13B. The board may establish a joint administrative appeals
19 committee with the Kentucky Retirement Systems and may also establish a joint
20 disability appeals committee with the Kentucky Retirement Systems.

21 (17) The board shall establish a formal trustee education program for all trustees of
22 the board. The program shall include but not be limited to the following:

- 23 (a) A required orientation program for all new trustees elected or appointed to
24 the board. The orientation program shall include training on:
25 1. Benefits and benefits administration;
26 2. Investment concepts, policies, and current composition and
27 administration of system investments;

1 3. Laws, bylaws, and administrative regulations pertaining to the system
2 and to fiduciaries; and

3 4. Actuarial and financial concepts pertaining to the system.

4 If a trustee fails to complete the orientation program within one (1) year
5 from the beginning of his or her first term on the board, the system shall
6 withhold payment of the per diem and travel expenses due to the board
7 member under this section until the trustee has completed the orientation
8 program;

9 (b) Annual required training for board members on the administration,
10 benefits, financing, and investing of the system. If a trustee fails to complete
11 the annual required training during the calendar or fiscal year, the
12 retirement systems shall withhold payment of the per diem and travel
13 expenses due to the board member under this section until the board
14 member has met the annual training requirements; and

15 (c) The system shall incorporate by reference in an administrative regulation,
16 pursuant to KRS 13A.2251, the trustee education program.

17 (18) In order to improve public transparency regarding the administration of the
18 system, the board of trustees shall adopt a best practices model by posting the
19 following information to the Kentucky Public Pensions Authority's Web site and
20 shall make available to the public:

21 (a) Meeting notices and agendas for all meetings of the board. Notices and
22 agendas shall be posted to the Kentucky Public Pensions Authority's Web
23 site at least seventy-two (72) hours in advance of the board or committee
24 meetings, except in the case of special or emergency meetings as provided
25 by KRS 61.823;

26 (b) The Comprehensive Annual Financial Report with the information as
27 follows:

- 1 1. A general overview and update on the system by the executive director;
- 2 2. A listing of the board of trustees;
- 3 3. A listing of key staff;
- 4 4. An organizational chart;
- 5 5. Financial information, including a statement of plan net assets, a
6 statement of changes in plan net assets, an actuarial value of assets, a
7 schedule of investments, a statement of funded status and funding
8 progress, and other supporting data;
- 9 6. Investment information, including a general overview, a list of the
10 system's professional consultants, a total net of fees return on system
11 investments over a historical period, an investment summary,
12 contracted investment management expenses, transaction
13 commissions, and a schedule of investments;
- 14 7. The annual actuarial valuation report on the pension benefit and the
15 medical insurance benefit; and
- 16 8. A general statistical section, including information on contributions,
17 benefit payouts, and retirement system demographic data;
- 18 (c) All external audits;
- 19 (d) All board minutes or other materials that require adoption or ratification by
20 the board of trustees. The items listed in this paragraph shall be posted
21 within seventy-two (72) hours of adoption or ratification of the board;
- 22 (e) All bylaws, policies, or procedures adopted or ratified by the board of
23 trustees;
- 24 (f) The system's summary plan description;
- 25 (g) A document containing an unofficial copy of the statutes governing the
26 system;
- 27 (h) A listing of the members of the board of trustees and membership on each

- 1 committee established by the board, including any investment committees;
- 2 (i) All investment holdings in aggregate, fees, and commissions for each fund
- 3 administered by the board, which shall be updated on a quarterly basis for
- 4 fiscal years beginning on or after July 1, 2021. The system shall request
- 5 from all managers, partnerships, and any other available sources all
- 6 information regarding fees and commissions and shall, based on the
- 7 requested information received:
- 8 1. Disclose the dollar value of fees and commissions paid to each
- 9 individual manager or partnership;
- 10 2. Disclose the dollar value of any profit sharing, carried interest, or any
- 11 other partnership incentive arrangements, partnership agreements, or
- 12 any other partnership expenses received by or paid to each manager or
- 13 partnership; and
- 14 3. As applicable, report each fee or commission by manager or
- 15 partnership consistent with standards established by the Institutional
- 16 Limited Partners Association (ILPA).
- 17 In addition to the requirements of this paragraph, the system shall also
- 18 disclose the name and address of all individual underlying managers or
- 19 partners in any fund of funds in which system assets are invested;
- 20 (j) An update of net of fees investment returns, asset allocations, and the
- 21 performance of the funds against benchmarks adopted by the board for
- 22 each fund, for each asset class administered by the board, and for each
- 23 manager. The update shall be posted on a quarterly basis for fiscal years
- 24 beginning on or after July 1, 2021;
- 25 (k) A searchable database of the system's expenditures and a listing of each
- 26 individual employed by the system along with the employee's salary or
- 27 wages. In lieu of posting the information required by this paragraph to the

1 Kentucky Public Pensions Authority's Web site, the system may provide the
2 information through a Web site established by the executive branch to
3 inform the public about public employee salaries and wages;

4 (l) All contracts or offering documents for services, goods, or property
5 purchased or utilized by the system for contracts or offering documents
6 entered into on or after July 1, 2021; and

7 (m) Information regarding the system's financial and actuarial condition that is
8 easily understood by the members, retired members, and the public.

9 (19) Notwithstanding the requirements of subsection (18) of this section, the system
10 shall not be required to furnish information that is protected under KRS 61.661,
11 exempt under KRS 61.878, or that, if disclosed, would compromise the system's
12 ability to competitively invest in real estate or other asset classes, except that no
13 provision of this section or KRS 61.878 shall exclude disclosure and review of all
14 contracts, including investment contracts, by the board, the Auditor of Public
15 Accounts, and the Government Contract Review Committee established pursuant
16 to KRS 45A.705 or the disclosure of investment fees and commissions as provided
17 by this section. If any public record contains material which is not excepted
18 under this section, the system shall separate the excepted material by removal,
19 segregation, or redaction, and make the nonexcepted material available for
20 examination.

21 (20) Notwithstanding any other provision of KRS 78.510 to 78.852 to the contrary, no
22 funds of the County Employees Retirement System, including fees and
23 commissions paid to an investment manager, private fund, or company issuing
24 securities, who manages systems assets, shall be used to pay fees and
25 commissions to placement agents. For purposes of this subsection, "placement
26 agent" means a third-party individual, who is not an employee, or firm, wholly or
27 partially owned by the entity being hired, who solicits investments on behalf of an

1 *investment manager, private fund, or company issuing securities.*

2 ➔ Section 4. KRS 61.645 is amended to read as follows:

3 (1) The ~~{County Employees Retirement System, }~~Kentucky Employees Retirement
4 System~~[-]~~ and State Police Retirement System shall be administered by the board of
5 trustees of the Kentucky Retirement Systems composed of *nine (9)*~~{seventeen (17)}~~
6 members, who shall be selected as follows:

7 (a) ~~{The secretary of the Personnel Cabinet shall serve as trustee for as long as he~~
8 ~~occupies the position of secretary under KRS 18A.015, except as provided~~
9 ~~under subsections (5) and (6) of this section;~~

10 (b) ~~Three (3) trustees, who shall be members or retired from the County~~
11 ~~Employees Retirement System, elected by the members and retired members~~
12 ~~of the County Employees Retirement System;~~

13 (c) ~~One (1) trustee, who shall be a member or retired from the State Police~~
14 ~~Retirement System, elected by the members and retired members of the State~~
15 ~~Police Retirement System;~~

16 (b)~~{(d)}~~ Two (2) trustees, who shall be members or retired from the Kentucky
17 Employees Retirement System, elected by the members and retired members
18 of the Kentucky Employees Retirement System; and

19 (c)~~{(e)}~~ *Six (6)*~~{Ten (10)}~~ trustees, appointed by the Governor of the
20 Commonwealth, subject to Senate confirmation in accordance with KRS
21 11.160 for each appointment or reappointment. Of the *six (6)*~~{ten (10)}~~
22 trustees appointed by the Governor, *three (3) trustees shall have investment*
23 *experience and three (3) trustees shall have retirement experience*~~[-]~~

24 1. ~~One (1) trustee shall be knowledgeable about the impact of pension~~
25 ~~requirements on local governments;~~

26 2. ~~One (1) trustee shall be appointed from a list of three (3) applicants~~
27 ~~submitted by the Kentucky League of Cities;~~

1 ~~3. One (1) trustee shall be appointed from a list of three (3) applicants~~
2 ~~submitted by the Kentucky Association of Counties;~~

3 ~~4. One (1) trustee shall be appointed from a list of three (3) applicants~~
4 ~~submitted by the Kentucky School Boards Association; and~~

5 ~~5. Six (6) trustees shall have investment experience].~~

6 **(d)** For purposes of **paragraph (c) of this subsection**~~[this subparagraph]~~, a trustee
7 with "investment experience" means an individual who does not have a
8 conflict of interest, as provided by KRS 61.655, and who has at least ten (10)
9 years of experience in one (1) of the following areas of expertise:

10 ~~1. [a.] A portfolio manager acting in a fiduciary capacity;~~

11 ~~2. [b.] A professional securities analyst or investment consultant;~~

12 ~~3. [c.] A current or retired employee or principal of a trust institution,~~
13 investment or finance organization, or endowment fund acting in an
14 investment-related capacity;

15 ~~4. [d.] A chartered financial analyst in good standing as determined by the CFA~~
16 Institute; or

17 ~~5. [e.] A university professor, teaching investment-related studies.~~

18 **(e) For purposes of paragraph (c) of this subsection, a trustee with "retirement**
19 **experience" means an individual who does not have a conflict of interest, as**
20 **provided by KRS 61.655, and who has at least ten (10) years of experience**
21 **in one (1) of the following areas of expertise:**

22 **1. Experience in retirement or pension plan management;**

23 **2. A certified public accountant with relevant experience in retirement or**
24 **pension plan accounting;**

25 **3. An actuary with relevant experience in retirement or pension plan**
26 **consulting;**

27 **4. An attorney licensed to practice law in the Commonwealth of**

Kentucky with relevant experience in retirement or pension plans; or
5. A current or former university professor whose primary area of
emphasis is economics or finance.

(2) The board is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:

- (a) To sue and be sued in its corporate name;
- (b) To make bylaws not inconsistent with the law;
- (c) To conduct the business and promote the purposes for which it was formed;
- (d) Except as provided in KRS 61.650(6), to contract for investment counseling, actuarial, auditing, medical, and other professional or technical services as required to carry out the obligations of the board subject to KRS Chapters 45, 45A, 56, and 57;
- (e) To purchase fiduciary liability insurance;
- (f) Except as provided in KRS 61.650(6), to acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties subject to KRS Chapters 45, 45A, and 56; and
- (g) The board shall reimburse any trustee, officer, or employee for any legal expense resulting from a civil action arising out of the performance of his official duties. The hourly rate of reimbursement for any contract for legal services under this paragraph shall not exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified

1 except as otherwise provided in this section. An elected trustee or a trustee
2 appointed by the Governor under subsection (1)(c)~~[(1)(e)]~~ of this section, shall
3 not serve more than three (3) consecutive four (4) year terms. An elected
4 trustee or a trustee appointed by the Governor under subsection (1)(c)~~[(1)(e)]~~
5 of this section, who has served three (3) consecutive terms may be elected or
6 appointed again after an absence of four (4) years from the board.

7 (b) The term limits established by paragraph (a) of this subsection shall apply to
8 trustees serving on or after July 1, 2012, and all terms of office served prior to
9 July 1, 2012, shall be used to determine if the trustee has exceeded the term
10 limits provided by paragraph (a) of this subsection.

11 (4) (a) The trustees selected by the membership of each of the various retirement
12 systems shall be elected by ballot. For each trustee to be elected, the board
13 may nominate, not less than six (6) months before a term of office of a trustee
14 is due to expire, three (3) constitutionally eligible individuals.

15 (b) Individuals may be nominated by the retirement system members which are to
16 elect the trustee by presenting to the executive director, not less than four (4)
17 months before a term of office of a trustee is due to expire, a petition, bearing
18 the name, last four digits of the Social Security number, and signature of no
19 less than one-tenth (1/10) of the number voting in the last election by the
20 retirement system members.

21 (c) Within four (4) months of the nominations made in accordance with
22 paragraphs (a) and (b) of this subsection, the executive director shall cause to
23 be prepared an official ballot. The ballot shall include the name, address, and
24 position title of each individual nominated by the board and by petition.
25 Provisions shall also be made for write-in votes.

26 (d) Except as provided by paragraph (j) of this subsection, the ballots shall be
27 distributed to the eligible voters by mail to their last known residence address.

- 1 (e) The ballots shall be addressed to the Kentucky Retirement Systems in care of
2 a predetermined box number at a United States Post Office~~located within~~
3 ~~Kentucky~~ or submitted electronically as provided by paragraph (j) of this
4 subsection. Access to this post office box shall be limited to the board's
5 contracted~~auditing~~ firm. The individual receiving a plurality of votes shall
6 be declared elected.
- 7 (f) The eligible voter shall cast his ballot by selecting~~checking a square opposite~~
8 ~~the name of~~ the candidate of his choice. He shall sign and mail the ballot or
9 submit the electronic ballot at least thirty (30) days prior to the date the term
10 to be filled is due to expire. The latest mailing date, or date of submission in
11 the case of electronic ballots, shall be provided on the ballot.
- 12 (g) The board's contracted~~auditing~~ firm shall report in writing the outcome to
13 the chair of the board of trustees. Cost of an election shall be payable from the
14 funds of the system for which the trustee is elected.
- 15 (h) For purposes of this subsection, an eligible voter shall be a person who was a
16 member of the retirement system on December 31 of the year preceding the
17 election year.
- 18 (i) Each individual who submits a request to be nominated by the board under
19 paragraph (a) of this subsection and each individual who is nominated by the
20 membership under paragraph (b) of this subsection shall:
- 21 1. Complete an application developed by the retirement systems which
22 shall include but not be limited to a disclosure of any prior felonies and
23 any conflicts of interest that would hinder the individual's ability to
24 serve on the board;
 - 25 2. Submit a resume detailing the individual's education and employment
26 history and a cover letter detailing the member's qualifications for
27 serving as trustee to the board; and

1 3. Authorize the systems to have a criminal background check performed.
2 The criminal background check shall be performed by the Department of
3 Kentucky State Police.

4 (j) In lieu of the ballots mailed to members and retired members as provided by
5 this subsection, the systems may by promulgation of administrative regulation
6 pursuant to KRS Chapter 13A conduct trustee elections using electronic
7 ballots, except that the systems shall mail a paper ballot upon request of any
8 eligible voter.

9 (5) Any vacancy which may occur in an appointed position shall be filled in the same
10 manner which provides for the selection of the particular trustee, and any vacancy
11 which may occur in an elected position shall be filled by appointment by a majority
12 vote of the remaining elected trustees with a person selected from the system in
13 which the vacancy occurs, and if the secretary of the Personnel Cabinet resigns his
14 position as trustee, it shall be filled by appointment made by the Governor;
15 however, any vacancy shall be filled only for the duration of the unexpired term. In
16 the event of a vacancy of an elected trustee, Kentucky Retirement Systems shall
17 notify members of the system in which the vacancy occurs of the vacancy and the
18 opportunity to be considered for the vacant position. Any vacancy shall be filled
19 within ninety (90) days of the position becoming vacant.

20 (6) (a) Membership on the board of trustees shall not be incompatible with any other
21 office unless a constitutional incompatibility exists. No trustee shall serve in
22 more than one (1) position as trustee on the board; and if a trustee holds more
23 than one (1) position as trustee on the board, he shall resign a position.

24 (b) A trustee shall be removed from office upon conviction of a felony or for a
25 finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court
26 of competent jurisdiction.

27 (c) A current or former employee of Kentucky Retirement Systems, County

1 **Employees Retirement System, or the Kentucky Public Pensions Authority**

2 shall not be eligible to serve as a member of the board.

3 (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive
4 a per diem of eighty dollars (\$80) for each day they are in session or on official
5 duty, and they shall be reimbursed for their actual and necessary expenses in
6 accordance with state administrative regulations and standards.

7 (8) (a) The board shall meet at least once in each quarter of the year and may meet in
8 special session upon the call of the chair or the executive director.

9 (b) The board shall elect a chair and a vice chair. The chair shall not serve more
10 than four (4) consecutive years as chair or vice-chair of the board. The vice-
11 chair shall not serve more than four (4) consecutive years as chair or vice-
12 chair of the board. A trustee who has served four (4) consecutive years as
13 chair or vice-chair of the board may be elected chair or vice-chair of the board
14 after an absence of two (2) years from the positions.

15 (c) A majority of the trustees shall constitute a quorum and all actions taken by
16 the board shall be by affirmative vote of a majority of the trustees present.

17 (9) (a) The board of trustees shall appoint or contract for the services of **a chief**
18 **executive officer**~~[an executive director]~~ and fix the compensation and other
19 terms of employment for this position without limitation of the provisions of
20 KRS Chapters 18A and KRS 64.640. **The chief executive officer shall serve**
21 **as the legislative, legal, and executive advisor to the board and shall work**
22 **with the executive director of the Kentucky Public Pensions Authority to**
23 **carry out the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705.** The
24 executive director **of the Kentucky Public Pensions Authority** shall be the
25 chief administrative officer of the board.

26 (b) **Prior to April 1, 2021,** the board of trustees shall authorize the executive
27 director to appoint the employees deemed necessary to transact the business of

1 the system. Prior to July 1, 2021, all employees of the systems, except for the
2 executive director, shall be subject to the state personnel system established
3 pursuant to KRS 18A.005 to 18A.204 and shall have their salaries determined
4 by the secretary of the Personnel Cabinet. Effective April 1, 2021, the
5 responsibility of appointing employees and managing personnel needs shall
6 be transferred to the Kentucky Public Pensions Authority established by
7 Section 2 of this Act.

8 (c) The board shall require the chief executive officer ~~director and the employees~~
9 ~~as it thinks proper~~ to execute bonds for the faithful performance of his or
10 her ~~their~~ duties notwithstanding the limitations of KRS Chapter 62.

11 (d) The board shall have ~~establish~~ a system of accounting established by the
12 Kentucky Public Pensions Authority.

13 (e) The board shall do all things, take all actions, and promulgate all
14 administrative regulations, not inconsistent with the provisions of KRS 16.505
15 to 16.652 and ~~61.510 to 61.705, and 78.510 to 78.852~~, necessary or
16 proper in order to carry out the provisions of KRS 16.505 to 16.652 and ~~61.510 to 61.705, and 78.510 to 78.852~~. Notwithstanding any other evidence
17 of legislative intent, it is hereby declared to be the controlling legislative intent
18 that the provisions of KRS 16.505 to 16.652 and ~~61.510 to 61.705, and 78.510 to 78.852~~ conform with federal statute or regulation and meet the
19 qualification requirements under 26 U.S.C. sec. 401(a), applicable federal
20 regulations, and other published guidance. Provisions of KRS 16.505 to
21 16.652 and ~~61.510 to 61.705, and 78.510 to 78.852~~ which conflict with
22 federal statute or regulation or qualification under 26 U.S.C. sec. 401(a),
23 applicable federal regulations, and other published guidance shall not be
24 available. The board shall have the authority to promulgate administrative
25 regulations to conform with federal statute and regulation and to meet the
26
27

1 qualification requirements under 26 U.S.C. sec. 401(a), including an
2 administrative regulation to comply with 26 U.S.C. sec. 401(a)(9).

3 (f) Notwithstanding any other provision of statute to the contrary, including
4 but not limited to any provision of KRS Chapter 12, the Governor shall have
5 no authority to change any provision of KRS 16.505 to 16.652 and 61.510 to
6 61.705 by executive order or action, including but not limited to
7 reorganizing, replacing, amending, or abolishing the membership of the
8 Kentucky Retirement Systems board of trustees.

9 (10) Notwithstanding any statute to the contrary, employees shall not be considered
10 legislative agents under KRS 6.611.

11 (11) The Attorney General, or an assistant designated by him, may attend each meeting
12 of the board and may receive the agenda, board minutes, and other information
13 distributed to trustees of the board upon request. The Attorney General may act as
14 legal adviser and attorney for the board, and the board may contract for legal
15 services, notwithstanding the limitations of KRS Chapter 12 or 13B.

16 (12) (a) The system shall publish an annual financial report showing all receipts,
17 disbursements, assets, and liabilities. The annual report shall include a copy of
18 an audit conducted in accordance with generally accepted auditing standards.
19 Except as provided by paragraph (b) of this subsection, the board may select
20 an independent certified public accountant or the Auditor of Public Accounts
21 to perform the audit. If the audit is performed by an independent certified
22 public accountant, the Auditor of Public Accounts shall not be required to
23 perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at
24 his discretion. All proceedings and records of the board shall be open for
25 inspection by the public. The system shall make copies of the audit required
26 by this subsection available for examination by any member, retiree, or
27 beneficiary in the office of the executive director of the Kentucky Retirement

1 Systems and in other places as necessary to make the audit available to all
2 members, retirees, and beneficiaries. A copy of the annual audit shall be sent
3 to the Legislative Research Commission no later than ten (10) days after
4 receipt by the board.

5 (b) At least once every five (5) years, the Auditor of Public Accounts shall
6 perform the audit described by this subsection, and the system shall reimburse
7 the Auditor of Public Accounts for all costs of the audit. The Auditor of
8 Public Accounts shall determine which fiscal year during the five (5) year
9 period the audit prescribed by this paragraph will be completed.

10 (13) All expenses incurred by or on behalf of the system and the board in the
11 administration of the system during a fiscal year shall be paid from the retirement
12 allowance account. Any other statute to the contrary notwithstanding, authorization
13 for all expenditures relating to the administrative operations of the system shall be
14 contained in the biennial budget unit request, branch budget recommendation, and
15 the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

16 (14) Any person adversely affected by a decision of the board, except as provided under
17 subsection (16) of this section or KRS 61.665, involving KRS 16.505 to 16.652
18 and, 61.510 to 61.705, ~~and 78.510 to 78.852~~, may appeal the decision of the
19 board to the Franklin Circuit Court within sixty (60) days of the board action.

20 (15) (a) A trustee shall discharge his duties as a trustee, including his duties as a
21 member of a committee:

- 22 1. In good faith;
- 23 2. On an informed basis; and
- 24 3. In a manner he honestly believes to be in the best interest of the
25 Kentucky Retirement Systems.

26 (b) A trustee discharges his duties on an informed basis if, when he makes an
27 inquiry into the business and affairs of the Kentucky Retirement Systems or

1 into a particular action to be taken or decision to be made, he exercises the
2 care an ordinary prudent person in a like position would exercise under similar
3 circumstances.

4 (c) In discharging his duties, a trustee may rely on information, opinions, reports,
5 or statements, including financial statements and other financial data, if
6 prepared or presented by:

- 7 1. One (1) or more officers or employees of the Kentucky Retirement
8 Systems whom the trustee honestly believes to be reliable and competent
9 in the matters presented;
- 10 2. Legal counsel, public accountants, actuaries, or other persons as to
11 matters the trustee honestly believes are within the person's professional
12 or expert competence; or
- 13 3. A committee of the board of trustees of which he is not a member if the
14 trustee honestly believes the committee merits confidence.

15 (d) A trustee shall not be considered as acting in good faith if he has knowledge
16 concerning the matter in question that makes reliance otherwise permitted by
17 paragraph (c) of this subsection unwarranted.

18 (e) Any action taken as a trustee, or any failure to take any action as a trustee,
19 shall not be the basis for monetary damages or injunctive relief unless:

- 20 1. The trustee has breached or failed to perform the duties of the trustee's
21 office in compliance with this section; and
- 22 2. In the case of an action for monetary damages, the breach or failure to
23 perform constitutes willful misconduct or wanton or reckless disregard
24 for human rights, safety, or property.

25 (f) A person bringing an action for monetary damages under this section shall
26 have the burden of proving by clear and convincing evidence the provisions of
27 paragraph (e)1. and 2. of this subsection, and the burden of proving that the

1 breach or failure to perform was the legal cause of damages suffered by the
2 Kentucky Retirement Systems.

3 (g) Nothing in this section shall eliminate or limit the liability of any trustee for
4 any act or omission occurring prior to July 15, 1988.

5 (h) In discharging his or her administrative duties under this section, a trustee
6 shall strive to administer the retirement system in an efficient and cost-
7 effective manner for the taxpayers of the Commonwealth of Kentucky.

8 (16) When an order by the system substantially impairs the benefits or rights of a
9 member, retired member, or recipient, except action which relates to entitlement to
10 disability benefits, or when an employer disagrees with an order of the system as
11 provided by KRS 61.598, the affected member, retired member, recipient, or
12 employer may request a hearing to be held in accordance with KRS Chapter 13B.
13 The board may establish an appeals committee whose members shall be appointed
14 by the chair and who shall have authority to act upon the recommendations and
15 reports of the hearing officer on behalf of the board. The member, retired member,
16 recipient, or employer aggrieved by a final order of the board following the hearing
17 may appeal the decision to the Franklin Circuit Court, in accordance with KRS
18 Chapter 13B. The board may establish a joint administrative appeals committee
19 with the County Employees Retirement System and may also establish a joint
20 disability appeals committee with the County Employees Retirement System.

21 (17) The board shall give the Kentucky Education Support Personnel Association
22 twenty-four (24) hours notice of the board meetings, to the extent possible.

23 (18) The board shall establish a formal trustee education program for all trustees of the
24 board. The program shall include but not be limited to the following:

25 (a) A required orientation program for all new trustees elected or appointed to the
26 board. The orientation program shall include training on:

27 1. Benefits and benefits administration;

- 1 2. Investment concepts, policies, and current composition and
- 2 administration of retirement systems investments;
- 3 3. Laws, bylaws, and administrative regulations pertaining to the
- 4 retirement systems and to fiduciaries; and
- 5 4. Actuarial and financial concepts pertaining to the retirement systems.

6 If a trustee fails to complete the orientation program within one (1) year from
7 the beginning of his or her first term on the board, the retirement systems shall
8 withhold payment of the per diem and travel expenses due to the board
9 member under this section and KRS 16.640~~[-and 78.780]~~ until the trustee has
10 completed the orientation program;

11 (b) Annual required training for board members on the administration, benefits,
12 financing, and investing of the retirement systems. If a trustee fails to
13 complete the annual required training during the calendar or fiscal year, the
14 retirement systems shall withhold payment of the per diem and travel
15 expenses due to the board member under this section and KRS 16.640~~[-and~~
16 78.780] until the board member has met the annual training requirements; and

17 (c) The retirement systems shall incorporate by reference in an administrative
18 regulation, pursuant to KRS 13A.2251, the trustee education program.

19 (19) In order to improve public transparency regarding the administration of the systems,
20 the board of trustees shall adopt a best practices model by posting the following
21 information to the **Kentucky Public Pensions Authority's**~~[-retirement systems]~~ Web
22 site and shall make available to the public:

23 (a) Meeting notices and agendas for all meetings of the board. Notices and
24 agendas shall be posted to the **Kentucky Public Pensions Authority's**
25 ~~[-retirement systems]~~ Web site at least seventy-two (72) hours in advance of
26 the board or committee meetings, except in the case of special or emergency
27 meetings as provided by KRS 61.823;

- 1 (b) The Comprehensive Annual Financial Report with the information as follows:
- 2 1. A general overview and update on the retirement systems by the
- 3 executive director;
- 4 2. A listing of the board of trustees;
- 5 3. A listing of key staff;
- 6 4. An organizational chart;
- 7 5. Financial information, including a statement of plan net assets, a
- 8 statement of changes in plan net assets, an actuarial value of assets, a
- 9 schedule of investments, a statement of funded status and funding
- 10 progress, and other supporting data;
- 11 6. Investment information, including a general overview, a list of the
- 12 retirement system's professional consultants, a total net of fees return on
- 13 retirement systems investments over a historical period, an investment
- 14 summary, contracted investment management expenses, transaction
- 15 commissions, and a schedule of investments;
- 16 7. The annual actuarial valuation report on the pension benefit and the
- 17 medical insurance benefit; and
- 18 8. A general statistical section, including information on contributions,
- 19 benefit payouts, and retirement systems' demographic data;
- 20 (c) All external audits;
- 21 (d) All board minutes or other materials that require adoption or ratification by
- 22 the board of trustees. The items listed in this paragraph shall be posted within
- 23 seventy-two (72) hours of adoption or ratification of the board;
- 24 (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;
- 25 (f) The retirement systems' summary plan description;
- 26 (g) A document containing an unofficial copy of the statutes governing the
- 27 systems administered by Kentucky Retirement Systems;

1 (h) A listing of the members of the board of trustees and membership on each
2 committee established by the board, including any investment committees;

3 (i) All investment holdings in aggregate, fees, and commissions for each fund
4 administered by the board, which shall be updated on a quarterly basis for
5 fiscal years beginning on or after July 1, 2017. The systems shall request from
6 all managers, partnerships, and any other available sources all information
7 regarding fees and commissions and shall, based on the requested information
8 received:

9 1. Disclose the dollar value of fees and commissions paid to each
10 individual manager or partnership;

11 2. Disclose the dollar value of any profit sharing, carried interest, or any
12 other partnership incentive arrangements, partnership agreements, or any
13 other partnership expenses received by or paid to each manager or
14 partnership; and

15 3. As applicable, report each fee or commission by manager or partnership
16 consistent with standards established by the Institutional Limited
17 Partners Association (ILPA).

18 In addition to the requirements of this paragraph, the systems shall also
19 disclose the name and address of all individual underlying managers or
20 partners in any fund of funds in which system assets are invested;

21 (j) An update of net of fees investment returns, asset allocations, and the
22 performance of the funds against benchmarks adopted by the board for each
23 fund, for each asset class administered by the board, and for each manager.
24 The update shall be posted on a quarterly basis for fiscal years beginning on or
25 after July 1, 2017;

26 (k) A searchable database of the systems' expenditures and a listing of each
27 individual employed by the systems along with the employee's salary or

1 wages. In lieu of posting the information required by this paragraph to the
2 Kentucky Public Pensions Authority's~~systems'~~ Web site, the systems may
3 provide the information through a Web site established by the executive
4 branch to inform the public about executive branch agency expenditures and
5 public employee salaries and wages;

6 (l) All contracts or offering documents for services, goods, or property purchased
7 or utilized by the systems; and

8 (m) Information regarding the systems' financial and actuarial condition that is
9 easily understood by the members, retired members, and the public.

10 (20) Notwithstanding the requirements of subsection (19) of this section, the retirement
11 systems shall not be required to furnish information that is protected under KRS
12 61.661, exempt under KRS 61.878, or that, if disclosed, would compromise the
13 retirement systems' ability to competitively invest in real estate or other asset
14 classes, except that no provision of this section or KRS 61.878 shall exclude
15 disclosure and review of all contracts, including investment contracts, by the board,
16 the Auditor of Public Accounts, and the Government Contract Review Committee
17 established pursuant to KRS 45A.705 or the disclosure of investment fees and
18 commissions as provided by this section. If any public record contains material
19 which is not excepted under this section, the systems shall separate the excepted
20 material by removal, segregation, or redaction, and make the nonexcepted material
21 available for examination.

22 (21) Notwithstanding any other provision of KRS 16.505 to 16.652 and~~and~~ 61.510 to
23 61.705~~, and 78.510 to 78.852~~ to the contrary, no funds of the systems
24 administered by Kentucky Retirement Systems, including fees and commissions
25 paid to an investment manager, private fund, or company issuing securities, who
26 manages systems assets, shall be used to pay fees and commissions to placement
27 agents. For purposes of this subsection, "placement agent" means a third-party

1 individual, who is not an employee, or firm, wholly or partially owned by the entity
2 being hired, who solicits investments on behalf of an investment manager, private
3 fund, or company issuing securities.

4 ➔Section 5. KRS 78.790 is amended to read as follows:

- 5 (1) (a) The board shall be the trustee of the several funds created by KRS 78.510 to
6 78.852, and the County Employees Retirement System insurance trust fund
7 as provided by Section 27 of this Act, and shall have full and exclusive power
8 to invest and reinvest such funds in accordance with federal law~~[subject to~~
9 ~~the limitations that no investments shall be made except upon the exercise of~~
10 ~~bona fide discretion, in securities which, at the time of making the investment,~~
11 ~~are, by law, permitted for the investment of funds by fiduciaries in this state~~
12 ~~except that the board may, at its discretion, purchase common stocks in~~
13 ~~corporations that do not have a record of paying dividends to their~~
14 ~~stockholders. Subject to such limitations, the board shall have full power to~~
15 ~~hold, purchase, sell, assign, transfer or dispose of any of the securities or~~
16 ~~investments in which any of the funds created herein have been invested, as~~
17 ~~well as of the proceeds of such investments and any moneys belonging to such~~
18 ~~funds].~~

19 (b) 1. The board shall establish an investment committee that shall include
20 members of the board with investment experience, elected members, or
21 other members as determined by the board chair, and may also
22 include non-voting members who have investment expertise.

23 2. The investment committee shall have authority to implement the
24 investment policies adopted by the board and act on behalf of the
25 board on all investment-related matters and to acquire, sell, safeguard,
26 monitor, and manage the assets and securities of the several funds.

27 (c) A trustee, officer, employee, employee of the Kentucky Public Pensions

1 Authority, or other fiduciary shall discharge duties with respect to the
2 system:

3 1. Solely in the interest of the members and beneficiaries;

4 2. For the exclusive purpose of providing benefits to members and
5 beneficiaries and paying reasonable expenses of administering the
6 system;

7 3. With the care, skill, and caution under the circumstances then
8 prevailing that a prudent person acting in a like capacity and familiar
9 with those matters would use in the conduct of an activity of like
10 character and purpose;

11 4. Impartially, taking into account any differing interests of members
12 and beneficiaries;

13 5. Incurring any costs that are appropriate and reasonable; and

14 6. In accordance with a good-faith interpretation of the law governing
15 the system.

16 (d) In addition to the standards of conduct prescribed by paragraph (c) of this
17 subsection:

18 1. All internal investment staff, including investment staff of the
19 Kentucky Public Pensions Authority, and investment consultants shall
20 adhere to the Code of Ethics and Standards of Professional Conduct,
21 and all board trustees shall adhere to the Code of Conduct for
22 Members of a Pension Scheme Governing Body. All codes cited in this
23 subparagraph are promulgated by the CFA Institute; and

24 2. Investment managers shall comply with all applicable provisions of
25 the federal Investment Advisers Act of 1940, as amended, and the
26 rules and regulations promulgated thereunder, and shall comply with
27 all other applicable federal securities statutes and related rules and

1 *regulations that apply to investment managers.*

2 (2) All securities acquired under the authority of KRS 78.510 to 78.852 shall be
3 registered in the name *County Employees Retirement System*~~[Kentucky Retirement~~
4 ~~Systems]~~ or nominee name as provided by KRS 286.3-225 and every change in
5 registration, by reason of sale or assignment of such securities, shall be
6 accomplished pursuant to written policies adopted by the board.

7 (3) The board, in keeping with its responsibility as the trustee and wherever feasible,
8 shall give priority to the investment of funds in obligations calculated to improve
9 the industrial development and enhance the economic welfare of the
10 Commonwealth.

11 (4) The *contents of real estate appraisals, engineering or feasibility estimates, and*
12 *evaluations made by or for the system relative to the acquisition or disposition of*
13 *property, until such time as all of the property has been acquired or sold, shall be*
14 *excluded from the application of KRS 61.870 to 61.884 and shall be subject to*
15 *inspection only upon order of a court of competent jurisdiction*~~[investment~~
16 ~~committee established pursuant to KRS 61.650 shall serve as the investment~~
17 ~~committee of the funds established by KRS 78.510 to 78.852].~~

18 (5) Based upon market value at the time of purchase, the board shall limit the amount
19 of assets managed by any one (1) active or passive investment manager to fifteen
20 percent (15%) of the assets in the pension and insurance funds.

21 *(6) All contracts for the investment or management of assets of the system shall not*
22 *be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct*
23 *the following process to develop and adopt an investment procurement policy*
24 *with which all prospective contracts for the investment or management of assets*
25 *of the system shall comply:*

26 *(a) The board shall consult with the secretary of the Finance and*
27 *Administration Cabinet or his or her designee to develop an investment*

- 1 procurement policy, which shall be written to meet best practices in
2 investment management procurement;
- 3 **(b) Thirty (30) days prior to adoption, the board shall tender the preliminary**
4 investment procurement policy to the secretary of the Finance and
5 Administration Cabinet or his or her designee for review and comment;
- 6 **(c) Upon receipt of comments from the secretary of the Finance and**
7 Administration Cabinet or his or her designee, the board shall choose to
8 adopt or not adopt any recommended changes;
- 9 **(d) Upon adoption, the board shall tender the final investment procurement**
10 policy to the secretary of the Finance and Administration Cabinet or his or
11 her designee;
- 12 **(e) No later than thirty (30) days after receipt of the investment procurement**
13 policy, the secretary or his or her designee shall certify whether the board's
14 investment procurement policy meets or does not meet best practices for
15 investment management procurement; and
- 16 **(f) Any amendments to the investment procurement policy shall adhere to the**
17 requirements set forth by paragraphs (b) to (e) of this subsection.

18 ➔Section 6. KRS 61.650 is amended to read as follows:

- 19 (1) (a) The board shall be the trustee of the several funds created by KRS 16.510,
20 61.515, and 61.701 as it pertains to the trust fund for the Kentucky
21 Retirement Systems insurance trust fund~~[, and 78.520]~~, notwithstanding the
22 provisions of any other statute to the contrary, and shall have exclusive power
23 to invest and reinvest such funds in accordance with federal law.
- 24 (b) 1. The board shall establish an investment committee whose membership
25 shall be composed of the following:
- 26 a. The three (3)~~[The six (6)]~~ trustees appointed by the Governor
27 pursuant to Section 4 of this Act who have investment

1 experience~~[KRS 61.645(1)(e)5.]~~; and

2 b. Additional~~[Three (3)]~~ trustees appointed by the board chair.

3 2. The investment committee shall have authority to implement the
4 investment policies adopted by the board and act on behalf of the board
5 on all investment-related matters and to acquire, sell, safeguard,
6 monitor, and manage the assets and securities of the several funds.

7 (c) A trustee, officer, employee, employee of the Kentucky Public Pensions
8 Authority, or other fiduciary shall discharge duties with respect to the
9 retirement system:

- 10 1. Solely in the interest of the members and beneficiaries;
11 2. For the exclusive purpose of providing benefits to members and
12 beneficiaries and paying reasonable expenses of administering the
13 system;
14 3. With the care, skill, and caution under the circumstances then prevailing
15 that a prudent person acting in a like capacity and familiar with those
16 matters would use in the conduct of an activity of like character and
17 purpose;
18 4. Impartially, taking into account any differing interests of members and
19 beneficiaries;
20 5. Incurring any costs that are appropriate and reasonable; and
21 6. In accordance with a good-faith interpretation of the law governing the
22 retirement system.

23 (d) In addition to the standards of conduct prescribed by paragraph (c) of this
24 subsection:

- 25 1. All internal investment staff, including investment staff of the
26 Kentucky Public Pensions Authority, and investment consultants shall
27 adhere to the Code of Ethics and Standards of Professional Conduct, and

1 all board trustees shall adhere to the Code of Conduct for Members of a
2 Pension Scheme Governing Body. All codes cited in this subparagraph
3 are promulgated by the CFA Institute; and

4 2. Investment managers shall comply with all applicable provisions of the
5 federal Investment Advisers Act of 1940, as amended, and the rules and
6 regulations promulgated thereunder, and shall comply with all other
7 applicable federal securities statutes and related rules and regulations
8 that apply to investment managers.

9 (2) All securities acquired under authority of KRS 61.510 to 61.705 shall be registered
10 in the name "Kentucky Retirement Systems" or nominee name as provided by KRS
11 286.3-225 and every change in registration, by reason of sale or assignment of such
12 securities, shall be accomplished pursuant to written policies adopted by the board.

13 (3) The board, in keeping with its responsibility as trustee and wherever consistent with
14 its fiduciary responsibilities, shall give priority to the investment of funds in
15 obligation calculated to improve the industrial development and enhance the
16 economic welfare of the Commonwealth.

17 (4) The contents of real estate appraisals, engineering or feasibility estimates, and
18 evaluations made by or for the system relative to the acquisition or disposition of
19 property, until such time as all of the property has been acquired or sold, shall be
20 excluded from the application of KRS 61.870 to 61.884 and shall be subject to
21 inspection only upon order of a court of competent jurisdiction.

22 (5) Based upon market value at the time of purchase, the board shall limit the amount
23 of assets managed by any one (1) active or passive investment manager to fifteen
24 percent (15%) of the assets in the pension and insurance funds.

25 (6) All contracts for the investment or management of assets of the systems shall not be
26 subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the
27 following process to develop and adopt an investment procurement policy with

1 which all prospective contracts for the investment or management of assets of the
2 systems shall comply:

3 (a) On or before July 1, 2017, the board shall consult with the secretary of the
4 Finance and Administration Cabinet or his or her designee to develop an
5 investment procurement policy, which shall be written to meet best practices
6 in investment management procurement;

7 (b) Thirty (30) days prior to adoption, the board shall tender the preliminary
8 investment procurement policy to the secretary of the Finance and
9 Administration Cabinet or his or her designee for review and comment;

10 (c) Upon receipt of comments from the secretary of the Finance and
11 Administration Cabinet or his or her designee, the board shall choose to adopt
12 or not adopt any recommended changes;

13 (d) Upon adoption, the board shall tender the final investment procurement policy
14 to the secretary of the Finance and Administration Cabinet or his or her
15 designee;

16 (e) No later than thirty (30) days after receipt of the investment procurement
17 policy, the secretary or his or her designee shall certify whether the board's
18 investment procurement policy meets or does not meet best practices for
19 investment management procurement; and

20 (f) Any amendments to the investment procurement policy shall adhere to the
21 requirements set forth by paragraphs (b) to (e) of this subsection.

22 ➔SECTION 7. A NEW SECTION OF KRS 78.510 TO 78.852 IS CREATED TO
23 READ AS FOLLOWS:

24 (1) (a) As soon as practicable after its organization, the County Employees
25 Retirement System board shall adopt the actuarial tables, assumptions, and
26 methods necessary for the administration of the system and for the annual
27 determination of actuarial assets, actuarial liabilities, and recommended

1 employer contribution rates of the system as provided by Sections 8 and 28
2 of this Act, for the pension and retiree health funds.

3 (b) The board shall cause an actuarial valuation to be made annually. The
4 valuation shall at a minimum include:

5 1. A description of the actuarial assumptions used in the actuarial
6 valuation, which shall be reasonably related to the experience of the
7 system and represent the actuary's best estimate of anticipated
8 experience;

9 2. A description of any funding methods utilized or required by state law
10 in the development of the actuarial valuation results;

11 3. A description of any changes in actuarial assumptions and methods
12 from the previous year's actuarial valuation;

13 4. The actuarially recommended contribution rate for employers for the
14 upcoming budget periods;

15 5. A twenty (20) year projection of the funding levels, unfunded
16 liabilities, and actuarially recommended contribution rates for
17 employers based upon the actuarial assumptions, funding methods,
18 and experience of the system as of the valuation date; and

19 6. A sensitivity analysis that evaluates the impact of changes in system
20 assumptions, including but not limited to the investment return
21 assumption, payroll growth assumption, and medical inflation rates,
22 on employer contribution rates, funding levels, and unfunded
23 liabilities.

24 (c) At least once in each five (5) year period, the board shall cause an actuarial
25 investigation to be made of all the experience under the system relative to
26 the actuarial assumptions and funding methods previously adopted by the
27 board. The actuarial investigation shall include at a minimum a summary

1 of the changes in actuarial assumptions and funding methods
2 recommended in the investigation and the projected impact of the
3 recommended changes on funding levels, unfunded liabilities, and
4 actuarially recommended contribution rates for employers over a twenty
5 (20) year period.

6 (d) Pursuant to the actuarial investigation the board shall, from time to time,
7 revise the actuarial tables previously adopted by the board and shall
8 thereupon revise the bases of the rates of employer contributions required
9 under KRS 78.510 to 78.852.

10 (e) For any change in actuarial assumptions, funding methods, retiree health
11 insurance premiums and subsidies, or any other decisions made by the
12 board that impact system liabilities and actuarially recommended
13 contribution rates for employers and that are not made in conjunction with
14 the actuarial investigation required by paragraph (c) of this subsection, an
15 actuarial analysis shall be completed showing the projected impact of the
16 changes on funding levels, unfunded liabilities, and actuarially
17 recommended contribution rates for employers over a twenty (20) year
18 period.

19 (f) All actuarial investigations, analyses, and valuations shall be certified to the
20 board by an actuary who shall be a fellow of the Conference of Consulting
21 Actuaries or a member of the American Academy of Actuaries.

22 (2) A copy of each five (5) year actuarial investigation, actuarial analysis, and
23 annual valuation required by subsection (1) of this section shall be forwarded
24 electronically to the Legislative Research Commission no later than ten (10) days
25 after receipt by the board, and the Legislative Research Commission shall
26 distribute the information received to the committee staff and co-chairs of any
27 committee that has jurisdiction over the County Employees Retirement System.

1 The actuarial valuation required by subsection (1)(b) of this section shall be
2 submitted no later than November 15 following the close of the fiscal year. In
3 addition, the County Employees Retirement System shall submit a summary of
4 the actuarial valuation to the Public Pension Oversight Board by December 31
5 following completion of the actuarial valuation which shall include the employer
6 contribution rates to be payable by participating employers in the upcoming fiscal
7 year, key actuarial statistics and trends, any changes in assumptions or methods
8 since the last valuation, and other pertinent actuarial data and information.

9 ➔SECTION 8. A NEW SECTION OF KRS 78.510 TO 78.852 IS CREATED TO
10 READ AS FOLLOWS:

11 (1) (a) Except as provided by subsection (5) of this section, each employer
12 participating in the County Employees Retirement System as provided for in
13 KRS 78.510 to 78.852 shall contribute annually to the system an amount
14 equal to the percent, as computed under subsection (2) of this section, of the
15 creditable compensation of its employees to be known as the "normal
16 contributions," and an additional amount to be known as the "actuarially
17 accrued liability contribution" which shall be computed by amortizing the
18 total unfunded actuarially accrued liability over a period of thirty (30) years
19 using the level-percentage-of-payroll amortization method. The thirty (30)
20 year amortization period shall begin with the 2013 actuarial valuation.

21 (b) Any significant increase in the actuarially accrued liability due to benefit
22 improvements shall be amortized using the level-percentage-of-payroll
23 amortization method over a separate thirty (30) year period commencing in
24 the year of the actuarial valuation in which the benefit improvements are
25 first reflected.

26 (2) The normal contribution rate shall be determined by the entry age normal cost
27 funding method. The actuarially accrued liability shall be determined by

1 actuarial method consistent with the methods prescribed for determining the
2 normal contribution rate. Normal contributions and the actuarially accrued
3 liability contribution shall be determined on actuarial assumptions and methods
4 adopted by the board.

5 (3) Normal contribution and the actuarially accrued liability contribution rates shall
6 be determined by the board on the basis of the annual actuarial valuation last
7 preceding the July 1 of a new fiscal year.

8 (4) Employer contribution rates as provided by this section shall:

9 (a) Be developed separately for employers providing benefits to employees in
10 nonhazardous positions and for employers providing benefits to employees
11 in hazardous positions; and

12 (b) Include an employer contribution rate to fund pension benefits and an
13 employer contribution rate to fund retiree health benefits.

14 (5) The employer contribution rate established by the board for the County
15 Employees Retirement System that is payable on or after July 1, 2018, and until
16 June 30, 2028, for the pension and retiree health insurance funds, including the
17 normal cost contribution and the actuarially accrued liability contribution for
18 each fund, shall not increase by more than a factor of one and twelve one
19 hundredths (1.12) over the prior fiscal year's employer contribution rate as
20 determined by the system's consulting actuary.

21 (6) The system shall advise each employer prior to the beginning of each fiscal year
22 of any change in the employer contribution rate. Based on the employer
23 contribution rate, each employer shall include in the budget sufficient funds to
24 pay the employer contributions as determined by the board under this section.

25 ➔Section 9. KRS 6.350 is amended to read as follows:

26 (1) A bill which would increase or decrease the benefits or increase or decrease
27 participation in the benefits or change the actuarial accrued liability of any state-

1 administered retirement system shall not be reported from a legislative committee of
2 either house of the General Assembly for consideration by the full membership of
3 that house unless the bill is accompanied by an actuarial analysis.

4 (2) (a) An actuarial analysis required by this section shall show the economic effect
5 of the bill on the state-administered retirement system over a twenty (20) year
6 period, including:

- 7 1. An estimate of the effect on the unfunded actuarial accrued liabilities
8 and funding levels of the affected systems; and
- 9 2. A projection of the annual employer costs to the systems of
10 implementing the legislation over the twenty (20) year period. The
11 annual employer cost projection shall include the effect on the
12 contributions of participating employers as a percentage of total payroll
13 and in total dollars of contributions.

14 (b) If a bill affects more than one (1) state-administered retirement system, the
15 actuarial analysis shall project costs for each affected state-administered
16 retirement system.

17 (c) A statement that the cost is negligible or indeterminable shall not be
18 considered in compliance with this section. If a cost cannot be determined by
19 the actuary in accordance with paragraph (a) of this subsection, then the
20 systems shall certify in writing:

- 21 1. The estimated number of individuals affected;
- 22 2. The estimated change in benefit payments;
- 23 3. The estimated change to employer costs; and
- 24 4. The estimated change to administrative expenses.

25 (d) An actuarial analysis shall state the actuarial assumptions and methods of
26 computation used in the analysis and shall state whether or not the bill or
27 resolution, if enacted, would, in the opinion of the actuary, make the affected

1 state-administered retirement system actuarially unsound or, in the case of a
2 system already actuarially unsound, more unsound. Actuarial cost methods
3 and assumptions that meet actuarial standards of practice established by the
4 Actuarial Standards Board shall be used in all cost projections.

5 (e) An actuarial analysis required by this section shall be prepared by an actuary
6 who is a fellow of the Conference of Consulting Actuaries or a member of the
7 American Academy of Actuaries.

8 (3) (a) An actuary commissioned to make an actuarial analysis that is required by this
9 section, or for the purpose of seeking appropriations for a state-administered
10 retirement system, shall include in the analysis a complete definition of each
11 actuarial term used in the analysis and, either in the analysis or in a separate
12 actuarial valuation report made available as a public record, an enumeration
13 and explanation of each actuarial assumption used to complete the actuarial
14 analysis.

15 (b) If the actuary commissioned to complete the actuarial analysis is relying upon
16 assumptions that have not been previously established by the actuary in an
17 actuarial valuation of the affected state-administered retirement system, the
18 actuary shall clearly note and describe the new assumption and the basis for
19 selecting the assumption.

20 (4) The actuarial analysis required by this section shall be completed by the actuary
21 retained by the affected state-administered retirement system. The state-
22 administered retirement systems shall provide the analysis without cost to the
23 General Assembly.

24 (5) For purposes of this section, the terms:

25 (a) "State-administered retirement system" shall include:

26 1. The Kentucky Employees Retirement System~~[-the County Employees~~
27 ~~Retirement System,]~~ and the State Police Retirement System

1 administered by the Kentucky Retirement Systems and established under
2 the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705~~, and~~
3 ~~78.510 to 78.852~~;

4 2. The Kentucky Teachers' Retirement System established under KRS
5 161.220 to 161.716;

6 3. The Judicial Retirement Plan established under KRS 21.345 to 21.580;
7 ~~{and}~~

8 4. The Legislators' Retirement Plan established under KRS 6.500 to 6.577;
9 and

10 5. The County Employees Retirement System established under KRS
11 78.510 to 78.852; and

12 (b) "Funding level" means the actuarial value of assets divided by the actuarially
13 accrued liability expressed as a percentage.

14 ➔Section 10. KRS 7A.250 is repealed, reenacted, and amended to read as
15 follows:

16 The Public Pension Oversight Board:

17 (1) Shall, from time to time, conduct an impartial review of all the laws governing the
18 state-administered retirement systems and recommend any changes it may find
19 desirable with respect to benefits and administration, funding of benefits,
20 investments of funds, and the improvement of language, structure, and organization
21 of the statutes;

22 (2) May, once every five (5) years, review the benefits provided to employees who
23 begin participating in the systems administered by Kentucky Retirement Systems or
24 the County Employees Retirement System on or after January 1, 2014~~, and the~~
25 ~~Teachers' Retirement System on or after January 1, 2019~~, and recommend any
26 changes to the provisions affecting these employees that are necessary to maintain
27 the actuarial soundness of the systems;

- 1 (3) Shall review semiannually the investment programs of the state-administered
2 retirement systems, including a review of asset allocation targets and ranges, risk
3 factors, asset class benchmarks, total return objectives, relative volatility,
4 performance evaluation guidelines, investment policies, and securities litigation
5 policies and recoveries from fraud or other corporate malfeasance. The board may
6 establish an advisory committee, as provided by KRS 7A.260, which may include
7 investment professionals to assist in complying with the provisions of this
8 subsection;
- 9 (4) May review any benefits, bylaws, policies, or charters established by the state-
10 administered retirement systems;
- 11 (5) Shall, at the request of the Speaker of the House of Representatives or the President
12 of the Senate, evaluate proposed changes to laws affecting the state-administered
13 retirement systems and report to the Speaker or the President on the probable costs,
14 actuarial implications, and desirability as a matter of public policy;
- 15 (6) May review all new or amended administrative regulations of the state-administered
16 retirement systems and provide comments to the Administrative Regulation Review
17 Subcommittee established by KRS 13A.020;
- 18 (7) Shall research issues related to the state-administered retirement systems as directed
19 by the Legislative Research Commission;
- 20 (8) Shall at least once every five (5) years have an actuarial audit performed for the
21 state-administered retirement systems to evaluate the reliability of each system's
22 actuarial assumptions and methods. The actuarial audit shall be performed by an
23 actuary retained by the Public Pension Oversight Board;
- 24 (9) May prior to each budget biennium occurring on or after July 1, 2020, have an
25 actuarial review of the funding requests and needs submitted by the state-
26 administered retirement systems. The review shall be performed by an actuary
27 retained by the Public Pension Oversight Board; and

1 (10) Shall publish an annual report covering the board's evaluation and recommendations
2 with respect to the operations of the state-administered retirement systems. The
3 report shall be submitted to the Legislative Research Commission no later than
4 December 31 of each year and shall include at a minimum any legislative
5 recommendations made by the board, a summary of the financial and actuarial
6 condition of the state-administered retirement systems, and an analysis of the
7 adequacy of the current levels of funding.

8 ➔Section 11. KRS 11A.010 is amended to read as follows:

9 As used in this chapter, unless the context otherwise requires:

- 10 (1) "Business" means any corporation, limited liability company, partnership, limited
11 partnership, sole proprietorship, firm, enterprise, franchise, association,
12 organization, self-employed individual, holding company, joint stock company,
13 receivership, trust, or any legal entity through which business is conducted, whether
14 or not for profit;
- 15 (2) "Commission" means the Executive Branch Ethics Commission;
- 16 (3) "Compensation" means any money, thing of value, or economic benefit conferred
17 on, or received by, any person in return for services rendered, or to be rendered, by
18 himself or another;
- 19 (4) "Family" means spouse and children, as well as a person who is related to a public
20 servant as any of the following, whether by blood or adoption: parent, brother,
21 sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-
22 in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter,
23 stepbrother, stepsister, half brother, half sister;
- 24 (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or
25 anything of value, unless consideration of equal or greater value is received; "gift"
26 does not include gifts from family members, campaign contributions, the waiver of
27 a registration fee for a presenter at a conference or training described in KRS

1 45A.097(5), or door prizes available to the public;

2 (6) "Income" means any money or thing of value received or to be received as a claim
3 on future services, whether in the form of a fee, salary, expense allowance,
4 forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other
5 form of compensation or any combination thereof;

6 (7) "Officer" means:

7 (a) All major management personnel in the executive branch of state government,
8 including the secretary of the cabinet, the Governor's chief executive officers,
9 cabinet secretaries, deputy cabinet secretaries, general counsels,
10 commissioners, deputy commissioners, executive directors, executive
11 assistants, policy advisors, special assistants, administrative coordinators,
12 executive advisors, staff assistants, and division directors;

13 (b) Members and full-time chief administrative officers of:

- 14 1. The Parole Board;
- 15 2. Kentucky Claims Commission;
- 16 3. Kentucky Retirement Systems board of trustees;
- 17 4. Kentucky Teachers' Retirement System board of trustees;
- 18 5. The Kentucky Public Employees Deferred Compensation Authority
19 board of trustees;
- 20 6. Public Service Commission;
- 21 7. Worker's Compensation Board and its administrative law judges;
- 22 8. The Kentucky Occupational Safety and Health Review Commission;
- 23 9. The Kentucky Board of Education; ~~and~~
- 24 10. The Council on Postsecondary Education;

25 **11. County Employees Retirement System board of trustees; and**

26 **12. Kentucky Public Pensions Authority;**

27 (c) Salaried members of executive branch boards and commissions; and

- 1 (d) Any person who, through a personal service contract or any other contractual
2 employment arrangement with an agency, performs on a full-time,
3 nonseasonal basis a function of any major management position listed in this
4 subsection;
- 5 (8) "Official duty" means any responsibility imposed on a public servant by virtue of
6 his or her position in the state service;
- 7 (9) "Public servant" means:
- 8 (a) The Governor;
- 9 (b) The Lieutenant Governor;
- 10 (c) The Secretary of State;
- 11 (d) The Attorney General;
- 12 (e) The Treasurer;
- 13 (f) The Commissioner of Agriculture;
- 14 (g) The Auditor of Public Accounts;
- 15 (h) All employees in the executive branch including officers as defined in
16 subsection (7) of this section and merit employees; and
- 17 (i) Any person who, through any contractual arrangement with an agency, is
18 employed to perform a function of a position within an executive branch
19 agency on a full-time, nonseasonal basis;
- 20 (10) "Agency" means every state office, cabinet, department, board, commission, public
21 corporation, or authority in the executive branch of state government. A public
22 servant is employed by the agency by which his or her appointing authority is
23 employed, unless his or her agency is attached to the appointing authority's agency
24 for administrative purposes only, or unless the agency's characteristics are of a
25 separate independent nature distinct from the appointing authority and it is
26 considered an agency on its own, such as an independent department;
- 27 (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS

- 1 6.611(23) or any person employed as an executive agency lobbyist as defined in
2 KRS 11A.201(8);
- 3 (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes,
4 opposes, or acts;
- 5 (13) "Candidate" means those persons who have officially filed candidacy papers or who
6 have been nominated by their political party pursuant to KRS 118.105, 118.115,
7 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of
8 this section;
- 9 (14) "Does business with" or "doing business with" means contracting, entering into an
10 agreement, leasing, or otherwise exchanging services or goods with a state agency
11 in return for payment by the state, including accepting a grant, but not including
12 accepting a state entitlement fund disbursement;
- 13 (15) "Public agency" means any governmental entity;
- 14 (16) "Appointing authority" means the agency head or any person whom he or she has
15 authorized by law to act on behalf of the agency with respect to employee
16 appointments;
- 17 (17) "Represent" means to attend an agency proceeding, write a letter, or communicate
18 with an employee of an agency on behalf of someone else;
- 19 (18) "Directly involved" means to work on personally or to supervise someone who
20 works on personally;
- 21 (19) "Sporting event" means any professional or amateur sport, athletic game, contest,
22 event, or race involving machines, persons, or animals, for which admission tickets
23 are offered for sale and that is viewed by the public;
- 24 (20) "Person" means an individual, proprietorship, firm, partnership, limited partnership,
25 joint venture, joint stock company, syndicate, business or statutory trust, donative
26 trust, estate, company, corporation, limited liability company, association, club,
27 committee, organization, or group of persons acting in concert; and

1 (21) "Salaried" means receiving a fixed compensation or benefit reserved for full-time
2 employees, which is paid on a regular basis without regard to the actual number of
3 hours worked.

4 ➔Section 12. KRS 11A.201 is amended to read as follows:

5 As used in KRS 11A.201 to 11A.246 and KRS 11A.990:

6 (1) "Compensation" means any money, thing of value, or economic benefit conferred
7 on, or received by, any person in return for services rendered, or to be rendered, by
8 himself or another;

9 (2) (a) "Expenditure" means any of the following that is made to, or for the benefit of
10 an elected executive official, the secretary of a cabinet listed in KRS 12.250,
11 an executive agency official, or a member of the staff of any of the officials
12 listed in this paragraph:

- 13 1. A payment, distribution, loan, advance, deposit, reimbursement, or gift
14 of money, real estate, or anything of value, including, but not limited to,
15 food and beverages, entertainment, lodging, transportation, or honoraria;
- 16 2. A contract, promise, or agreement to make an expenditure; or
- 17 3. The purchase, sale, or gift of services or any other thing of value.

18 (b) "Expenditure" does not include a contribution, gift, or grant to a foundation or
19 other charitable organization that is exempt from federal income taxation
20 under Section 501(c)(3) of the Internal Revenue Code. "Expenditure" does not
21 include the purchase, sale, or gift of services or any other thing of value that is
22 available to the general public on the same terms as it is available to the
23 persons listed in this subsection. "Expenditure" does not include a payment,
24 contribution, gift, purchase, or any other thing of value that is made to or on
25 behalf of any elected executive official, the secretary of a cabinet listed in
26 KRS 12.250, an executive agency official, or any member of the staff of any
27 of the officials listed in this paragraph who works for a state agency for which

1 the executive agency lobbyist is not registered to influence;

2 (3) "Employer" means any person who engages an executive agency lobbyist;

3 (4) "Engage" means to make any arrangement, and "engagement" means arrangement,
4 whereby an individual is employed or retained for compensation to act for or on
5 behalf of an employer to influence executive agency decisions or to conduct any
6 executive agency lobbying activity;

7 (5) (a) "Financial transaction" means a transaction or activity that is conducted or
8 undertaken for profit and arises from the joint ownership, or the ownership, or
9 part ownership in common of any real or personal property or any commercial
10 or business enterprise of whatever form or nature between the following:

- 11 1. An executive agency lobbyist, his or her employer, a real party in
12 interest, or a member of the immediate family of the executive agency
13 lobbyist, his or her employer, or a real party in interest; and
14 2. Any elected executive official, the secretary of a cabinet listed in KRS
15 12.250, an executive agency official, or any member of the staff of any
16 of the officials listed in this subparagraph.

17 (b) "Financial transaction" does not include any transaction or activity described
18 in paragraph (a) of this subsection if it is available to the general public on the
19 same terms;

20 (6) "Executive agency" means the office of an elected executive official, a cabinet listed
21 in KRS 12.250, or any other state agency, department, board, or commission
22 controlled or directed by an elected executive official or otherwise subject to his or
23 her authority. "Executive agency" does not include any court or the General
24 Assembly;

25 (7) "Executive agency decision" means a decision of an executive agency regarding the
26 expenditure of funds of the state or of an executive agency with respect to the award
27 of a contract, grant, lease, or other financial arrangement under which those funds

1 are distributed or allocated. This shall also include decisions made concerning:

2 (a) The parameters of requests for information and requests for proposals;

3 (b) Drafting, adopting, or implementing a budget provision;

4 (c) Administrative regulations or rules;

5 (d) An executive order;

6 (e) Legislation or amendments thereto; or

7 (f) Other public policy decisions;

8 (8) (a) "Executive agency lobbyist" means any person engaged to influence executive
9 agency decisions or to conduct executive agency lobbying activity as one (1)
10 of his or her main purposes regarding a substantial issue, including
11 associations, coalitions, or public interest entities formed for the purpose of
12 promoting or otherwise influencing executive agency decisions. The term
13 "executive agency lobbyist" shall also include placement agents and
14 unregulated placement agents.

15 (b) "Executive agency lobbyist" does not include an elected or appointed officer
16 or employee of a federal or state agency, state college, state university, or
17 political subdivision who attempts to influence or affect executive agency
18 decisions in his or her fiduciary capacity as a representative of his or her
19 agency, college, university, or political subdivision;

20 (9) (a) "Executive agency lobbying activity" means contacts made to promote,
21 advocate, or oppose the passage, modification, defeat, or executive approval
22 or veto of any legislation or otherwise influence the outcome of an executive
23 agency decision by direct communication with an elected executive official,
24 the secretary of any cabinet listed in KRS 12.250, any executive agency
25 official whether in the classified service or not, or a member of the staff of any
26 one of the officials listed in this paragraph.

27 (b) "Executive agency lobbying activity" does not include any of the following:

- 1 1. The action of any person having a direct interest in executive agency
2 decisions, if the person acting under Section 1 of the Kentucky
3 Constitution, assembles together with other persons for their common
4 good, petitions any person listed in paragraph (a) of this subsection for
5 the redress of grievances or other proper purposes;
- 6 2. Contacts made for the sole purpose of gathering information contained
7 in a public record;
- 8 3. Appearances before public meetings of executive agencies;
- 9 4. News, editorial, and advertising statements published in newspapers,
10 journals, or magazines, or broadcast over radio or television;
- 11 5. The gathering and furnishing of information and news by bona fide
12 reporters, correspondents, or news bureaus to news media described in
13 subparagraph 4. of this paragraph;
- 14 6. Publications primarily designed for, and distributed to, members of bona
15 fide associations or charitable or fraternal nonprofit corporations;
- 16 7. Professional services in preparing executive agency decisions, preparing
17 arguments regarding executive agency decisions, or in advising clients
18 and rendering opinions regarding proposed or pending executive agency
19 decisions, if the services are not otherwise connected to lobbying; or
- 20 8. Public comments submitted to an executive agency during the public
21 comment period on administrative regulations or rules;
- 22 (10) "Executive agency official" means an officer or employee of an executive agency
23 whose principal duties are to formulate policy or to participate directly or indirectly
24 in the preparation, review, or award of contracts, grants, leases, or other financial
25 arrangements with an executive agency;
- 26 (11) "Aggrieved party" means a party entitled to resort to a remedy;
- 27 (12) "Elected executive official" means the Governor, Lieutenant Governor, Secretary of

1 State, Auditor of Public Accounts, State Treasurer, Attorney General, and
2 Commissioner of Agriculture;

3 (13) "Person" means an individual, proprietorship, firm, partnership, limited partnership,
4 joint venture, joint stock company, syndicate, business or statutory trust, donative
5 trust, estate, company, corporation, limited liability company, association, club,
6 committee, organization, or group of persons acting in concert;

7 (14) "Staff" means any employee of the office of the Governor, or a cabinet listed in
8 KRS 12.250, whose official duties are to formulate policy and who exercises
9 administrative or supervisory authority, or who authorizes the expenditure of state
10 funds;

11 (15) "Real party in interest" means the person or entity on whose behalf an executive
12 agency lobbyist is acting, if that person or entity is not the employer of the executive
13 agency lobbyist;

14 (16) "Substantial issue" means contacts which are intended to influence a decision that
15 involves one or more disbursements of state funds in an amount of at least five
16 thousand dollars (\$5,000) per year, or any budget provision, administrative
17 regulation or rule, legislative matter, or other public policy matter that financially
18 impacts the executive agency lobbyist or his or her employer;

19 (17) "Placement agent" means an individual or firm who is compensated or hired by an
20 employer or other real party in interest for the purpose of influencing an executive
21 agency decision regarding the investment of the Kentucky Retirement Systems, the
22 County Employees Retirement System, or the Kentucky Teachers' Retirement
23 System assets; and

24 (18) "Unregulated placement agent" means a placement agent who is prohibited by
25 federal securities laws and regulations promulgated thereunder from receiving
26 compensation for soliciting a government agency.

27 ➔Section 13. KRS 11A.236 is amended to read as follows:

1 (1) Except as provided in subsection (2) of this section, no person shall engage any
2 persons to influence executive agency decisions or conduct executive agency
3 lobbying activity for compensation that is contingent in any way on the outcome of
4 an executive agency decision, including payment based on the awarding of a
5 contract or payment of a percentage of a government contract awarded, and no
6 person shall accept any engagement to influence executive agency decisions or
7 conduct executive agency lobbying activity for compensation that is contingent in
8 any way on the outcome of an executive agency decision, including payment based
9 on the awarding of a contract or payment of a percentage of a government contract
10 awarded. An employer who pays an executive agency lobbyist based on the
11 awarding of a contract or payment of a percentage of a government contract
12 awarded shall be barred from doing business with the Commonwealth for a period
13 of five (5) years from the date on which such a payment is revealed to the Executive
14 Branch Ethics Commission.

15 (2) Subsection (1) of this section does not prohibit, and shall not be construed to
16 prohibit:

17 (a) Any person from compensating his or her sales employees pursuant to an
18 incentive compensation plan, such as commission sales, if the incentive
19 compensation plan is the same plan used to compensate similarly situated
20 sales employees who are not executive agency lobbyists; or

21 (b) Any person from engaging a placement agent to influence investment
22 decisions of the Kentucky Retirement Systems, County Employees
23 Retirement System, and the Kentucky Teachers' Retirement System for
24 compensation that is contingent on the outcome of investment decisions by
25 the retirement systems' boards of trustees. The provisions of this paragraph
26 shall not apply to unregulated placement agents.

27 ➔Section 14. KRS 18A.205 is amended to read as follows:

1 (1) The secretary of the Finance and Administration Cabinet, upon the
2 recommendation of the secretary, may procure from one (1) or more life insurance
3 companies, authorized to do business in this state, a policy or policies of group life
4 insurance insuring the lives of all or any class or classes of public employees. The policy
5 or policies shall be approved by the commissioner of insurance and may contain such
6 provisions as the commissioner of insurance approves whether or not otherwise permitted
7 by the insurance laws. It is intended that life insurance may be made available for public
8 employees, except that the procuring is permissive.

9 (2) (a) As used in KRS 18A.205 to 18A.215, "public employee" shall mean a person
10 who:

11 1. Is regularly employed by a public employer; and

12 2. Is also:

13 a. A contributing member of any one (1) of the state-administered
14 retirement systems;

15 b. A retiree of a state-administered retirement system who is
16 employed in a regular full-time position for purposes of retirement
17 coverage, but who is not eligible to contribute to one (1) of the
18 systems administered by Kentucky Retirement Systems or County
19 Employees Retirement System pursuant to KRS 61.637(17);

20 c. An individual participating in an optional retirement plan
21 authorized by KRS 161.567; or

22 d. An individual eligible to participate in a retirement plan
23 established by an employer who ceases participating in the
24 Kentucky Employees Retirement System pursuant to KRS 61.522
25 whose employees participated in the life insurance plans
26 administered by the Personnel Cabinet prior to the employer's
27 effective cessation date in the Kentucky Employees Retirement

1 System.

2 (b) Notwithstanding the definition of "public employee" in this subsection, any
3 federally funded time-limited employee may receive insurance coverage.

4 (3) As used in this section and KRS 18A.210, "public employer" shall mean the
5 following employers, if the employer has opted to participate in the state-sponsored
6 group life insurance program:

7 (a) Any department, office, board, agency, commission, authority, or branch of
8 state government;

9 (b) A public postsecondary educational institution;

10 (c) Any department, office, board, agency, commission, authority, or branch of a
11 city, urban-county, charter county, county, unified local government, or
12 consolidated local government; or

13 (d) Any certified or classified employee or elected member of a local board of
14 education.

15 (4) As used in KRS 18A.205 to 18A.225, "premiums" shall mean premiums to be paid
16 on any type of insurance authorized under KRS 18A.205 to 18A.225.

17 ➔Section 15. KRS 18A.225 is amended to read as follows:

18 (1) (a) The term "employee" for purposes of this section means:

19 1. Any person, including an elected public official, who is regularly
20 employed by any department, office, board, agency, or branch of state
21 government; or by a public postsecondary educational institution; or by
22 any city, urban-county, charter county, county, or consolidated local
23 government, whose legislative body has opted to participate in the state-
24 sponsored health insurance program pursuant to KRS 79.080; and who
25 is either a contributing member to any one (1) of the retirement systems
26 administered by the state, including but not limited to the Kentucky
27 Retirement Systems, County Employees Retirement System, Kentucky

- 1 Teachers' Retirement System, the Legislators' Retirement Plan, or the
2 Judicial Retirement Plan; or is receiving a contractual contribution from
3 the state toward a retirement plan; or, in the case of a public
4 postsecondary education institution, is an individual participating in an
5 optional retirement plan authorized by KRS 161.567; or is eligible to
6 participate in a retirement plan established by an employer who ceases
7 participating in the Kentucky Employees Retirement System pursuant to
8 KRS 61.522 whose employees participated in the health insurance plans
9 administered by the Personnel Cabinet prior to the employer's effective
10 cessation date in the Kentucky Employees Retirement System;
- 11 2. Any certified or classified employee of a local board of education;
- 12 3. Any elected member of a local board of education;
- 13 4. Any person who is a present or future recipient of a retirement
14 allowance from the Kentucky Retirement Systems, County Employees
15 Retirement System, Kentucky Teachers' Retirement System, the
16 Legislators' Retirement Plan, the Judicial Retirement Plan, or the
17 Kentucky Community and Technical College System's optional
18 retirement plan authorized by KRS 161.567, except that a person who is
19 receiving a retirement allowance and who is age sixty-five (65) or older
20 shall not be included, with the exception of persons covered under KRS
21 61.702(4)(c), unless he or she is actively employed pursuant to
22 subparagraph 1. of this paragraph; and
- 23 5. Any eligible dependents and beneficiaries of participating employees
24 and retirees who are entitled to participate in the state-sponsored health
25 insurance program;
- 26 (b) The term "health benefit plan" for the purposes of this section means a health
27 benefit plan as defined in KRS 304.17A-005;

1 (c) The term "insurer" for the purposes of this section means an insurer as defined
2 in KRS 304.17A-005; and

3 (d) The term "managed care plan" for the purposes of this section means a
4 managed care plan as defined in KRS 304.17A-500.

5 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
6 recommendation of the secretary of the Personnel Cabinet, shall procure, in
7 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
8 from one (1) or more insurers authorized to do business in this state, a group
9 health benefit plan that may include but not be limited to health maintenance
10 organization (HMO), preferred provider organization (PPO), point of service
11 (POS), and exclusive provider organization (EPO) benefit plans encompassing
12 all or any class or classes of employees. With the exception of employers
13 governed by the provisions of KRS Chapters 16, 18A, and 151B, all
14 employers of any class of employees or former employees shall enter into a
15 contract with the Personnel Cabinet prior to including that group in the state
16 health insurance group. The contracts shall include but not be limited to
17 designating the entity responsible for filing any federal forms, adoption of
18 policies required for proper plan administration, acceptance of the contractual
19 provisions with health insurance carriers or third-party administrators, and
20 adoption of the payment and reimbursement methods necessary for efficient
21 administration of the health insurance program. Health insurance coverage
22 provided to state employees under this section shall, at a minimum, contain
23 the same benefits as provided under Kentucky Kare Standard as of January 1,
24 1994, and shall include a mail-order drug option as provided in subsection
25 (13) of this section. All employees and other persons for whom the health care
26 coverage is provided or made available shall annually be given an option to
27 elect health care coverage through a self-funded plan offered by the

1 Commonwealth or, if a self-funded plan is not available, from a list of
2 coverage options determined by the competitive bid process under the
3 provisions of KRS 45A.080, 45A.085, and 45A.090 and made available
4 during annual open enrollment.

5 (b) The policy or policies shall be approved by the commissioner of insurance and
6 may contain the provisions the commissioner of insurance approves, whether
7 or not otherwise permitted by the insurance laws.

8 (c) Any carrier bidding to offer health care coverage to employees shall agree to
9 provide coverage to all members of the state group, including active
10 employees and retirees and their eligible covered dependents and
11 beneficiaries, within the county or counties specified in its bid. Except as
12 provided in subsection (20) of this section, any carrier bidding to offer health
13 care coverage to employees shall also agree to rate all employees as a single
14 entity, except for those retirees whose former employers insure their active
15 employees outside the state-sponsored health insurance program.

16 (d) Any carrier bidding to offer health care coverage to employees shall agree to
17 provide enrollment, claims, and utilization data to the Commonwealth in a
18 format specified by the Personnel Cabinet with the understanding that the data
19 shall be owned by the Commonwealth; to provide data in an electronic form
20 and within a time frame specified by the Personnel Cabinet; and to be subject
21 to penalties for noncompliance with data reporting requirements as specified
22 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions
23 to protect the confidentiality of each individual employee; however,
24 confidentiality assertions shall not relieve a carrier from the requirement of
25 providing stipulated data to the Commonwealth.

26 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities
27 for timely analysis of data received from carriers and, to the extent possible,

1 provide in the request-for-proposal specifics relating to data requirements,
2 electronic reporting, and penalties for noncompliance. The Commonwealth
3 shall own the enrollment, claims, and utilization data provided by each carrier
4 and shall develop methods to protect the confidentiality of the individual. The
5 Personnel Cabinet shall include in the October annual report submitted
6 pursuant to the provisions of KRS 18A.226 to the Governor, the General
7 Assembly, and the Chief Justice of the Supreme Court, an analysis of the
8 financial stability of the program, which shall include but not be limited to
9 loss ratios, methods of risk adjustment, measurements of carrier quality of
10 service, prescription coverage and cost management, and statutorily required
11 mandates. If state self-insurance was available as a carrier option, the report
12 also shall provide a detailed financial analysis of the self-insurance fund
13 including but not limited to loss ratios, reserves, and reinsurance agreements.

14 (f) If any agency participating in the state-sponsored employee health insurance
15 program for its active employees terminates participation and there is a state
16 appropriation for the employer's contribution for active employees' health
17 insurance coverage, then neither the agency nor the employees shall receive
18 the state-funded contribution after termination from the state-sponsored
19 employee health insurance program.

20 (g) Any funds in flexible spending accounts that remain after all reimbursements
21 have been processed shall be transferred to the credit of the state-sponsored
22 health insurance plan's appropriation account.

23 (h) Each entity participating in the state-sponsored health insurance program shall
24 provide an amount at least equal to the state contribution rate for the employer
25 portion of the health insurance premium. For any participating entity that used
26 the state payroll system, the employer contribution amount shall be equal to
27 but not greater than the state contribution rate.

- 1 (3) The premiums may be paid by the policyholder:
- 2 (a) Wholly from funds contributed by the employee, by payroll deduction or
- 3 otherwise;
- 4 (b) Wholly from funds contributed by any department, board, agency, public
- 5 postsecondary education institution, or branch of state, city, urban-county,
- 6 charter county, county, or consolidated local government; or
- 7 (c) Partly from each, except that any premium due for health care coverage or
- 8 dental coverage, if any, in excess of the premium amount contributed by any
- 9 department, board, agency, postsecondary education institution, or branch of
- 10 state, city, urban-county, charter county, county, or consolidated local
- 11 government for any other health care coverage shall be paid by the employee.
- 12 (4) If an employee moves his place of residence or employment out of the service area
- 13 of an insurer offering a managed health care plan, under which he has elected
- 14 coverage, into either the service area of another managed health care plan or into an
- 15 area of the Commonwealth not within a managed health care plan service area, the
- 16 employee shall be given an option, at the time of the move or transfer, to change his
- 17 or her coverage to another health benefit plan.
- 18 (5) No payment of premium by any department, board, agency, public postsecondary
- 19 educational institution, or branch of state, city, urban-county, charter county,
- 20 county, or consolidated local government shall constitute compensation to an
- 21 insured employee for the purposes of any statute fixing or limiting the
- 22 compensation of such an employee. Any premium or other expense incurred by any
- 23 department, board, agency, public postsecondary educational institution, or branch
- 24 of state, city, urban-county, charter county, county, or consolidated local
- 25 government shall be considered a proper cost of administration.
- 26 (6) The policy or policies may contain the provisions with respect to the class or classes
- 27 of employees covered, amounts of insurance or coverage for designated classes or

1 groups of employees, policy options, terms of eligibility, and continuation of
2 insurance or coverage after retirement.

3 (7) Group rates under this section shall be made available to the disabled child of an
4 employee regardless of the child's age if the entire premium for the disabled child's
5 coverage is paid by the state employee. A child shall be considered disabled if he
6 has been determined to be eligible for federal Social Security disability benefits.

7 (8) The health care contract or contracts for employees shall be entered into for a period
8 of not less than one (1) year.

9 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
10 State Health Insurance Subscribers to advise the secretary or his designee regarding
11 the state-sponsored health insurance program for employees. The secretary shall
12 appoint, from a list of names submitted by appointing authorities, members
13 representing school districts from each of the seven (7) Supreme Court districts,
14 members representing state government from each of the seven (7) Supreme Court
15 districts, two (2) members representing retirees under age sixty-five (65), one (1)
16 member representing local health departments, two (2) members representing the
17 Kentucky Teachers' Retirement System, and three (3) members at large. The
18 secretary shall also appoint two (2) members from a list of five (5) names submitted
19 by the Kentucky Education Association, two (2) members from a list of five (5)
20 names submitted by the largest state employee organization of nonschool state
21 employees, two (2) members from a list of five (5) names submitted by the
22 Kentucky Association of Counties, two (2) members from a list of five (5) names
23 submitted by the Kentucky League of Cities, and two (2) members from a list of
24 names consisting of five (5) names submitted by each state employee organization
25 that has two thousand (2,000) or more members on state payroll deduction. The
26 advisory committee shall be appointed in January of each year and shall meet
27 quarterly.

- 1 (10) Notwithstanding any other provision of law to the contrary, the policy or policies
2 provided to employees pursuant to this section shall not provide coverage for
3 obtaining or performing an abortion, nor shall any state funds be used for the
4 purpose of obtaining or performing an abortion on behalf of employees or their
5 dependents.
- 6 (11) Interruption of an established treatment regime with maintenance drugs shall be
7 grounds for an insured to appeal a formulary change through the established appeal
8 procedures approved by the Department of Insurance, if the physician supervising
9 the treatment certifies that the change is not in the best interests of the patient.
- 10 (12) Any employee who is eligible for and elects to participate in the state health
11 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any
12 one (1) of the state-sponsored retirement systems shall not be eligible to receive the
13 state health insurance contribution toward health care coverage as a result of any
14 other employment for which there is a public employer contribution. This does not
15 preclude a retiree and an active employee spouse from using both contributions to
16 the extent needed for purchase of one (1) state sponsored health insurance policy for
17 that plan year.
- 18 (13) (a) The policies of health insurance coverage procured under subsection (2) of
19 this section shall include a mail-order drug option for maintenance drugs for
20 state employees. Maintenance drugs may be dispensed by mail order in
21 accordance with Kentucky law.
- 22 (b) A health insurer shall not discriminate against any retail pharmacy located
23 within the geographic coverage area of the health benefit plan and that meets
24 the terms and conditions for participation established by the insurer, including
25 price, dispensing fee, and copay requirements of a mail-order option. The
26 retail pharmacy shall not be required to dispense by mail.
- 27 (c) The mail-order option shall not permit the dispensing of a controlled

1 substance classified in Schedule II.

2 (14) The policy or policies provided to state employees or their dependents pursuant to
3 this section shall provide coverage for obtaining a hearing aid and acquiring hearing
4 aid-related services for insured individuals under eighteen (18) years of age, subject
5 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months
6 pursuant to KRS 304.17A-132.

7 (15) Any policy provided to state employees or their dependents pursuant to this section
8 shall provide coverage for the diagnosis and treatment of autism spectrum disorders
9 consistent with KRS 304.17A-142.

10 (16) Any policy provided to state employees or their dependents pursuant to this section
11 shall provide coverage for obtaining amino acid-based elemental formula pursuant
12 to KRS 304.17A-258.

13 (17) If a state employee's residence and place of employment are in the same county, and
14 if the hospital located within that county does not offer surgical services, intensive
15 care services, obstetrical services, level II neonatal services, diagnostic cardiac
16 catheterization services, and magnetic resonance imaging services, the employee
17 may select a plan available in a contiguous county that does provide those services,
18 and the state contribution for the plan shall be the amount available in the county
19 where the plan selected is located.

20 (18) If a state employee's residence and place of employment are each located in counties
21 in which the hospitals do not offer surgical services, intensive care services,
22 obstetrical services, level II neonatal services, diagnostic cardiac catheterization
23 services, and magnetic resonance imaging services, the employee may select a plan
24 available in a county contiguous to the county of residence that does provide those
25 services, and the state contribution for the plan shall be the amount available in the
26 county where the plan selected is located.

27 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and

1 in the best interests of the state group to allow any carrier bidding to offer health
2 care coverage under this section to submit bids that may vary county by county or
3 by larger geographic areas.

4 (20) Notwithstanding any other provision of this section, the bid for proposals for health
5 insurance coverage for calendar year 2004 shall include a bid scenario that reflects
6 the statewide rating structure provided in calendar year 2003 and a bid scenario that
7 allows for a regional rating structure that allows carriers to submit bids that may
8 vary by region for a given product offering as described in this subsection:

9 (a) The regional rating bid scenario shall not include a request for bid on a
10 statewide option;

11 (b) The Personnel Cabinet shall divide the state into geographical regions which
12 shall be the same as the partnership regions designated by the Department for
13 Medicaid Services for purposes of the Kentucky Health Care Partnership
14 Program established pursuant to 907 KAR 1:705;

15 (c) The request for proposal shall require a carrier's bid to include every county
16 within the region or regions for which the bid is submitted and include but not
17 be restricted to a preferred provider organization (PPO) option;

18 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the
19 carrier all of the counties included in its bid within the region. If the Personnel
20 Cabinet deems the bids submitted in accordance with this subsection to be in
21 the best interests of state employees in a region, the cabinet may award the
22 contract for that region to no more than two (2) carriers; and

23 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including
24 other requirements or criteria in the request for proposal.

25 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or
26 after July 12, 2006, to public employees pursuant to this section which provides
27 coverage for services rendered by a physician or osteopath duly licensed under KRS

1 Chapter 311 that are within the scope of practice of an optometrist duly licensed
2 under the provisions of KRS Chapter 320 shall provide the same payment of
3 coverage to optometrists as allowed for those services rendered by physicians or
4 osteopaths.

5 (22) Any fully insured health benefit plan or self-insured plan issued or renewed on or
6 after July 12, 2006, to public employees pursuant to this section shall comply with
7 the provisions of KRS 304.17A-270 and 304.17A-525.

8 (23) Any fully insured health benefit plan or self -insured plan issued or renewed on or
9 after July 12, 2006, to public employees shall comply with KRS 304.17A-600 to
10 304.17A-633 pertaining to utilization review, KRS 205.593 and 304.17A-700 to
11 304.17A-730 pertaining to payment of claims, KRS 304.14-135 pertaining to
12 uniform health insurance claim forms, KRS 304.17A-580 and 304.17A-641
13 pertaining to emergency medical care, KRS 304.99-123, and any administrative
14 regulations promulgated thereunder.

15 (24) Any fully insured health benefit plan or self-insured plan issued or renewed on or
16 after July 1, 2019, to public employees pursuant to this section shall comply with
17 KRS 304.17A-138.

18 ➔Section 16. KRS 42.726 is amended to read as follows:

19 (1) The Commonwealth Office of Technology shall be the lead organizational entity
20 within the executive branch regarding delivery of information technology services,
21 including application development and delivery, and shall serve as the single
22 information technology authority for the Commonwealth.

23 (2) The roles and duties of the Commonwealth Office of Technology shall include but
24 not be limited to:

25 (a) Providing technical support and services to all executive agencies of state
26 government in the application of information technology;

27 (b) Assuring compatibility and connectivity of Kentucky's information systems;

- 1 (c) Developing strategies and policies to support and promote the effective
2 applications of information technology within state government as a means of
3 saving money, increasing employee productivity, and improving state services
4 to the public, including electronic public access to information of the
5 Commonwealth;
- 6 (d) Developing, implementing, and managing strategic information technology
7 directions, standards, and enterprise architecture, including implementing
8 necessary management processes to assure full compliance with those
9 directions, standards, and architecture;
- 10 (e) Promoting effective and efficient design and operation of all major
11 information resources management processes for executive branch agencies,
12 including improvements to work processes;
- 13 (f) Developing, implementing, and maintaining the technology infrastructure of
14 the Commonwealth and all related support staff, planning, administration,
15 asset management, and procurement for all executive branch cabinets and
16 agencies except:
- 17 1. Agencies led by a statewide elected official;
- 18 2. The nine (9) public institutions of postsecondary education;
- 19 3. The Department of Education's services provided to local school
20 districts;
- 21 4. The Kentucky Retirement Systems, the County Employees Retirement
22 System, the Kentucky Public Pensions Authority, and the Teachers'
23 Retirement System;
- 24 5. The Kentucky Housing Corporation;
- 25 6. The Kentucky Lottery Corporation;
- 26 7. The Kentucky Higher Education Student Loan Corporation; and
- 27 8. The Kentucky Higher Education Assistance Authority;

- 1 (g) Facilitating and fostering applied research in emerging technologies that offer
2 the Commonwealth innovative business solutions;
- 3 (h) Reviewing and overseeing large or complex information technology projects
4 and systems for compliance with statewide strategies, policies, and standards,
5 including alignment with the Commonwealth's business goals, investment,
6 and other risk management policies. The executive director is authorized to
7 grant or withhold approval to initiate these projects;
- 8 (i) Integrating information technology resources to provide effective and
9 supportable information technology applications in the Commonwealth;
- 10 (j) Establishing a central statewide geographic information clearinghouse to
11 maintain map inventories, information on current and planned geographic
12 information systems applications, information on grants available for the
13 acquisition or enhancement of geographic information resources, and a
14 directory of geographic information resources available within the state or
15 from the federal government;
- 16 (k) Coordinating multiagency information technology projects, including
17 overseeing the development and maintenance of statewide base maps and
18 geographic information systems;
- 19 (l) Providing access to both consulting and technical assistance, and education
20 and training, on the application and use of information technologies to state
21 and local agencies;
- 22 (m) In cooperation with other agencies, evaluating, participating in pilot studies,
23 and making recommendations on information technology hardware and
24 software;
- 25 (n) Providing staff support and technical assistance to the Geographic Information
26 Advisory Council and the Kentucky Information Technology Advisory
27 Council;

- 1 (o) Overseeing the development of a statewide geographic information plan with
2 input from the Geographic Information Advisory Council;
- 3 (p) Developing for state executive branch agencies a coordinated security
4 framework and model governance structure relating to the privacy and
5 confidentiality of personal information collected and stored by state executive
6 branch agencies, including but not limited to:
- 7 1. Identification of key infrastructure components and how to secure them;
8 2. Establishment of a common benchmark that measures the effectiveness
9 of security, including continuous monitoring and automation of
10 defenses;
11 3. Implementation of vulnerability scanning and other security
12 assessments;
13 4. Provision of training, orientation programs, and other communications
14 that increase awareness of the importance of security among agency
15 employees responsible for personal information; and
16 5. Development of and making available a cyber security incident response
17 plan and procedure; and
- 18 (q) Preparing proposed legislation and funding proposals for the General
19 Assembly that will further solidify coordination and expedite implementation
20 of information technology systems.
- 21 (3) The Commonwealth Office of Technology may:
- 22 (a) Provide general consulting services, technical training, and support for generic
23 software applications, upon request from a local government, if the executive
24 director finds that the requested services can be rendered within the
25 established terms of the federally approved cost allocation plan;
- 26 (b) Promulgate administrative regulations in accordance with KRS Chapter 13A
27 necessary for the implementation of KRS 42.720 to 42.742, 45.253, 171.420,

1 186A.040, 186A.285, and 194A.146;

2 (c) Solicit, receive, and consider proposals from any state agency, federal agency,
3 local government, university, nonprofit organization, private person, or
4 corporation;

5 (d) Solicit and accept money by grant, gift, donation, bequest, legislative
6 appropriation, or other conveyance to be held, used, and applied in accordance
7 with KRS 42.720 to 42.742, 45.253, 171.420, 186A.040, 186A.285, and
8 194A.146;

9 (e) Make and enter into memoranda of agreement and contracts necessary or
10 incidental to the performance of duties and execution of its powers, including,
11 but not limited to, agreements or contracts with the United States, other state
12 agencies, and any governmental subdivision of the Commonwealth;

13 (f) Accept grants from the United States government and its agencies and
14 instrumentalities, and from any source, other than any person, firm, or
15 corporation, or any director, officer, or agent thereof that manufactures or sells
16 information resources technology equipment, goods, or services. To these
17 ends, the Commonwealth Office of Technology shall have the power to
18 comply with those conditions and execute those agreements that are
19 necessary, convenient, or desirable; and

20 (g) Purchase interest in contractual services, rentals of all types, supplies,
21 materials, equipment, and other services to be used in the research and
22 development of beneficial applications of information resources technologies.

23 Competitive bids may not be required for:

24 1. New and emerging technologies as approved by the executive director or
25 her or his designee; or

26 2. Related professional, technical, or scientific services, but contracts shall
27 be submitted in accordance with KRS 45A.690 to 45A.725.

- 1 (4) Nothing in this section shall be construed to alter or diminish the provisions of KRS
2 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and
3 Records Commission and the Department for Libraries and Archives.
- 4 (5) The Commonwealth Office of Technology shall, on or before October 1 of each
5 year, submit to the Legislative Research Commission a report in accordance with
6 KRS 57.390 detailing:
- 7 (a) Any security breaches that occurred within organizational units of the
8 executive branch of state government during the prior fiscal year that required
9 notification to the Commonwealth Office of Technology under KRS 61.932;
- 10 (b) Actions taken to resolve the security breach, and to prevent additional security
11 breaches in the future;
- 12 (c) A general description of what actions are taken as a matter of course to protect
13 personal data from security breaches; and
- 14 (d) Any quantifiable financial impact to the agency reporting a security breach.
- 15 ➔Section 17. KRS 42.728 is amended to read as follows:
- 16 (1) To accomplish the work of the Commonwealth Office of Technology, all
17 organizational units and administrative bodies, as defined in KRS 12.010, and all
18 members of the state postsecondary education system, as defined in KRS 164.001,
19 shall furnish the Commonwealth Office of Technology necessary assistance,
20 resources, information, records, and advice as required.
- 21 (2) The provisions of KRS 42.720 to 42.742, 45.253, 171.420, 186A.040, 186A.285,
22 and 194A.146 shall not be construed to grant any authority over the judicial or
23 legislative branches of state government, or agencies thereof, to the Commonwealth
24 Office of Technology.
- 25 (3) The information, technology, personnel, agency resources, and confidential records
26 of the Kentucky Retirement Systems, the County Employees Retirement System,
27 the Kentucky Public Pensions Authority, and the Kentucky Teachers' Retirement

System shall be excluded from the provisions of KRS 42.720 to 42.742, 45.253, 171.420, 186A.040, 186A.285, and 194A.146 and shall not be under the authority of the Commonwealth Office of Technology.

➔Section 18. KRS 66.400 is amended to read as follows:

(1) As used in this section:

(a) "Bond" has the same meaning as in KRS 66.011 and is issued according to the provisions of KRS 66.011 to 66.191;

(b) "Lease" has the same meaning as in KRS 65.940 and is entered into under the provisions of KRS 65.940 to 65.956; and

(c) "Local government" has the same meaning as in KRS 44.001.

(2) (a) Except as otherwise provided by this section, any municipality as defined in the United States Bankruptcy Code, 11 U.S.C., secs. 101 et seq.,~~taxing agency or instrumentality as defined in Chapter IX of the Federal Bankruptcy Act as amended by the Acts of Congress of August 16, 1937, Chapter 657, June 22, 1938, Chapter 575, March 4, 1940, Chapter 41, June 28, 1940, Chapter 438~~ and acts amendatory and supplementary thereto or acts extending the date of expiration thereof, as the same may be amended or extended from time to time, may file a petition for the composition of its debts and to do all things necessary to comply with the provisions of the United States Bankruptcy Code~~[Federal Bankruptcy Act]~~.

(b) No county shall file a petition as provided in the United States Bankruptcy Code~~[Federal Bankruptcy Act]~~ unless the proposed plan is first approved by the state local debt officer and the state local finance officer, as defined in KRS 68.001. No changes or modifications shall be made in the plan of composition after the filing of the petition without the approval of the state local debt officer and the state local finance officer. The state local debt officer and the state local finance officer shall approve or disapprove the

1 proposed plan of composition or any changes or modifications thereof under
2 the same procedure and for the same reasons as bonds are approved or
3 disapproved under KRS 66.280 to 66.390.

4 (c) No municipality may file for bankruptcy protection under the United States
5 Bankruptcy Code if it is in default or is delinquent in the payment of
6 contributions due under KRS 78.510 to 78.852.

7 (3) (a) The revenues of a tax adopted:

8 1. According to KRS 66.111(1) for the payment of bonds shall be deemed
9 pledged for the payment of the principal of and the premium and interest
10 on the bonds; and

11 2. According to KRS 65.942(2) for the payment of a lease shall be deemed
12 pledged for the payment of the principal and interest portions of a lease
13 payment and any prepayment penalties on a lease;

14 whether or not the pledge is stated in the bonds, the lease, or in the
15 proceedings authorizing the bonds or the lease.

16 (b) The holders of all bonds issued and leases entered into shall have a first lien
17 on those tax revenues.

18 (c) There shall be a statutory lien on the tax revenues pledged in favor of the
19 holders of all bonds issued and leases entered into, effective by operation of
20 law, that shall apply to all outstanding bonds payable from taxes adopted
21 according to KRS 66.111(1) and leases payable from taxes adopted according
22 to KRS 65.942(2), without priority of one (1) bond or lease over another bond
23 or lease, regardless of when the bonds were issued or the lease was entered
24 into.

25 (d) No filing need be made under the Uniform Commercial Code or otherwise to
26 perfect the lien on the tax revenues.

27 (e) The pledge of the tax shall constitute a sufficient appropriation, and the tax

1 revenues shall be applied as required by the pledge, without the requirement
2 for further appropriation.

3 (4) Amounts appropriated for the payment of any obligation that is subject to annual
4 renewal, including but not limited to leases entered into under the provisions of
5 KRS 58.010 to 58.205 or KRS 65.940 to 65.956, shall be deemed pledged for
6 payment according to subsection (3)(a) of this section, and the holders of all bonds
7 issued or leases entered into shall have a first lien on those appropriations
8 commencing on the date of the appropriation.

9 (5) (a) The public property of any local government, of every character and
10 description, used for government or public purposes, is exempt from seizure
11 by attachment, execution, or other legal process, except as provided in
12 subsections (7) and (8) of this section.

13 (b) A local government's funds in the hands of its treasurer or a depository shall
14 not be subject to garnishment or other legal process, except as provided in
15 subsections (6), (7), and (8) of this section.

16 (6) (a) Except for judgments covered under KRS 65.2004, any local government
17 against which final judgment has been rendered for a claim that is not fully
18 covered by insurance may make a motion to the Circuit Court to enter an order
19 for the payment of money damages, in whole or in part, through a periodic
20 payment schedule for a period of time not to exceed ten (10) years.

21 (b) A court entering an order in response to a motion made by a local government
22 under paragraph (a) of this subsection shall consider the ability of the local
23 government to pay the judgment without a substantial disruption to the
24 essential public services provided by the local government. The court shall
25 consider the following factors in evaluating the motion and in setting a
26 periodic payment schedule:

27 1. The funds available in the local government's current fiscal year and

- 1 other funds available to the local government to pay the damages in the
2 remainder of the local government's fiscal year during which the final
3 judgment was entered;
- 4 2. The total revenues reasonably expected to be collected by the local
5 government in subsequent fiscal years based upon the historical
6 collections in previous fiscal years;
- 7 3. The total expenses of the local government in subsequent years for the
8 costs associated with the provision of essential public services, the
9 payment of debt service for the existing obligations of the local
10 government, and any other expenses reasonably necessary for the
11 efficient administration of the local government, including personnel,
12 operation, and maintenance costs associated with existing infrastructure,
13 and new costs which may be reasonably anticipated for the local
14 government; and
- 15 4. If the award for damages is an amount that exceeds twenty-five percent
16 (25%) of the total revenues collected by the local government in the
17 immediately preceding fiscal year, the court may also consider any
18 revenue or debt financing options that are reasonably available to the
19 local government that could be employed to help satisfy the judgment.
- 20 (c) An order entered by the court establishing a periodic payment schedule shall
21 specify the total amount awarded, the amount of each payment, the interval
22 between payments, and the number of payments to be paid under the order.
- 23 (d) Any judgment paid pursuant to the periodic payment schedule established
24 under this subsection shall bear interest accruing from the date final judgment
25 is entered at one-half (1/2) the interest rate provided by KRS 360.040.
- 26 (e) Upon petition to the court, the court may modify a periodic payment schedule
27 established in this subsection for good cause shown by the local government.

1 The modification may include changes to the amount of payments, the number
2 of payments, and the period of payments, but in no case shall an adjustment
3 pursuant to this paragraph alter the total amount of damages to be paid,
4 exclusive of interest, in the original order.

5 (7) Subject to the provisions of subsection (6) of this section, a court may enter an order
6 providing for the attachment, execution, garnishment, or seizure by other legal
7 process of public property, including moneys, of a local government only upon a
8 finding that:

9 (a) The local government has failed to comply with an order, modified order, or
10 judgment entered by the court as provided by subsection (6) of this section or
11 KRS 65.2004;

12 (b) After a period of twenty-four (24) months, the local government did not
13 petition the court to enter an order for the payment of money damages, in
14 whole or in part, through a periodic payment schedule as provided by
15 subsection (6) of this section or KRS 65.2004 and has not paid in full the total
16 damages awarded under the judgment; or

17 (c) The judgment for damages was not of the type that permitted the court to enter
18 an award of periodic damages, and the local government has failed to pay the
19 damages due in full after the passage of twenty-four (24) months from the
20 entry of a final judgment.

21 (8) (a) Any order providing for the attachment, execution, garnishment, or seizure by
22 other legal process of public property, including moneys, of a local
23 government shall not impair the ability of the local government to continue to
24 provide essential services to the public, including the payment of key
25 personnel needed for the provision of those services and those employees
26 necessary for the collection of revenues on behalf of the local government.

27 (b) In making a determination as to the appropriate extent of an order under this

1 subsection, a court shall consider but shall not be limited to the factors
2 provided in subsection (6)(b) of this section.

3 (9) Nothing in this section shall:

4 (a) Bar the pursuit of any other remedies that exist to enforce a judgment under
5 state law; or

6 (b) Prohibit a local government and a judgment creditor from entering into an
7 agreement for the payment of damages under terms and conditions that differ
8 from the remedies and process established under this section.

9 ➔Section 19. KRS 61.510 is repealed, reenacted, and amended to read as follows:

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

11 (1) "System" means the Kentucky Employees Retirement System created by KRS
12 61.510 to 61.705;

13 (2) "Board" means the board of trustees of the system as provided in KRS 61.645;

14 (3) "Department" means any state department or board or agency participating in the
15 system in accordance with appropriate executive order, as provided in KRS 61.520.
16 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the
17 General Assembly and any other body, entity, or instrumentality designated by
18 executive order by the Governor, shall be deemed to be a department,
19 notwithstanding whether said body, entity, or instrumentality is an integral part of
20 state government;

21 (4) "Examiner" means the medical examiners as provided in KRS 61.665;

22 (5) "Employee" means the members, officers, and employees of the General Assembly
23 and every regular full-time, appointed or elective officer or employee of a
24 participating department, including the Department of Military Affairs. The term
25 does not include persons engaged as independent contractors, seasonal, emergency,
26 temporary, interim, and part-time workers. In case of any doubt, the board shall
27 determine if a person is an employee within the meaning of KRS 61.510 to 61.705;

- 1 (6) "Employer" means a department or any authority of a department having the power
2 to appoint or select an employee in the department, including the Senate and the
3 House of Representatives, or any other entity, the employees of which are eligible
4 for membership in the system pursuant to KRS 61.525;
- 5 (7) "State" means the Commonwealth of Kentucky;
- 6 (8) "Member" means any employee who is included in the membership of the system or
7 any former employee whose membership has not been terminated under KRS
8 61.535;
- 9 (9) "Service" means the total of current service and prior service as defined in this
10 section;
- 11 (10) "Current service" means the number of years and months of employment as an
12 employee, on and after July 1, 1956, except that for members, officers, and
13 employees of the General Assembly this date shall be January 1, 1960, for which
14 creditable compensation is paid and employee contributions deducted, except as
15 otherwise provided, and each member, officer, and employee of the General
16 Assembly shall be credited with a month of current service for each month he
17 serves in the position;
- 18 (11) "Prior service" means the number of years and completed months, expressed as a
19 fraction of a year, of employment as an employee, prior to July 1, 1956, for which
20 creditable compensation was paid; except that for members, officers, and employees
21 of the General Assembly, this date shall be January 1, 1960. An employee shall be
22 credited with one (1) month of prior service only in those months he received
23 compensation for at least one hundred (100) hours of work; provided, however, that
24 each member, officer, and employee of the General Assembly shall be credited with
25 a month of prior service for each month he served in the position prior to January 1,
26 1960. Twelve (12) months of current service in the system are required to validate
27 prior service;

1 (12) "Accumulated contributions" at any time means the sum of all amounts deducted
2 from the compensation of a member and credited to his individual account in the
3 members' account, including employee contributions picked up after August 1,
4 1982, pursuant to KRS 61.560(4), together with interest credited~~[, or investment~~
5 ~~returns earned as provided by KRS 61.5956]~~, on such amounts and any other
6 amounts the member shall have contributed thereto, including interest credited
7 thereon~~[or investment returns earned as provided by KRS 61.5956]~~. **For members**
8 **who begin participating on or after September 1, 2008,** "accumulated
9 contributions" shall not include employee contributions that are deposited into
10 accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established
11 in KRS 16.510~~[, 61.515,]~~ and 78.520, as prescribed by KRS 61.702(2)(b);

12 (13) "Creditable compensation":

13 (a) ~~[Except as provided by paragraph (b) or (c) of this subsection,]~~ Means all
14 salary, wages, tips to the extent the tips are reported for income tax purposes,
15 and fees, including payments for compensatory time, paid to the employee as
16 a result of services performed for the employer or for time during which the
17 member is on paid leave, which are includable on the member's federal form
18 W-2 wage and tax statement under the heading "wages, tips, other
19 compensation," including employee contributions picked up after August 1,
20 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it
21 shall mean all amounts which are includable on the member's federal form W-
22 2 wage and tax statement under the heading "wages, tips, other
23 compensation," including employee contributions picked up after August 1,
24 1982, pursuant to KRS 6.505(4) or 61.560(4);

25 (b) Includes:

26 1. Lump-sum bonuses, severance pay, or employer-provided payments for
27 purchase of service credit, which shall be averaged over the employee's

- 1 total service with the system in which it is recorded if it is equal to or
2 greater than one thousand dollars (\$1,000);
- 3 2. Cases where compensation includes maintenance and other perquisites,
4 but the board shall fix the value of that part of the compensation not paid
5 in money;
- 6 3. Lump-sum payments for creditable compensation paid as a result of an
7 order of a court of competent jurisdiction, the Personnel Board, or the
8 Commission on Human Rights, or for any creditable compensation paid
9 in anticipation of settlement of an action before a court of competent
10 jurisdiction, the Personnel Board, or the Commission on Human Rights,
11 including notices of violations of state or federal wage and hour statutes
12 or violations of state or federal discrimination statutes, which shall be
13 credited to the fiscal year during which the wages were earned or should
14 have been paid by the employer. This subparagraph shall also include
15 lump-sum payments for reinstated wages pursuant to KRS 61.569,
16 which shall be credited to the period during which the wages were
17 earned or should have been paid by the 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. ~~Uniform, equipment, or any other expense allowances paid on or after~~
27 ~~January 1, 2019,~~ Living allowances, expense reimbursements, lump-

1 sum payments for accrued vacation leave, and other items determined by
2 the board;

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

5 3. ~~{For employees participating in a nonhazardous position who began~~
6 ~~participating prior to September 1, 2008, and who retire after July 1,~~
7 ~~2023, lump sum payments for compensatory time upon termination of~~
8 ~~employment;~~

9 4. ~~For~~ For employees who begin participating on or after August 1, 2016,
10 nominal fees paid for services as a volunteer; and

11 4.15. Any salary or wages paid to an employee for services as a Kentucky
12 State Police school resource officer as defined by KRS 158.441;

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

14 (a) For a member who begins participating before September 1, 2008, who is
15 employed in a nonhazardous position, the creditable compensation of the
16 member during the five (5) fiscal years he was paid at the highest average
17 monthly rate divided by the number of months of service credit during that
18 five (5) year period multiplied by twelve (12). The five (5) years may be
19 fractional and need not be consecutive~~[, except that for members retiring on or~~
20 ~~after January 1, 2019, the five (5) fiscal years shall be complete fiscal years].~~
21 If the number of months of service credit during the five (5) year period is less
22 than forty-eight (48)~~[for members retiring prior to January 1, 2019], one (1)~~
23 or more additional fiscal years shall be used~~[. If a member retiring on or after~~
24 ~~January 1, 2019, does not have five (5) complete fiscal years that each contain~~
25 ~~twelve (12) months of service credit, then one (1) or more additional fiscal~~
26 ~~years, which may contain less than twelve (12) months of service credit, shall~~
27 ~~be added until the number of months in the final compensation calculation is~~

1 ~~at least sixty (60) months];~~

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

15 (c) For a member who begins participating before September 1, 2008, who is
16 employed in a hazardous position, as provided in KRS 61.592, ~~and who~~
17 ~~retired prior to January 1, 2019,]~~the creditable compensation of the member
18 during the three (3) fiscal years he was paid at the highest average monthly
19 rate divided by the number of months of service credit during that three (3)
20 year period multiplied by twelve (12). The three (3) years may be fractional
21 and need not be consecutive. If the number of months of service credit during
22 the three (3) year period is less than twenty-four (24), one (1) or more
23 additional fiscal years shall be used;

24 (d) For a member who begins participating on or after September 1, 2008, but
25 prior to January 1, 2014, who is employed in a nonhazardous position, the
26 creditable compensation of the member during the five (5) complete fiscal
27 years immediately preceding retirement divided by five (5). Each fiscal year

1 used to determine final compensation must contain twelve (12) months of
2 service credit. If the member does not have five (5) complete fiscal years that
3 each contain twelve (12) months of service credit, then one (1) or more
4 additional fiscal years, which may contain less than twelve (12) months of
5 service credit, shall be added until the number of months in the final
6 compensation calculation is at least sixty (60) months; or

7 (e) For a member who begins participating on or after September 1, 2008, but
8 prior to January 1, 2014, who is employed in a hazardous position as provided
9 in KRS 61.592[, or for a member who begins participating prior to September
10 1, 2008, who is employed in a hazardous position as provided in KRS 61.592,
11 ~~who retires on or after January 1, 2019~~], the creditable compensation of the
12 member during the three (3) complete fiscal years he was paid at the highest
13 average monthly rate divided by three (3). Each fiscal year used to determine
14 final compensation must contain twelve (12) months of service credit. If the
15 member does not have three (3) complete fiscal years that each contain twelve
16 (12) months of service credit, then one (1) or more additional fiscal years,
17 which may contain less than twelve (12) months of service credit, shall be
18 added until the number of months in the final compensation calculation is at
19 least thirty-six (36) months;

20 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
21 calculated during the twelve (12) month period immediately preceding the
22 member's effective retirement date, including employee contributions picked up
23 after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the
24 system by the employer and the following equivalents shall be used to convert the
25 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
26 workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour
27 workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months,

- 1 one (1) year;
- 2 (16) "Retirement allowance" means the retirement payments to which a member is
- 3 entitled;
- 4 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
- 5 basis of the actuarial tables that are adopted by the board. In cases of disability
- 6 retirement, the options authorized by KRS 61.635 shall be computed by adding ten
- 7 (10) years to the age of the member, unless the member has chosen the Social
- 8 Security adjustment option as provided for in KRS 61.635(8), in which case the
- 9 member's actual age shall be used. For members who began participating in the
- 10 system prior to January 1, 2014, no disability retirement option shall be less than the
- 11 same option computed under early retirement;
- 12 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless
- 13 otherwise provided in KRS 61.510 to 61.705;
- 14 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
- 15 following June 30, which shall also be the plan year. The "fiscal year" shall be the
- 16 limitation year used to determine contribution and benefit limits as established by
- 17 26 U.S.C. sec. 415;
- 18 (20) "Officers and employees of the General Assembly" means the occupants of those
- 19 positions enumerated in KRS 6.150. The term shall also apply to assistants who
- 20 were employed by the General Assembly for at least one (1) regular legislative
- 21 session prior to July 13, 2004, who elect to participate in the retirement system, and
- 22 who serve for at least six (6) regular legislative sessions. Assistants hired after July
- 23 13, 2004, shall be designated as interim employees;
- 24 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean
- 25 all positions that average one hundred (100) or more hours per month determined by
- 26 using the number of months actually worked within a calendar or fiscal year,
- 27 including all positions except:

- 1 (a) Seasonal positions, which although temporary in duration, are positions which
2 coincide in duration with a particular season or seasons of the year and which
3 may recur regularly from year to year, the period of time shall not exceed nine
4 (9) months;
- 5 (b) Emergency positions which are positions which do not exceed thirty (30)
6 working days and are nonrenewable;
- 7 (c) Temporary positions which are positions of employment with a participating
8 department for a period of time not to exceed nine (9) months and are
9 nonrenewable;
- 10 (d) Part-time positions which are positions which may be permanent in duration,
11 but which require less than a calendar or fiscal year average of one hundred
12 (100) hours of work per month, determined by using the number of months
13 actually worked within a calendar or fiscal year, in the performance of duty;
14 and
- 15 (e) Interim positions which are positions established for a one-time or recurring
16 need not to exceed nine (9) months;
- 17 (22) "Delayed contribution payment" means an amount paid by an employee for
18 purchase of current service. The amount shall be determined using the same formula
19 in KRS 61.5525, and the payment shall not be picked up by the employer. A
20 delayed contribution payment shall be deposited to the member's account and
21 considered as accumulated contributions of the individual member. In determining
22 payments under this subsection, the formula found in this subsection shall prevail
23 over the one found in KRS 212.434;
- 24 (23) "Parted employer" means a department, portion of a department, board, or agency,
25 such as Outwood Hospital and School, which previously participated in the system,
26 but due to lease or other contractual arrangement is now operated by a publicly held
27 corporation or other similar organization, and therefore is no longer participating in

- 1 the system. The term "parted employer" shall not include a department, board, or
2 agency that ceased participation in the system pursuant to KRS 61.522;
- 3 (24) "Retired member" means any former member receiving a retirement allowance or
4 any former member who has filed the necessary documents for retirement benefits
5 and is no longer contributing to the retirement system;
- 6 (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
7 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
8 pay. The rate shall be certified by the employer;
- 9 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by
10 the member in accordance with KRS 61.542 or 61.705 to receive any available
11 benefits in the event of the member's death. As used in KRS 61.702, "beneficiary"
12 does not mean an estate, trust, or trustee;
- 13 (27) "Recipient" means the retired member or the person or persons designated as
14 beneficiary by the member and drawing a retirement allowance as a result of the
15 member's death or a dependent child drawing a retirement allowance. An alternate
16 payee of a qualified domestic relations order shall not be considered a recipient,
17 except for purposes of KRS 61.623;
- 18 (28) **"Level percentage of payroll amortization method"**~~["Level dollar amortization~~
19 ~~method"]~~ means a method of determining the annual amortization payment on the
20 unfunded actuarial accrued liability ~~{that is set}~~ as **expressed as a percentage of**
21 **payroll**~~{an equal dollar amount}~~ over **a set period of years**~~{the remaining~~
22 ~~amortization period as of the actuarial valuation date}~~. Under this method, the
23 unfunded actuarially accrued liability shall be projected to be fully amortized at the
24 conclusion of the **set period of years**~~{amortization period}~~;
- 25 (29) "Increment" means twelve (12) months of service credit which are purchased. The
26 twelve (12) months need not be consecutive. The final increment may be less than
27 twelve (12) months;

- 1 (30) "Person" means a natural person;
- 2 (31) "Retirement office" means the Kentucky Public Pensions Authority's Retirement
3 ~~Systems~~ office building in Frankfort;
- 4 (32) "Last day of paid employment" means the last date employer and employee
5 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
6 78.615 to the retirement office in order for the employee to receive current service
7 credit for the month. Last day of paid employment does not mean a date the
8 employee receives payment for accrued leave, whether by lump sum or otherwise, if
9 that date occurs twenty-four (24) or more months after previous contributions;
- 10 (33) "Objective medical evidence" means reports of examinations or treatments; medical
11 signs which are anatomical, physiological, or psychological abnormalities that can
12 be observed; psychiatric signs which are medically demonstrable phenomena
13 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
14 or contact with reality; or laboratory findings which are anatomical, physiological,
15 or psychological phenomena that can be shown by medically acceptable laboratory
16 diagnostic techniques, including but not limited to chemical tests,
17 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 18 (34) "Participating" means an employee is currently earning service credit in the system
19 as provided in KRS 61.543;
- 20 (35) "Month" means a calendar month;
- 21 (36) "Membership date" means:
- 22 (a) The date upon which the member began participating in the system as
23 provided in KRS 61.543; or
- 24 (b) For a member electing to participate in the system pursuant to KRS
25 196.167(4) who has not previously participated in the system or the Kentucky
26 Teachers' Retirement System, the date the member began participating in a
27 defined contribution plan that meets the requirements of 26 U.S.C. sec.

1 403(b);

2 (37) "Participant" means a member, as defined by subsection (8) of this section, or a
3 retired member, as defined by subsection (24) of this section;

4 (38) "Qualified domestic relations order" means any judgment, decree, or order,
5 including approval of a property settlement agreement, that:

6 (a) Is issued by a court or administrative agency; and

7 (b) Relates to the provision of child support, alimony payments, or marital
8 property rights to an alternate payee;

9 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
10 participant, who is designated to be paid retirement benefits in a qualified domestic
11 relations order;

12 (40) "Accumulated employer credit" mean the employer pay credit deposited to the
13 member's account and interest credited on such amounts as provided by KRS
14 16.583 and 61.597;

15 (41) "Accumulated account balance" means:

16 (a) For members who began participating in the system prior to January 1, 2014,
17 the member's accumulated contributions; or

18 (b) For members who began participating in the system on or after January 1,
19 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,
20 the combined sum of the member's accumulated contributions and the
21 member's accumulated employer credit; ~~or~~

22 ~~(c) For nonhazardous members who are participating in the 401(a) money~~
23 ~~purchase plan as provided by KRS 61.5956, the combined sum of the~~
24 ~~member's accumulated contribution and the member's accumulated employer~~
25 ~~contribution in the 401(a) money purchase plan];~~

26 (42) "Volunteer" means an individual who:

27 (a) Freely and without pressure or coercion performs hours of service for an

1 employer participating in one (1) of the systems administered by Kentucky
2 Retirement Systems without receipt of compensation for services rendered,
3 except for reimbursement of actual expenses, payment of a nominal fee to
4 offset the costs of performing the voluntary services, or both; and

5 (b) If a retired member, does not become an employee, leased employee, or
6 independent contractor of the employer for which he or she is performing
7 volunteer services for a period of at least twelve (12)~~twenty-four (24)~~ months
8 following the retired member's most recent retirement date;

9 (43) "Nominal fee" means compensation earned for services as a volunteer that does not
10 exceed five hundred dollars (\$500) per month. Compensation earned for services as
11 a volunteer from more than one (1) participating employer during a month shall be
12 aggregated to determine whether the compensation exceeds the five hundred dollars
13 (\$500) per month maximum provided by this subsection;

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

16 ~~(45) ["Accumulated employer contribution" means the employer contribution deposited~~
17 ~~to the member's account and any investment returns on such amounts as provided~~
18 ~~by KRS 61.5956; and~~

19 ~~(46) ["Monthly average pay" means the higher of the member's monthly final rate of pay~~
20 ~~or the average monthly creditable compensation earned by the deceased member~~
21 ~~during his or her last twelve (12) months of employment;~~

22 (46) "Authority" means the Kentucky Public Pensions Authority as provided by
23 Section 2 of this Act; and

24 (47) "Executive director" means the executive director of the Kentucky Public
25 Pensions Authority.

26 ➔Section 20. KRS 61.522 is amended to read as follows:

27 Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to the

1 contrary:

2 (1) For purposes of this section:

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

4 (b) "Employer" means the governing body of a department, as defined by KRS
5 61.510~~, or a county as defined by KRS 78.510~~;

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

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

12 2. For Kentucky Employees Retirement System employers making an
13 election to cease participating under the provisions of subsection (8) of
14 this section, it shall be June 30, 2020; and

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

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

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

21 (b) Be required to involuntarily cease participation in the system under the
22 provisions of this section if the board has determined the employer is no
23 longer qualified to participate in a governmental plan or has failed to comply
24 with the provisions of KRS 61.510 to 61.705 ~~or 78.510 to 78.852~~; or

25 (c) If the employer is participating in the Kentucky Employees Retirement
26 System, request an estimate of the cost of voluntarily ceasing participation in
27 the system prior to officially making a request to cease participation. For those

1 Kentucky Employees Retirement System nonhazardous employers who are
2 considering ceasing participating in the system under the provisions of
3 subsection (8) of this section on June 30, 2020, the request for an estimate to
4 voluntarily cease participating must be made prior to December 31, 2019, and
5 the estimate shall be provided to that employer within sixty (60) days of the
6 request, except that no estimate shall be required to be provided prior to
7 January 31, 2020;

8 (3) (a) If an employer desires to voluntarily cease participation in the Kentucky
9 Employees Retirement System~~[or the County Employees Retirement System]~~
10 as provided by subsection (2)(a) of this section:

- 11 1. The employer shall adopt a resolution requesting to cease participation
12 in the system and shall submit the resolution to the board for its
13 approval. The board shall not be able to deny a resolution to cease
14 participation in the Kentucky Employees Retirement System for any
15 employer who seeks to voluntarily cease participation in the system as
16 provided by subsection (8) of this section;
- 17 2. Except as provided by subsection (8)(d) of this section, the cessation of
18 participation in the system shall apply to all employees of the employer;
- 19 3. The employer shall pay for all administrative costs of an actuarial study
20 to be completed by the Kentucky Retirement Systems' consulting actuary
21 and for any other administrative costs for discontinuing participation in
22 the system as determined by the board and as provided by this section;
- 23 4. The employer shall provide an alternative retirement program for
24 employees who will no longer be covered by the system, which may
25 include a voluntary defined contribution plan but, for Kentucky
26 Employees Retirement System employers with effective cessation dates
27 occurring on or after June 30, 2020, the alternative retirement program

- 1 shall not include a defined benefit plan which by its nature can have an
2 unfunded liability;
- 3 5. If the alternative retirement program established by the employer meets
4 the qualification requirements under 26 U.S.C. sec. 401(a) or 26 U.S.C.
5 sec. 403(b) and is capable of accepting trustee-to-trustee transfers of
6 both pre-tax and post-tax contributions, employees of the employer
7 ceasing participation may, except for those employees continuing to
8 participate in the system as provided by subsection (8)(d)2. of this
9 section, seek to transfer his or her account balance to the employer's
10 qualified alternate retirement program within sixty (60) days of the
11 employer's effective cessation date. An employee's election to transfer
12 his or her account balance within sixty (60) days of the employer's
13 effective cessation date is an irrevocable waiver of the right to obtain
14 service credits in the system for the time worked for the employer
15 ceasing participation;
- 16 6. The employer shall pay to the system by lump sum or in installments as
17 provided by subsection (8) of this section, if eligible, the full actuarial
18 cost, except as provided by subsection (8)(g)4. of this section, of the
19 benefits accrued by its current and former employees in the system as
20 determined separately for the pension fund and the insurance fund by the
21 actuarial study required by subparagraph 3. of this paragraph. If the
22 employer makes an election for employees to continue to participate in
23 the system as provided by subsection (8)(d)2. of this section, the cost
24 shall also include the present value of future normal costs of those
25 employees who will continue to participate in the system after the
26 employer's effective cessation date. The full actuarial cost shall not
27 include any employee who seeks a transfer of his or her account balance

1 within sixty (60) days of the employer's effective cessation date as
2 provided by subparagraph 5. of this paragraph. The actuarial cost shall
3 be fixed, and the employer shall not be subject to any increases or
4 subsequent adjustments, once the lump sum is paid or the installment
5 payments have commenced; and

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

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

- 22 1. The cessation of participation in the system shall apply to all employees
23 of the employer;
24 2. The employer shall pay for all administrative costs of an actuarial study
25 to be completed by the Kentucky Retirement Systems' consulting actuary
26 and for any other administrative costs for discontinuing participation in
27 the system as determined by the board and as provided by this section;

1 and

2 3. The employer shall pay by lump sum to the system the full actuarial cost
3 of the benefits accrued by its current and former employees in the
4 system as determined separately for the pension fund and the insurance
5 fund by the actuarial study required by subparagraph 2. of this
6 paragraph. The actuarial cost shall be fixed, and the employer shall not
7 be subject to any increases or subsequent adjustments, once the lump
8 sum is paid.

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

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

20 (5) If an employer has ceased participation in the system as provided by this section:

21 (a) The rights of recipients and the vested rights of inactive members accrued as
22 of the employer's effective cessation date shall not be impaired or reduced in
23 any manner as a result of the employer ceasing participation in the system; and

24 (b) Except as provided by subsection (8)(d)2. of this section, employees of the
25 employer ceasing participation shall accrue benefits through the employer's
26 effective cessation date but shall not accrue any additional benefits in the
27 Kentucky Employees Retirement System~~[or the County Employees~~

1 ~~Retirement System~~, including earning years of service credit through the
2 ceased employer, after the employer's effective cessation date for as long as
3 they remain employed by the employer. The day after the employer's effective
4 cessation date, each employee described by this paragraph, except as provided
5 by subsection (8)(d)2. of this section, shall be considered an inactive member
6 with respect to his or her employment with the employer that ceased
7 participation and, subject to the provisions and limitations of KRS 61.510 to
8 61.705 ~~and 78.510 to 78.852~~, shall:

- 9 1. Retain his or her accounts with the Kentucky Employees Retirement
10 System ~~or the County Employees Retirement System~~ and have those
11 accounts credited with interest in accordance with KRS 61.510 to
12 61.705 ~~and 78.510 to 78.852~~;
- 13 2. Retain his or her vested rights in accordance with paragraph (a) of this
14 subsection; and
- 15 3. Be eligible to take a refund of his or her accumulated account balance in
16 accordance with KRS 61.625 or any other available distribution if
17 eligible;

18 (6) ~~{(a)}~~ Kentucky Employees Retirement System employers who are county attorney
19 offices, Commonwealth's attorney offices, local and district health departments
20 governed by KRS Chapter 212, master commissioners, executive branch agencies
21 whose employees are subject to KRS 18A.005 to 18A.200, state-administered
22 retirement systems, state-supported universities and community colleges, property
23 valuation administration offices, or employers in the legislative or judicial branch of
24 Kentucky state government, shall not be eligible to voluntarily discontinue
25 participation in the Kentucky Employees Retirement System, except that:

- 26 1. Any employer who is a nonstock nonprofit corporation organized under
27 KRS Chapter 273 may voluntarily cease participation; and

1 2. Local and district health departments governed by KRS Chapter 212,
2 state-supported universities and community colleges, and the Kentucky
3 Higher Education Student Loan Corporation may voluntarily cease
4 participation in the Kentucky Employees Retirement System solely
5 under the provisions and requirements of subsection (8) of this section[-

6 ~~(b) Only the employers in the County Employees Retirement System who are a~~
7 ~~nonstock nonprofit corporation organized under KRS Chapter 273 may~~
8 ~~voluntarily cease participation in the County Employees Retirement System];~~

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

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

21 (b) Four and one-half percent (4.5%) for those Kentucky Employees Retirement
22 System employers who voluntarily cease participation under the provisions of
23 subsection (8) of this section who pay the costs of ceasing participation by
24 lump-sum payment by June 30, 2021, and who do not make an election for
25 their employees to continue to participate in the system after the employer's
26 effective cessation date as provided by subsection (8)(d)3. of this section;

27 (c) Three and one-half percent (3.5%) for those Kentucky Employees Retirement

- 1 System employers who voluntarily cease participation under the provisions of
2 subsection (8) of this section who pay the costs of ceasing participation by
3 lump-sum payment by June 30, 2021, and who do make an election for
4 employees to continue to participate in the system after the employer's
5 effective cessation date as provided by subsection (8)(d)2. of this section;
- 6 (d) 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 installment payments and who do not make an election for employees to
10 continue to participate in the system after the employer's effective cessation
11 date as provided by subsection (8)(d)3. of this section; or
- 12 (e) Three percent (3%) for those Kentucky Employees Retirement System
13 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 make an election for employees to continue
16 to participate in the system after the employer's effective cessation date as
17 provided by subsection (8)(d)2. of this section;
- 18 (8) Notwithstanding the provisions of this section, any Kentucky Employees
19 Retirement System employer who is eligible to voluntarily cease participating as
20 provided by subsection (6) of this section may, on or after April 1, 2020, but prior to
21 May 1, 2020, elect to voluntarily cease participating in the systems for its
22 nonhazardous employees by submitting a resolution in accordance with subsection
23 (3)(a)1. of this section. If an employer makes an election to voluntarily cease
24 participation by submitting a resolution as provided by this subsection:
- 25 (a) The board shall accept any election to cease participation on or before June
26 30, 2020, and the employer's effective cessation date shall be June 30, 2020.
27 Prior to May 1, 2020, an employer may rescind a previously submitted

1 election to cease participation;

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

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

23 (d) 1. The employer shall, in the resolution submitted in accordance with
24 subsection (3)(a)1. of this section, make an election as to whether or not
25 nonhazardous employees hired prior to the employer's effective
26 cessation date, who began participating in the systems administered by
27 Kentucky Retirement Systems prior to January 1, 2014, who are

1 participating in the systems administered by Kentucky Retirement
2 Systems through the employer, will continue to participate in the system
3 after the employer's effective cessation date.

4 2. If the employer makes an election for the employees described by this
5 paragraph to continue participating in the system after the employer's
6 effective cessation date, these employees will continue to contribute and
7 earn service credit in the systems for as long as they remain employed by
8 the employer in a regular full-time position that is eligible to participate
9 in the systems, except in the event the employer fails to make
10 installment payments as provided by KRS 61.675(4). Any costs for the
11 present value of future normal costs of the employees covered by this
12 subparagraph who will contribute and earn service in the system after
13 the employer's effective cessation date shall be included in the cost
14 calculation established by subsection (7) of this section.

15 3. If the employer does not make an election for the employees described
16 by this paragraph to continue participating in the system after the
17 employer's effective cessation date, these employees shall continue to
18 contribute and earn service credit in the systems through the employer's
19 effective cessation date. After the employer's effective cessation date,
20 these employees shall participate in the alternative retirement plan
21 established by the employer as provided by subsection (3)(a)4. of this
22 section;

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

27 (f) The employer may pay the full actuarial cost of ceasing participation by lump-

1 sum payment or in installments as provided by paragraph (g) of this
2 subsection;

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

6 1. Annual payments occurring on or after July 1, 2020, shall be a set dollar
7 value and shall be paid in monthly installments. In fiscal year 2020-
8 2021, the set dollar value shall be equal to the higher of the actual
9 contributions paid by the employer in fiscal year 2019-2020 or the
10 annualized average of the creditable compensation reported to the
11 systems by the ceasing employer over the last sixty (60) months
12 occurring prior to July 1, 2019, for which contributions were paid by the
13 ceasing employer, and multiplied by an employer rate of forty-nine and
14 forty-seven one-hundredths percent (49.47%). Annual payments, for
15 fiscal years occurring on or after July 1, 2021, which shall be paid
16 monthly, shall be increased by one and one-half percent (1.5%) annually
17 and shall be paid until the cost as provided by subsection (7) of this
18 section and as adjusted annually by subparagraphs 2. and 3. of this
19 paragraph are paid in full or until an employer as described by
20 subparagraph 4. of this paragraph has paid for thirty (30) years from the
21 effective cessation date;

22 2. Interest shall be assigned to the principal amount annually beginning on
23 July 1, 2020, and for each July 1 thereafter, that is equal to a rate of five
24 and one-quarter percent (5.25%) per annum for pension costs and at a
25 rate of six and one-quarter percent (6.25%) per annum for retiree health
26 costs;

27 3. If an employer is not projected by the systems to pay off the full

1 actuarial costs to cease participation with interest as provided by
2 subparagraph 2. of this paragraph at the conclusion of the thirty (30) year
3 installment period from the employer's effective cessation date, and the
4 employer makes an election for employees to continue to participate in
5 the system after the employer's effective cessation date as provided by
6 paragraph (d)2. of this subsection, then the systems shall adjust the base
7 value for the first annual payments occurring on or after July 1, 2020, in
8 order to keep the maximum period of installments to thirty (30) years;
9 and

- 10 4. If an employer is not projected by the systems to pay off the full
11 actuarial costs to cease participation with interest as provided by
12 subparagraph 2. of this paragraph at the conclusion of the thirty (30) year
13 installment period from the employer's effective cessation date, and the
14 employer does not make an election for employees to continue to
15 participate in the system after the employer's effective cessation date as
16 provided by paragraph (d)3. of this subsection, the employer shall pay
17 the amount determined by subparagraph 1. of this paragraph for thirty
18 (30) years from the effective cessation date and no additional costs shall
19 be billed to a ceasing employer after the conclusion of the thirty (30)
20 year period nor shall the employer be subject to adjustments under
21 subparagraph 3. of this paragraph. The system may request in future
22 biennial executive branch budgets the additional funding needed on an
23 annual basis to fully pay off the installments at the conclusion of the
24 thirty (30) year period for the employers described by this paragraph,
25 and it is the intent of the General Assembly to pay the additional funding
26 needed by appropriation in the biennial executive branch budget.

27 An employer ceasing participation who is making installment payments as

1 provided by this paragraph may at any time pay off a portion of the remaining
2 balance or the entire remaining balance and shall not be charged any interest
3 for periods beyond the pay-off date for the balance that is paid off;

4 (h) Kentucky Employees Retirement System employers eligible to cease
5 participation under the provisions of this subsection who do not make an
6 election to cease participation in the system prior to May 1, 2020, shall be
7 required to pay the full actuarially determined contributions established by
8 KRS 61.565 and 61.702 for fiscal years occurring on or after July 1, 2020; and

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

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

20 (10) (a) Any employer who voluntarily ceases participation, or who is required to
21 involuntarily cease participation as provided in this section, shall hold the
22 Commonwealth and the Kentucky Retirement Systems, including board
23 members and employees of the Kentucky Retirement Systems, harmless from
24 damages, attorney's fees and costs from legal claims for any cause of action
25 brought by any member or retired member of the departing employer related
26 to the employer's cessation of participation as set forth in this section.

27 (b) Any employer who is voluntarily ceasing participation under the provisions of

1 subsection (8) of this section shall be required to pledge any security in any
2 relevant real estate, chattel paper, deposit accounts, documents, goods covered
3 by documents, instruments, investment property, letters of credit rights, and
4 money to the costs of ceasing participation until all costs of ceasing
5 participation are paid in full; and

6 (11) Notwithstanding any other provision of statute to the contrary, the provisions of
7 KRS 61.510 to 61.705~~[and 78.510 to 78.852]~~, and the administrative regulations
8 promulgated thereunder, shall prevail regarding any question of participation in the
9 systems of any employer or any employee of an employer who ceases participation
10 in the Kentucky Employees Retirement System.

11 ➔Section 21. KRS 61.535 is amended to read as follows:

12 (1) The membership of any person in the system shall cease:

- 13 (a) Upon withdrawal of his accumulated account balance at or any time after
14 termination of employment, regardless of length of service;
15 (b) Upon disability retirement;
16 (c) Upon service retirement;
17 (d) Upon death;
18 (e) For persons hired prior to August 1, 2000, upon termination of employment
19 with prejudice; or
20 (f) For persons hired on or after August 1, 2000, upon conviction of a felony
21 relating to the person's employment as provided in subsection (3) of this
22 section.

23 (2) For purposes of KRS 61.510 to 61.705 and~~[,]~~ 16.505 to 16.652, ~~[and 78.510 to~~
24 ~~78.852,]~~ termination of employment with prejudice shall mean termination as the
25 result of conviction of the member in a court of competent jurisdiction of
26 embezzlement or larceny of public funds or property or malfeasance in office, or the
27 forcing of a member to make restitution for any funds or property criminally taken

1 by said member at the time of termination of employment.

2 (3) Notwithstanding any provision of law to the contrary, an employee hired on or after
3 August 1, 2000, who participates in one (1) of the retirement systems administered
4 by the Kentucky Retirement Systems and who is convicted, in any state or federal
5 court of competent jurisdiction, of a felony related to his employment shall forfeit
6 rights and benefits earned under the retirement system, except for the return of his
7 accumulated contributions and interest credited on those contributions. The
8 payment of retirement benefits ordered forfeited shall be stayed pending any appeal
9 of the conviction. If the conviction is reversed on final judgment, no retirement
10 benefit shall be forfeited. The employer shall notify the retirement system when an
11 employee is convicted under the provisions of this subsection.

12 ➔Section 22. KRS 61.565 is repealed, reenacted, and amended to read as follows:

13 (1) (a) Each employer participating in the State Police Retirement System as
14 provided for in KRS 16.505 to 16.652~~], the County Employees Retirement~~
15 ~~System as provided for in KRS 78.510 to 78.852,]~~ and the Kentucky
16 Employees Retirement System as provided for in KRS 61.510 to 61.705 shall
17 contribute annually to the respective retirement system an amount determined
18 by the actuarial valuation completed in accordance with KRS 61.670 and as
19 specified by this section. Employer contributions for each respective
20 retirement system shall be equal to the sum of the "normal cost contribution"
21 and the "actuarially accrued liability contribution."

22 (b) For purposes of this section, the normal cost contribution shall be computed as
23 a percentage of pay and shall be an annual amount that is sufficient when
24 combined with employee contributions to fund benefits earned during the year
25 in the respective system~~[or plan, including costs for those members who elect~~
26 ~~to participate in the 401(a) money purchase plan]~~. The amount shall be paid as
27 a percentage of creditable compensation reported for each employee

1 participating in the system or plan and accruing benefits.

2 (c) For purposes of this section, the actuarially accrued liability contribution shall
3 be an annual dollar amount that is sufficient to amortize the total unfunded
4 actuarially accrued liability of each system over a closed period of thirty (30)
5 years beginning with the 2013 actuarial valuation using the level percentage
6 of payroll amortization method~~[level-dollar amortization method].~~ ~~[This~~
7 ~~method shall be used beginning with the 2019 actuarial valuation, and~~
8 ~~employer costs for the actuarially accrued liability contribution shall be~~
9 ~~prorated to each employer as provided by paragraph (f) of this subsection.]~~

10 (d) The employer contributions computed under this section shall be determined
11 using:

- 12 1. The entry age normal cost funding method;
- 13 2. An asset smoothing method that smooths investment gains and losses
14 over a five (5) year period; and
- 15 3. Other funding methods and assumptions established by the board in
16 accordance with KRS 61.670.

17 ~~{(e) Effective with the 2019 actuarial valuation, the amortization period for the~~
18 ~~Kentucky Employees Retirement System, the County Employees Retirement~~
19 ~~System, and the State Police Retirement System shall be reset to a new thirty~~
20 ~~(30) year closed period for purposes of calculating the actuarially accrued~~
21 ~~liability contribution prescribed by this subsection.~~

22 ~~(f) The dollar value of the actuarially accrued liability contribution specified by~~
23 ~~paragraph (c) of this subsection payable by each individual system employer~~
24 ~~based upon the 2019 actuarial valuation shall be prorated based upon the~~
25 ~~individual employer's average percentage of the total creditable compensation~~
26 ~~reported by all employers in the specific system in fiscal years 2014-2015,~~
27 ~~2015-2016, and 2016-2017, except that the amount shall:~~

- 1 ~~1. Not apply to any employer who ceases participation and pays the full~~
2 ~~actuarial cost of ceasing participation as provided by KRS 61.522;~~
3 ~~2. Be adjusted for each remaining employer of a system to reflect any~~
4 ~~employer who ceases participation and who pays the full actuarial cost~~
5 ~~of ceasing participation as provided by KRS 61.522; and~~
6 ~~3. Be a single amount for all executive branch departments, program~~
7 ~~cabinets and their respective departments and administrative bodies~~
8 ~~enumerated in KRS 12.020, and any other executive branch agencies~~
9 ~~administratively attached to a department, program cabinet, or~~
10 ~~administrative body enumerated in KRS 12.020.]~~
11 (2) (a) Normal cost contribution rates and the actuarially accrued liability
12 contribution shall be determined by the board on the basis of the annual
13 actuarial valuation last preceding the July 1 of a new biennium.
14 (b) The board may amend contribution rates as of July 1 of the second year of a
15 biennium, if it is determined on the basis of a subsequent actuarial valuation
16 that amended contribution rates are necessary to satisfy the requirements of
17 this section.
18 (c) Effective for employer contribution rates payable on or after July 1, 2014~~;~~
19 ~~through June 30, 2020],~~ the board shall not have the authority to amend
20 contribution rates as of July 1 of the second year of the biennium for the
21 Kentucky Employees Retirement System and the State Police Retirement
22 System.
23 (3) The system shall advise each employer prior to the beginning of each biennium~~, or~~
24 ~~prior to July 1 of the second year of a biennium for employers participating in the~~
25 ~~County Employees Retirement System],~~ of any change in the employer contribution
26 rate. Based on the employer contribution rate, each employer shall include in the
27 budget sufficient funds to pay the employer contributions as determined by the

1 board under this section.

2 (4) The General Assembly and all employers shall pay the full actuarially required
3 contribution rate, as prescribed by this section, to the Kentucky Employees
4 Retirement System and the State Police Retirement System in fiscal years occurring
5 on or after July 1, 2014.

6 ~~[(5) Notwithstanding any other provision of KRS Chapter 61 or 78 to the contrary, the~~
7 ~~employer contribution established by the board for the County Employees~~
8 ~~Retirement System that are payable on or after July 1, 2018, and until June 30,~~
9 ~~2028, for the pension and health insurance funds, including the normal cost~~
10 ~~contribution and the actuarially accrued liability contribution for each fund, shall~~
11 ~~not increase by more than twelve percent (12%) in terms of projected dollars paid~~
12 ~~by participating employers over the prior fiscal year as determined by the system's~~
13 ~~consulting actuary.]~~

14 ➔Section 23. KRS 61.555 is amended to read as follows:

15 (1) (a) After August 1, 1998, any employee entering the Armed Forces of the United
16 States after he first participates in the system, who joins the Armed Forces
17 within three (3) months of the last day of paid employment, being on leave of
18 absence from service and not withdrawing his accumulated account balance,
19 shall be credited for retirement purposes with service credit and creditable
20 compensation as provided in 38 U.S.C. sec. 4318 for his period of active
21 military duty in the Armed Forces of the United States, not to exceed six (6)
22 years, if:

- 23 1. The member's military service was terminated in a manner other than as
24 described in 38 U.S.C. sec. 4304; and
- 25 2. The member returns to work with an employer participating in one (1) of
26 the retirement systems administered by the Kentucky Retirement
27 Systems or County Employees Retirement System within two (2) years

1 after completion of the period of active military duty, or upon the
2 subsequent termination of any total disability which existed at the
3 expiration of the two (2) years after discharge.

4 (b) A member eligible for the benefit prescribed by this subsection who
5 participates in the hybrid cash balance plan as provided by KRS 16.583 and
6 61.597 shall also have his or her member account credited with employee
7 contributions, employer pay credits, and interest credits, as provided by KRS
8 16.583 and 61.597, as though the member were employed during the
9 member's period of active military duty described by this subsection.

10 (c) ~~[A member eligible for the benefit prescribed by this subsection who~~
11 ~~participates in the 401(a) money purchase plan as provided by KRS 61.5956~~
12 ~~shall also have his or her member account credited with employee and~~
13 ~~employer contributions, as provided by KRS 61.5956, as though the member~~
14 ~~were employed during the member's period of active military duty described~~
15 ~~by this subsection.~~

16 (d) ~~—~~The employer shall remit to the retirement systems the employer
17 contributions that would have been due under Section 8 of this Act, KRS
18 61.565, and KRS 61.702 for periods of service credited under this subsection.

19 (2) (a) After August 1, 1998, any employee who, prior to the date he first participated
20 in the system, terminated his employment with an agency participating in one
21 (1) of the systems administered by the Kentucky Retirement Systems or
22 County Employees Retirement System and within three (3) months entered
23 the Armed Forces of the United States and who returns to work with an
24 employer participating in one (1) of the retirement systems administered by
25 the Kentucky Retirement Systems or County Employees Retirement System
26 within two (2) years after completion of the period of active military duty, or
27 upon the subsequent termination of any total disability which existed at the

1 expiration of the two (2) years after discharge, shall be credited for retirement
2 purposes with service credit and creditable compensation as provided in 38
3 U.S.C. sec. 4318 for his period of active military duty in the Armed Forces,
4 not to exceed six (6) years if his military service was terminated in a manner
5 other than as described in 38 U.S.C. sec. 4304.

6 (b) A member eligible for the benefit prescribed by this subsection who
7 participates in the hybrid cash balance plan as provided by KRS 16.583 and
8 61.597 shall also have his or her member account credited with employee
9 contributions, employer pay credits, and interest credits, as provided by KRS
10 16.583 and 61.597, as though the member were employed during the
11 member's period of active military duty described by this subsection.

12 (c) ~~[A member eligible for the benefit prescribed by this subsection who~~
13 ~~participates in the 401(a) money purchase plan as provided by KRS 61.5956~~
14 ~~shall also have his or her member account credited with employee and~~
15 ~~employer contributions, as provided by KRS 61.5956, as though the member~~
16 ~~were employed during the member's period of active military duty described~~
17 ~~by this subsection.~~

18 (d) ~~—~~ The employer shall remit to the retirement systems the employer
19 contributions that would have been due under Section 8 of this Act, KRS
20 61.565, and KRS 61.702 for periods of service credited under this subsection.

21 (3) Any National Guard technician involuntarily serving on active military duty during
22 the period between January 26, 1968, and January 1, 1970, who completes his eight
23 (8) years' service while on military duty during this period, shall have that portion of
24 his active military duty, necessary to the completion of eight (8) years' current
25 service, credited to his account, as current service without having to meet the
26 reemployment criteria.

27 (4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee

1 upon completion of five (5) years of service shall receive current service credit for a
2 maximum of four (4) years for his period of active military duty in the Armed
3 Forces of the United States, if his military service was terminated in a manner other
4 than as described in 38 U.S.C. sec. 4304 and he has not been credited with the
5 service under subsections (1) to (3) of this section if he pays thirty-five percent
6 (35%) of the cost of the service based on the formula adopted by the board. The
7 payment by the member shall not be picked up by the employer, as described in
8 KRS 61.560(4), and shall be deposited to his individual member's account. The
9 remaining sixty-five percent (65%) shall be paid by the state from funds
10 appropriated specifically for the purpose and these payments shall be deposited to
11 the respective retirement allowance accounts. If no funds are available in the special
12 appropriation account, the system shall not accept employee payments until funds
13 are available in the account.

14 (5) Any employee participating in one (1) of the retirement systems administered by
15 Kentucky Retirement Systems eligible to purchase military service credit under
16 subsection (4) of this section shall receive current service credit for active military
17 duty as provided under subsection (4) of this section without payment of the current
18 employee contribution ratio if the member was taken prisoner by a hostile power at
19 any time during active military service.

20 (6) Any employee participating in one (1) of the retirement systems administered by
21 Kentucky Retirement Systems or County Employees Retirement System age sixty-
22 five (65) or older who has forty-eight (48) months of service, at least twelve (12) of
23 which are current service, or if younger who has sixty (60) months of service, at
24 least twelve (12) of which are current service shall receive current service for his
25 period of active military duty in the Armed Forces of the United States, if his
26 military service was terminated in a manner other than as described in 38 U.S.C.
27 sec. 4304 and he has not been credited with the service under subsections (1) to (4)

1 of this section, by paying the retirement system a delayed contribution payment in
2 accordance with the payment options and restrictions established by KRS
3 61.552(14). Service purchases made pursuant to this subsection shall be purchased
4 by the entire amount of service available pursuant to this subsection or by
5 increments.

6 (7) Any employee participating in one (1) of the retirement systems administered by the
7 Kentucky Retirement Systems or County Employees Retirement System age sixty-
8 five (65) or older who has forty-eight (48) months of service, at least twelve (12) of
9 which are current service, or if younger who has sixty (60) months of service, at
10 least twelve (12) of which are current service, shall receive one (1) month of current
11 service for each six (6) months of service in the National Guard or the military
12 reserves of the United States, by paying the retirement system a delayed
13 contribution payment in accordance with the payment options and restrictions
14 established by KRS 61.552(14). The service shall be treated as service earned prior
15 to participation in the system and shall not be included in the member's final
16 compensation. Service purchases made pursuant to this subsection shall be
17 purchased by the entire amount of service available pursuant to this subsection or by
18 increments.

19 (8) For members who begin participating in the systems administered by Kentucky
20 Retirement Systems or County Employees Retirement System on or after January
21 1, 2014, in the hybrid cash balance plan prescribed by KRS 16.583 and 61.597~~1~~, and
22 ~~for members who make an election to participate in the 401(a) money purchase plan~~
23 ~~as provided by KRS 21.374, 61.5955, or 61.5956~~, the provisions of subsections (4)
24 to (7) of this section shall not apply.

25 ➔Section 24. KRS 61.592 is amended to read as follows:

26 (1) (a) "Hazardous position" for employees participating in the Kentucky Employees
27 Retirement System, and for employees who begin participating in the County

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

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

24 (c) The effective date of participation under hazardous duty coverage for
25 positions in the Department of Alcoholic Beverage Control shall be April 1,
26 1998. The employer and employee contributions shall be paid by the employer
27 and forwarded to the retirement system for the period not previously reported.

- 1 (2) (a) Each employer may request of the board hazardous duty coverage for those
2 positions as defined in subsection (1) of this section. Upon request, each
3 employer shall certify to the system, in the manner prescribed by the board,
4 the names of all employees working in a hazardous position as defined in
5 subsection (1) of this section for which coverage is requested. The
6 certification of the employer shall bear the approval of the agent or agency
7 responsible for the budget of the department or county indicating that the
8 required employer contributions have been provided for in the budget of the
9 employing department or county. The system shall determine whether the
10 employees whose names have been certified by the employer are working in
11 positions meeting the definition of a hazardous position as provided by
12 subsection (1) of this section. This process shall not be required for employees
13 who elect coverage under KRS 196.167(3)(b)2.
- 14 (b) Each employer desiring to provide hazardous duty coverage to employees who
15 begin participating in the County Employees Retirement System on or after
16 September 1, 2008, may request that the board approve hazardous duty
17 coverage for those positions that meet the criteria set forth in subsection (1)(b)
18 of this section. Each employer shall certify to the system, in the manner
19 prescribed by the board, the names of all employees working in a hazardous
20 position as defined in subsection (1)(b) of this section for which coverage is
21 requested and a job description for each position or employee. The
22 certification of the employer shall bear the approval of the agent or agency
23 responsible for the budget of the department or county indicating that the
24 required employer contributions have been provided for in the budget of the
25 employing department or county. Each employer shall also certify, under
26 penalty of perjury in accordance with KRS Chapter 523, that each employee's
27 actual job duties are accurately reflected in the job description provided to the

1 system. The system shall determine whether the employees whose names have
2 been certified by the employer are working in positions meeting the definition
3 of a hazardous position as defined in subsection (1)(b) of this section. The
4 board shall have the authority to remove any employee from hazardous duty
5 coverage if the board determines the employee is not working in a hazardous
6 duty position or if the employee is classified in a hazardous duty position but
7 has individual job duties that do not meet the definition of a hazardous duty
8 position or are not accurately reflected in the job descriptions filed by the
9 employer with the system.

10 (3) (a) An employee who elects coverage under KRS 196.167(3)(b)2., and an
11 employee participating in the Kentucky Employees Retirement System who is
12 determined by the system to be working in a hazardous position in accordance
13 with subsection (2) of this section, shall contribute, for each pay period for
14 which he receives compensation, eight percent (8%) of his creditable
15 compensation. An employee participating in the County Employees
16 Retirement System who is determined by the system to be working in a
17 hazardous duty position in accordance with subsection (2) of this section shall
18 contribute, for each pay period for which he receives compensation, eight
19 percent (8%) of his creditable compensation.

20 (b) Each employer shall pay employer contributions based on the creditable
21 compensation of the employees determined by the system to be working in a
22 hazardous position at the employer contribution rate as determined by the
23 board. The rate shall be determined by actuarial methods consistent with the
24 provisions of KRS 61.565 or Section 8, as applicable.

25 (c) If the employer participated in the system prior to electing hazardous duty
26 coverage, the employer may pay to the system the cost of converting the
27 nonhazardous service to hazardous service from the date of participation to

1 the date the payment is made, or the employer may establish a payment
2 schedule for payment of the cost of the hazardous service above that which
3 would be funded within the existing employer contribution rate. The employer
4 may extend the payment schedule to a maximum of thirty (30) years.
5 Payments made by the employer under this subsection shall be deposited to
6 the retirement allowance account of the proper retirement system and these
7 funds shall not be considered accumulated contributions of the individual
8 members. If the employer elects not to make the additional payment, the
9 employee may pay the cost of converting the service and provide payment for
10 the cost as provided by KRS 61.552(14). Payments made by the employee
11 under this subsection shall not be picked up, as described in KRS 61.560(4),
12 by the employer. If neither the employer nor employee makes the payment, the
13 service prior to hazardous coverage shall remain nonhazardous. The
14 provisions of this paragraph shall not apply to members who begin
15 participating in the systems administered by Kentucky Retirement Systems or
16 County Employees Retirement System on or after January 1, 2014.

17 (4) The normal retirement age, retirement allowance, hybrid cash balance plans, other
18 benefits, eligibility requirements, rights, and responsibilities of a member in a
19 hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and
20 the responsibilities, rights, and requirements of his employer shall be as prescribed
21 for a member and employer participating in the State Police Retirement System as
22 provided for by KRS 16.505 to 16.652.

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

27 (6) If doubt exists regarding the benefits payable to a hazardous position employee

1 under this section, the board shall determine the benefits payable under KRS 61.510
2 to 61.705, or 78.510 to 78.852, or 16.505 to 16.652.

3 ➔Section 25. KRS 61.637 is amended to read as follows:

4 (1) A retired member who is receiving monthly retirement payments under any of the
5 provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed
6 as an employee by a participating agency prior to August 1, 1998, shall have his
7 retirement payments suspended for the duration of reemployment. Monthly
8 payments shall not be suspended for a retired member who is reemployed if he
9 anticipates that he will receive less than the maximum permissible earnings as
10 provided by the Federal Social Security Act in compensation as a result of
11 reemployment during the calendar year. The payments shall be suspended at the
12 beginning of the month in which the reemployment occurs.

13 (2) Employer and employee contributions shall be made as provided in KRS 61.510 to
14 61.705 and 78.510 to 78.852 on the compensation paid during reemployment,
15 except where monthly payments were not suspended as provided in subsection (1)
16 of this section or would not increase the retired member's last monthly retirement
17 allowance by at least one dollar (\$1), and the member shall be credited with
18 additional service credit.

19 (3) In the month following the termination of reemployment, retirement allowance
20 payments shall be reinstated under the plan under which the member was receiving
21 payments prior to reemployment.

22 (4) (a) Notwithstanding the provisions of this section, the payments suspended in
23 accordance with subsection (1) of this section shall be paid retroactively to the
24 retired member, or his estate, if he does not receive more than the maximum
25 permissible earnings as provided by the Federal Social Security Act in
26 compensation from participating agencies during any calendar year of
27 reemployment.

1 (b) If the retired member is paid suspended payments retroactively in accordance
2 with this section, employee contributions deducted during his period of
3 reemployment, if any, shall be refunded to the retired employee, and no
4 service credit shall be earned for the period of reemployment.

5 (c) If the retired member is not eligible to be paid suspended payments for his
6 period of reemployment as an employee, his retirement allowance shall be
7 recomputed under the plan under which the member was receiving payments
8 prior to reemployment as follows:

- 9 1. The retired member's final compensation shall be recomputed using
10 creditable compensation for his period of reemployment; however, the
11 final compensation resulting from the recalculation shall not be less than
12 that of the member when his retirement allowance was last determined;
- 13 2. If the retired member initially retired on or subsequent to his normal
14 retirement date, his retirement allowance shall be recomputed by using
15 the formula in KRS 61.595(1);
- 16 3. If the retired member initially retired prior to his normal retirement date,
17 his retirement allowance shall be recomputed using the formula in KRS
18 61.595(2), except that the member's age used in computing benefits shall
19 be his age at the time of his initial retirement increased by the number of
20 months of service credit earned for service performed during
21 reemployment;
- 22 4. The retirement allowance payments resulting from the recomputation
23 under this subsection shall be payable in the month following the
24 termination of reemployment in lieu of payments under subparagraph 3.
25 The member shall not receive less in benefits as a result of the
26 recomputation than he was receiving prior to reemployment or would
27 receive as determined under KRS 61.691; and

1 5. Any retired member who was reemployed prior to March 26, 1974, shall
2 begin making contributions to the system in accordance with the
3 provisions of this section on the first day of the month following March
4 26, 1974.

5 (5) A retired member, or his estate, shall pay to the retirement fund the total amount of
6 payments which are not suspended in accordance with subsection (1) of this section
7 if the member received more than the maximum permissible earnings as provided
8 by the Federal Social Security Act in compensation from participating agencies
9 during any calendar year of reemployment, except the retired member or his estate
10 may repay the lesser of the total amount of payments which were not suspended or
11 fifty cents (\$0.50) of each dollar earned over the maximum permissible earnings
12 during reemployment if under age sixty-five (65), or one dollar (\$1) for every three
13 dollars (\$3) earned if over age sixty-five (65).

14 (6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a
15 retired member who has been ordered reinstated by the Personnel Board under
16 authority of KRS 18A.095.

17 (b) A retired member who has been ordered reinstated by the Personnel Board
18 under authority of KRS 18A.095 or by court order or by order of the Human
19 Rights Commission and accepts employment by an agency participating in the
20 Kentucky Employees Retirement System or County Employees Retirement
21 System shall void his retirement by reimbursing the system in the full amount
22 of his retirement allowance payments received.

23 (7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this
24 section shall no longer apply to a retired member who is reemployed in a
25 position covered by the same retirement system from which the member
26 retired. Reemployed retired members shall be treated as new members upon
27 reemployment. Any retired member whose reemployment date preceded

1 August 1, 1998, who does not elect, within sixty (60) days of notification by
2 the retirement systems, to remain under the provisions of subsections (1) to
3 (4) of this section shall be deemed to have elected to participate under this
4 subsection.

5 (b) A retired member whose disability retirement was discontinued pursuant to
6 KRS 61.615 and who is reemployed in one (1) of the systems administered by
7 the Kentucky Retirement Systems or County Employees Retirement System
8 prior to his or her normal retirement date shall have his or her accounts
9 combined upon termination for determining eligibility for benefits. If the
10 member is eligible for retirement, the member's service and creditable
11 compensation earned as a result of his or her reemployment shall be used in
12 the calculation of benefits, except that the member's final compensation shall
13 not be less than the final compensation last used in determining his or her
14 retirement allowance. The member shall not change beneficiary or payment
15 option designations. This provision shall apply to members reemployed on or
16 after August 1, 1998.

17 (8) If a retired member accepts employment or begins serving as a volunteer with an
18 employer participating in the systems administered by Kentucky Retirement
19 Systems or County Employees Retirement System within twelve (12) months of his
20 or her retirement date, the retired member shall notify the retirement system and the
21 participating employer shall submit the information required or requested by the
22 systems to confirm the individual's employment or volunteer status. The retired
23 member shall not be required to notify the retirement systems regarding any
24 employment or volunteer service with a participating agency that is accepted after
25 twelve (12) months following his or her retirement date.

26 (9) If the retired member is under a contract to provide services as an independent
27 contractor or leased employee to an employer participating in the systems

1 administered by Kentucky Retirement Systems or County Employees Retirement
2 System within twelve (12) months of his or her retirement date, the member shall
3 submit a copy of that contract to the retirement system, and the retirement system
4 shall determine if the member is an independent contractor or leased employee for
5 purposes of retirement benefits. The retired member and the participating employer
6 shall submit the information required or requested by the systems to confirm the
7 individual's status as an independent contractor or leased employee. The retired
8 member shall not be required to notify the retirement systems regarding any services
9 entered into as an independent contractor or leased employee with a participating
10 agency that the employee enters into after twelve (12) months following his or her
11 retirement date.

12 (10) If a member is receiving a retirement allowance, or has filed the forms required for
13 a retirement allowance, and is employed within one (1) month of the member's
14 initial retirement date in a position that is required to participate in the same
15 retirement system from which the member retired, the member's retirement shall be
16 voided and the member shall repay to the retirement system all benefits received.
17 The member shall contribute to the member account established for him prior to his
18 voided retirement. The retirement allowance for which the member shall be eligible
19 upon retirement shall be determined by total service and creditable compensation.

20 (11) (a) If a member of the Kentucky Employees Retirement System retires from a
21 department which participates in more than one (1) retirement system and is
22 reemployed within one (1) month of his initial retirement date by the same
23 department in a position participating in another retirement system, the retired
24 member's retirement allowance shall be suspended for the first month of his
25 retirement and the member shall repay to the retirement system all benefits
26 received for the month.

27 (b) A retired member of the County Employees Retirement System who after

1 initial retirement is hired by the county from which the member retired shall
2 be considered to have been hired by the same employer.

3 (12) (a) If a hazardous member who retired prior to age fifty-five (55), or a
4 nonhazardous member who retired prior to age sixty-five (65), is reemployed
5 within six (6) months of the member's termination by the same employer, the
6 member shall obtain from his previous and current employers a copy of the
7 job description established by the employers for the position and a statement
8 of the duties performed by the member for the position from which he retired
9 and for the position in which he has been reemployed.

10 (b) The job descriptions and statements of duties shall be filed with the retirement
11 office.

12 (13) If the retirement system determines that the retired member has been employed in a
13 position with the same principal duties as the position from which the member
14 retired:

15 (a) The member's retirement allowance shall be suspended during the period that
16 begins on the month in which the member is reemployed and ends six (6)
17 months after the member's termination;

18 (b) The retired member shall repay to the retirement system all benefits paid from
19 systems administered by Kentucky Retirement Systems or County Employees
20 Retirement System under reciprocity, including medical insurance benefits,
21 that the member received after reemployment began;

22 (c) Upon termination, or subsequent to expiration of the six (6) month period
23 from the date of termination, the retired member's retirement allowance based
24 on his initial retirement account shall no longer be suspended and the member
25 shall receive the amount to which he is entitled, including an increase as
26 provided by KRS 61.691;

27 (d) Except as provided in subsection (7) of this section, if the position in which a

1 retired member is employed after initial retirement is a regular full-time
2 position, the retired member shall contribute to a second member account
3 established for him in the retirement system. Service credit gained after the
4 member's date of reemployment shall be credited to the second member
5 account; and

6 (e) Upon termination, the retired member shall be entitled to benefits payable
7 from his second retirement account.

8 (14) (a) If the retirement system determines that the retired member has not been
9 reemployed in a position with the same principal duties as the position from
10 which he retired, the retired member shall continue to receive his retirement
11 allowance.

12 (b) If the position is a regular full-time position, the member shall contribute to a
13 second member account in the retirement system.

14 (15) (a) If a retired member is reemployed at least one (1) month after initial
15 retirement in a different position, or at least six (6) months after initial
16 retirement in the same position, and prior to normal retirement age, the retired
17 member shall contribute to a second member account in the retirement system
18 and continue to receive a retirement allowance from the first member account.

19 (b) Service credit gained after reemployment shall be credited to the second
20 member account. Upon termination, the retired member shall be entitled to
21 benefits payable from the second member account.

22 (16) A retired member who is reemployed and contributing to a second member account
23 shall not be eligible to purchase service credit under any of the provisions of KRS
24 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he was eligible to
25 purchase prior to his initial retirement.

26 (17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this
27 section, the following shall apply to retired members who are reemployed by an

1 agency participating in one (1) of the systems administered by Kentucky Retirement
2 Systems or County Employees Retirement System on or after September 1, 2008:

3 (a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is
4 receiving a retirement allowance from one (1) of the systems administered by
5 Kentucky Retirement Systems or County Employees Retirement System, or
6 has filed the forms required to receive a retirement allowance from one (1) of
7 the systems administered by Kentucky Retirement Systems or County
8 Employees Retirement System, and is employed in a regular full-time
9 position required to participate in one (1) of the systems administered by
10 Kentucky Retirement Systems or County Employees Retirement System or is
11 employed in a position that is not considered regular full-time with an agency
12 participating in one (1) of the systems administered by Kentucky Retirement
13 Systems or County Employees Retirement System within three (3) months
14 following the member's initial retirement date, the member's retirement shall
15 be voided, and the member shall repay to the retirement system all benefits
16 received, including any health insurance benefits. If the member is returning
17 to work in a regular full-time position required to participate in one (1) of the
18 systems administered by Kentucky Retirement Systems:

- 19 1. The member shall contribute to a member account established for him or
20 her in one (1) of the systems administered by Kentucky Retirement
21 Systems or County Employees Retirement System, and employer
22 contributions shall be paid on behalf of the member by the participating
23 employer; and
- 24 2. Upon subsequent retirement, the member shall be eligible for a
25 retirement allowance based upon total service and creditable
26 compensation, including any additional service or creditable
27 compensation earned after his or her initial retirement was voided;

(b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. If a member is reemployed by a participating agency within twelve (12) months of the member's retirement date, the participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and has retired from the elected office within twelve (12) months prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency fails to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer. Employment that is accepted by the retired member after twelve (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph;
2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall

1 not earn any additional benefits for any work performed during the
2 period of reemployment;

3 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
4 except for any retiree employed as a school resource officer as defined
5 by KRS 158.441, the employer shall pay employer contributions as
6 specified by Section 8 of this Act, KRS 61.565, and KRS 61.702, as
7 applicable, on all creditable compensation earned by the employee
8 during the period of reemployment. The additional contributions paid
9 shall be used to reduce the unfunded actuarial liability of the systems;
10 and

11 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
12 except for any retiree employed as a school resource officer as defined
13 by KRS 158.441, the employer shall be required to reimburse the
14 systems for the cost of the health insurance premium paid by the systems
15 to provide coverage for the retiree, not to exceed the cost of the single
16 premium. Effective July 1, 2015, local school boards shall not be
17 required to pay the reimbursement required by this subparagraph for
18 retirees employed by the board for eighty (80) days or less during the
19 fiscal year;

20 (c) If a member is receiving a retirement allowance from the State Police
21 Retirement System or from hazardous duty retirement coverage with the
22 Kentucky Employees Retirement System or the County Employees Retirement
23 System, or has filed the forms required to receive a retirement allowance from
24 the State Police Retirement System or from hazardous duty retirement
25 coverage with the Kentucky Employees Retirement System or the County
26 Employees Retirement System, and is employed in a regular full-time position
27 required to participate in the State Police Retirement System or in a hazardous

1 duty position with the Kentucky Employees Retirement System or the County
2 Employees Retirement System within one (1) month following the member's
3 initial retirement date, the member's retirement shall be voided, and the
4 member shall repay to the retirement system all benefits received, including
5 any health insurance benefits. If the member is returning to work in a regular
6 full-time position required to participate in one (1) of the systems
7 administered by Kentucky Retirement Systems or County Employees
8 Retirement System:

- 9 1. The member shall contribute to a member account established for him or
10 her in one (1) of the systems administered by Kentucky Retirement
11 Systems or County Employees Retirement System, and employer
12 contributions shall be paid on behalf of the member by the participating
13 employer; and
 - 14 2. Upon subsequent retirement, the member shall be eligible for a
15 retirement allowance based upon total service and creditable
16 compensation, including any additional service or creditable
17 compensation earned after his or her initial retirement was voided;
- 18 (d) If a member is receiving a retirement allowance from the State Police
19 Retirement System or from hazardous duty retirement coverage with the
20 Kentucky Employees Retirement System or the County Employees Retirement
21 System and is employed in a regular full-time position required to participate
22 in the State Police Retirement System or in a hazardous duty position with the
23 Kentucky Employees Retirement System or the County Employees Retirement
24 System after a one (1) month period following the member's initial retirement
25 date, the member may continue to receive his or her retirement allowance
26 during the period of reemployment subject to the following provisions:
- 27 1. If a member is reemployed by a participating agency within twelve (12)

1 months of the member's retirement date, the participating agency shall
2 certify in writing on a form prescribed by the board that no prearranged
3 agreement existed between the employee and agency prior to the
4 employee's retirement for the employee to return to work with the
5 participating agency. If an elected official is reelected to a new term of
6 office in the same position and has retired from the elected office within
7 twelve (12) months prior to taking the new term of office, he or she shall
8 be deemed by the system as having a prearranged agreement under the
9 provisions of this subparagraph and shall have his or her retirement
10 voided. If the participating agency fails to complete the certification, the
11 member's retirement shall be voided and the provisions of paragraph (c)
12 of this subsection shall apply to the member and the employer.
13 Employment that is accepted by the retired member after twelve (12)
14 months following the member's retirement date shall not constitute a
15 prearranged agreement under this paragraph;

- 16 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to
17 the contrary, the member shall not contribute to the systems and shall
18 not earn any additional benefits for any work performed during the
19 period of reemployment;
- 20 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
21 except for any retiree employed as a school resource officer as defined
22 by KRS 158.441, the employer shall pay employer contributions as
23 specified by Section 8 of this Act, KRS 61.565, and KRS 61.702, as
24 applicable, on all creditable compensation earned by the employee
25 during the period of reemployment. The additional contributions paid
26 shall be used to reduce the unfunded actuarial liability of the systems;
- 27 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and

1 except for any retiree employed as a school resource officer as defined
2 by KRS 158.441, the employer shall be required to reimburse the
3 systems for the cost of the health insurance premium paid by the systems
4 to provide coverage for the retiree, not to exceed the cost of the single
5 premium;

6 (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member
7 who qualifies as a volunteer for an employer participating in one (1) of the
8 systems administered by Kentucky Retirement Systems or County Employees
9 Retirement System and who is receiving reimbursement of actual expenses, a
10 nominal fee for his or her volunteer services, or both, shall not be considered
11 an employee of the participating employer and shall not be subject to
12 paragraphs (a) to (d) of this subsection if:

- 13 1. Prior to the retired member's most recent retirement date, he or she did
14 not receive creditable compensation from the participating employer in
15 which the retired member is performing volunteer services;
- 16 2. Any reimbursement or nominal fee received prior to the retired
17 member's most recent retirement date has not been credited as creditable
18 compensation to the member's account or utilized in the calculation of
19 the retired member's benefits;
- 20 3. The retired member has not purchased or received service credit under
21 any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for
22 service with the participating employer for which the retired member is
23 performing volunteer services; and
- 24 4. Other than the status of volunteer, the retired member does not become
25 an employee, leased employee, or independent contractor of the
26 employer for which he or she is performing volunteer services for a
27 period of at least twelve (12)~~twenty-four (24)~~ months following the

1 retired member's most recent retirement date.

2 If a retired member, who provided volunteer services with a participating
3 employer under this paragraph violates any provision of this paragraph, then
4 he or she shall be deemed an employee of the participating employer as of the
5 date he or she began providing volunteer services and both the retired member
6 and the participating employer shall be subject to paragraphs (a) to (d) of this
7 subsection for the period of volunteer service;

8 (f) Notwithstanding any provision of this section, any mayor or member of a city
9 legislative body who has not participated in the County Employees Retirement
10 System prior to retirement, but who is otherwise eligible to retire from the
11 Kentucky Employees Retirement System or the State Police Retirement
12 System, shall not be:

13 1. Required to resign from his or her position as mayor or as a member of
14 the city legislative body in order to begin drawing benefits from the
15 Kentucky Employees Retirement System or the State Police Retirement
16 System; or

17 2. Subject to any provision of this section as it relates solely to his or her
18 service as a mayor or member of the city legislative body;

19 (g) If a member is receiving a retirement allowance from any of the retirement
20 systems administered by the Kentucky Retirement Systems **or County**
21 **Employees Retirement System** and enters into a contract or becomes a leased
22 employee of an employer under contract with an employer participating in one
23 (1) of the systems administered by the Kentucky Retirement Systems **or**
24 **County Employees Retirement System**:

25 1. At any time following retirement, if the system determines the
26 employment arrangement does qualify as an independent contractor or
27 leased employee, the member may continue to receive his or her

- 1 retirement allowance during the period of the contract;
- 2 2. Within three (3) months following the member's initial retirement date,
- 3 if the system determines the employment arrangement does not qualify
- 4 as an independent contractor or leased employee, the member's
- 5 retirement shall be voided in accordance with paragraph (a) of this
- 6 subsection;
- 7 3. After three (3) months but within twelve (12) months following the
- 8 member's initial retirement, if the system determines the employment
- 9 arrangement does not qualify as an independent contractor or leased
- 10 employee and that a prearranged agreement existed between the member
- 11 and the agency for the member to return to work with the agency, the
- 12 member's retirement shall be voided in accordance with paragraph (a) of
- 13 this subsection; and
- 14 4. After a twelve (12) month period following the member's initial
- 15 retirement, the member may continue to receive his or her retirement
- 16 allowance during the period of the contract and the member shall not be
- 17 required to notify the system or submit any documentation for purposes
- 18 of this section to the system.

19 The initiation of a contract or the initial date of the leased employment of a

20 retired member by a participating agency that occurs after twelve (12) months

21 or more following the retired member's retirement date shall not constitute a

22 prearranged agreement under this subsection; and

- 23 (h) The Kentucky Retirement Systems *or County Employees Retirement System*
- 24 shall issue a final determination regarding a certification of the absence of a
- 25 prearranged agreement or the retired member's qualification as an independent
- 26 contractor or leased employee as required under this section no later than
- 27 thirty (30) days after the retired member and participating employer provide

1 all required forms and additional information required by the Kentucky
2 Retirement Systems or County Employees Retirement System.

3 (18) The Kentucky Retirement Systems and the County Employees Retirement System
4 shall promulgate administrative regulations to implement the requirements of this
5 section, including incorporating by reference board-prescribed forms that a retired
6 member and participating agency shall provide the systems under subsections (8),
7 (9), and (17) of this section.

8 ➔Section 26. KRS 61.670 is amended to read as follows:

9 (1) (a) As soon as practicable after its organization, the board shall adopt the
10 actuarial tables necessary for the administration of the system and for the
11 annual determination of actuarial assets and liabilities of the system.

12 (b) The board shall cause an actuarial valuation to be made annually. The
13 valuation shall at a minimum include:

- 14 1. A description of the actuarial assumptions used in the actuarial
15 valuation, which shall be reasonably related to the experience of the
16 system and represent the actuary's best estimate of anticipated
17 experience;
- 18 2. A description of any funding methods utilized or required by state law in
19 the development of the actuarial valuation results;
- 20 3. A description of any changes in actuarial assumptions and methods from
21 the previous year's actuarial valuation;
- 22 4. The actuarially recommended contribution rate for employers for the
23 upcoming budget periods;
- 24 5. A twenty (20) year projection of the funding levels, unfunded liabilities,
25 and actuarially recommended contribution rates for employers based
26 upon the actuarial assumptions, funding methods, and experience of the
27 system as of the valuation date; and

- 1 6. A sensitivity analysis that evaluates the impact of changes in system
2 assumptions, including but not limited to the investment return
3 assumption, payroll growth assumption, and medical inflation rates, on
4 employer contribution rates, funding levels, and unfunded liabilities.
- 5 (c) At least once in each five (5) year period, the board shall cause an actuarial
6 investigation to be made of all the experience under the retirement system
7 relative to the actuarial assumptions and funding methods previously adopted
8 by the board. The actuarial investigation shall include at a minimum a
9 summary of the changes in actuarial assumptions and funding methods
10 recommended in the investigation and the projected impact of the
11 recommended changes on funding levels, unfunded liabilities, and actuarially
12 recommended contribution rates for employers over a twenty (20) year period.
- 13 (d) Pursuant to the actuarial investigation the board shall, from time to time,
14 revise the actuarial tables previously adopted by the board and shall thereupon
15 revise the bases of the rates of contributions required under KRS 61.510 to
16 61.692 and ~~[,]~~ KRS 16.505 to 16.652~~[, and KRS 78.510 to 78.852]~~.
- 17 (e) For any change in actuarial assumptions, funding methods, retiree health
18 insurance premiums and subsidies, or any other decisions made by the board
19 that impact system liabilities and actuarially recommended contribution rates
20 for employers and that are not made in conjunction with the actuarial
21 investigation required by paragraph (c) of this subsection, an actuarial analysis
22 shall be completed showing the projected impact of the changes on funding
23 levels, unfunded liabilities, and actuarially recommended contribution rates
24 for employers over a twenty (20) year period.
- 25 (f) All actuarial investigations, analyses, and valuations shall be certified to the
26 board by an actuary who shall be a fellow of the Conference of Consulting
27 Actuaries or a member of the American Academy of Actuaries.

(2) A copy of each five (5) year actuarial investigation, actuarial analysis, and annual valuation required by subsection (1) of this section shall be forwarded electronically to the Legislative Research Commission no later than ten (10) days after receipt by the board, and the Legislative Research Commission shall distribute the information received to the committee staff and co-chairs of any committee that has jurisdiction over the Kentucky Retirement Systems. The actuarial valuation required by subsection (1)(b) of this section shall be submitted no later than November 15 following the close of the fiscal year.

(3) The Legislative Research Commission may employ an actuary with the same qualifications as the actuary employed by the board, and the board shall, free of charge, provide the actuary employed by the Commission with the same data provided to its own actuary, and any supplementary data he may require. The actuary employed by the Commission shall review the assumptions, determinations and recommendations of the board actuary, and legislative proposals related to the retirement systems, and report his findings to the Commission and to the board. The board shall pay fifty percent (50%) of the cost of the Commission's actuary, and the Commission shall pay the other fifty percent (50%).

➔Section 27. KRS 61.701 is amended to read as follows:

(1) (a) There is hereby created and established a trust fund to be known as "Kentucky Retirement Systems insurance trust fund~~[-]~~" **and a trust fund to be known as the "County Employees Retirement System insurance trust fund."**

(b) All assets received in the **Kentucky Retirement Systems insurance** trust fund shall be deemed trust funds to be held and applied solely as provided in this section. Assets of the trust fund shall not be used for any other purpose and shall not be used to pay the claims of creditors or any individual, person, or employer participating in the Kentucky Employees Retirement System~~[-]~~, ~~County Employees Retirement System~~, or State Police Retirement System.

1 (c) All assets received in the County Employees Retirement System insurance
2 trust fund shall be deemed trust funds to be held and applied solely as
3 provided in this section. Assets of the trust fund shall not be used for any
4 other purpose and shall not be used to pay the claims of creditors or any
5 individual, person, or employer participating in the County Employees
6 Retirement System.

7 ~~(d)(b)~~ The trust fund is intended to be established as a trust exempt from
8 taxation under 26 U.S.C. sec. 115.

9 (e) Effective April 1, 2021, the assets held in the Kentucky Retirement Systems
10 insurance trust fund as of March 31, 2021, that were attributable to
11 contributions made by County Employees Retirement System members,
12 employers, or recipients and the resulting investment returns shall be
13 transferred to the County Employees Retirement System insurance trust
14 fund.

15 (2) The trust funds are~~[trust fund is]~~ created for the purpose of providing a trust
16 separate from the retirement funds. Trust fund assets are dedicated for use for health
17 benefits as provided in KRS 61.702, and as permitted under 26 U.S.C. secs. 105 and
18 106, to retired recipients and employees of employers participating in the Kentucky
19 Employees Retirement System as it relates to the Kentucky Retirement Systems
20 insurance trust fund, County Employees Retirement System as it relates to the
21 County Employees Retirement System insurance trust fund, and State Police
22 Retirement System as it relates to the Kentucky Retirement Systems insurance
23 trust fund, and to certain of their dependents or beneficiaries, including but not
24 limited to qualified beneficiaries as described in 42 U.S.C. secs. 300bb-1 et seq.

25 (3) The Kentucky Retirement Systems insurance trust fund shall be administered by
26 the board of trustees of the Kentucky Retirement Systems and the County
27 Employees Retirement System insurance trust fund shall be administered by the

1 board of trustees of the County Employees Retirement System and the respective
 2 board shall serve as trustees of the fund. The boards~~[board]~~ shall manage the assets
 3 of the funds~~[fund]~~ in the same manner in which the respective board~~[it]~~ administers
 4 its~~[the]~~ retirement funds, except that separate accounting and financial reporting
 5 shall be maintained for the trust funds~~[fund]~~.

6 (4) In addition to the requirements of subsection (2) of this section, the employers
 7 participating in the trust funds~~[fund]~~ are limited to the Commonwealth, political
 8 subdivisions of the Commonwealth, and entities whose income is exempt from
 9 taxation under 26 U.S.C. sec. 115. No other entity may participate in the trust
 10 funds~~[fund]~~.

11 (5) If a~~[the]~~ trust fund is terminated, the assets in the trust fund may revert, after the
 12 payment of all liabilities, to the participating employers as determined by the board
 13 of trustees.

14 (6) The respective board of trustees may adopt regulations and procedures and take all
 15 action necessary and appropriate to provide that the income of the trust fund the
 16 board administers is exempt from taxation under Title 26 of United States Code.

17 (7) The establishment of the Kentucky Retirement Systems insurance trust fund or the
 18 County Employees Retirement System insurance trust fund shall not diminish or
 19 expand the rights of any recipients, employees, or dependents to health benefits.

20 ➔Section 28. KRS 61.702 is amended to read as follows:

21 (1) (a) 1. The board of trustees of Kentucky Retirement Systems and the County
 22 Employees Retirement System shall arrange by appropriate contract or
 23 on a self-insured basis to provide a group hospital and medical insurance
 24 plan for present and future recipients of a retirement allowance from the
 25 systems the respective boards administer~~[Kentucky Employees~~
 26 ~~Retirement System, County Employees Retirement System, and State~~
 27 ~~Police Retirement System]~~, except as provided in subsection (8) of this

1 section. *Each respective*~~[The]~~ board shall also arrange to provide health
2 care coverage through an insurer licensed pursuant to Subtitle 38 of
3 KRS Chapter 304 and offering a managed care plan as defined in KRS
4 304.17A-500, as an alternative to group hospital and medical insurance
5 for any person eligible for hospital and medical benefits under this
6 section.

7 2. Any person who chooses coverage under a hospital and medical
8 insurance plan shall pay, by payroll deduction from the retirement
9 allowance or by another method, the difference in premium between the
10 cost of the hospital and medical insurance plan coverage and the benefits
11 to which he would be entitled under this section.

12 3. For purposes of this section, "hospital and medical insurance plan" may
13 include, at *each respective*~~[the]~~ board's discretion, any one (1) or more
14 of the following:

15 a. Any hospital and medical expense policy or certificate, provider-
16 sponsored integrated health delivery network, self-insured medical
17 plan, health maintenance organization contract, or other health
18 benefit plan;

19 b. Any health savings account as permitted by 26 U.S.C. sec. 223 or
20 health reimbursement arrangement or a similar account as may be
21 permitted by 26 U.S.C. sec. 105 or 106. Such arrangement or
22 account, in the board's discretion, may reimburse any medical
23 expense permissible under 26 U.S.C. sec. 213; or

24 c. A medical insurance reimbursement program established by the
25 board through the promulgation of administrative regulation under
26 which members purchase individual health insurance coverage
27 through a health insurance exchange established under 42 U.S.C.

1 sec. 18031 or 18041.

2 (b) *Each respective*~~[The]~~ board may authorize present and future recipients of a
3 retirement allowance from any of the ~~[three (3)]~~ retirement systems *the board*
4 *administers* to be included in the state employees' group for hospital and
5 medical insurance and shall provide benefits for recipients equal to those
6 provided to state employees having the same Medicare hospital and medical
7 insurance eligibility status, except as provided in subsection (8) of this
8 section. Notwithstanding the provisions of any other statute, recipients shall
9 be included in the same class as current state employees in determining
10 medical insurance policies and premiums.

11 (c) For recipients of a retirement allowance who are not eligible for the same
12 level of hospital and medical benefits as recipients living in Kentucky having
13 the same Medicare hospital and medical insurance eligibility status, *each*
14 *respective*~~[the]~~ board shall provide a medical insurance reimbursement plan as
15 described in subsection (7) of this section.

16 (d) Notwithstanding anything in KRS Chapter 61 to the contrary, *each*
17 *respective*~~[the]~~ board of trustees, in its discretion, may take necessary steps to
18 ensure compliance with 42 U.S.C. secs. 300bb-1 et seq., including but not
19 limited to receiving contributions and premiums from, and providing benefits
20 pursuant to this section to, persons entitled to continuation coverage under 42
21 U.S.C. secs. 300bb-1 et seq., regardless of whether such persons are recipients
22 of a retirement allowance.

23 (2) (a) Each employer participating in the State Police Retirement System as
24 provided for in KRS 16.505 to 16.652, each employer participating in the
25 County Employees Retirement System as provided in KRS 78.510 to 78.852,
26 and each employer participating in the Kentucky Employees Retirement
27 System as provided for in KRS 61.510 to 61.705 shall contribute to the

1 ~~[Kentucky Retirement Systems]~~ insurance trust *funds established by Section*
2 *27 of this Act*~~[fund]~~ the amount necessary to provide hospital and medical
3 insurance as provided for under this section. Such employer contribution rate
4 shall be developed by appropriate actuarial method as a part of the
5 determination of each respective employer contribution rate to each respective
6 retirement system determined under KRS 61.565 *or Section 8 of this Act, as*
7 *applicable.*

- 8 (b) 1. Each employer described in paragraph (a) of this subsection shall deduct
9 from the creditable compensation of each member having a membership
10 date on or after September 1, 2008, an amount equal to one percent (1%)
11 of the member's creditable compensation. The deducted amounts shall,
12 at the discretion of the board, be credited to accounts established
13 pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS
14 16.510, 61.515, and 78.520, or the ~~[Kentucky Retirement Systems]~~
15 insurance trust *funds*~~[fund]~~ established under KRS 61.701, or partially
16 to one (1) fund with the remainder deposited to the other fund.
17 Notwithstanding the provisions of this paragraph, a transfer of assets
18 between the accounts established pursuant to 26 U.S.C. sec. 401(h),
19 within the funds established in KRS 16.510, 61.515, and 78.520, and the
20 ~~[Kentucky Retirement Systems]~~ insurance trust *funds*~~[fund]~~ established
21 under KRS 61.701 shall not be allowed.
- 22 2. The employer shall file the contributions as provided by subparagraph 1.
23 of this paragraph at the retirement office in accordance with KRS 61.675
24 and 78.625. Any interest or penalties paid on any delinquent
25 contributions shall be credited to accounts established pursuant to 26
26 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515,
27 and 78.520, or the ~~[Kentucky Retirement Systems]~~ insurance trust

1 funds~~[fund]~~ established under KRS 61.701. Notwithstanding any
2 minimum compensation requirements provided by law, the deductions
3 provided by this paragraph shall be made, and the compensation of the
4 member shall be reduced accordingly.

5 3. Each employer shall submit payroll reports, contributions lists, and other
6 data as may be required by administrative regulation promulgated by
7 each respective~~[the]~~ board of trustees pursuant to KRS Chapter 13A.

8 4. Every member shall be deemed to consent and agree to the deductions
9 made pursuant to this paragraph, and the payment of salary or
10 compensation less the deductions shall be a full and complete discharge
11 of all claims for services rendered by the person during the period
12 covered by the payment, except as to any benefits provided by KRS
13 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. No member
14 may elect whether to participate in, or choose the contribution amount
15 payable to accounts established pursuant to 26 U.S.C. sec. 401(h) within
16 the funds established in KRS 16.510, 61.515, and 78.520, or the
17 ~~[Kentucky Retirement Systems]~~ insurance trust funds~~[fund]~~ established
18 under KRS 61.701. The member shall have no option to receive the
19 contribution required by this paragraph directly instead of having the
20 contribution paid to accounts established pursuant to 26 U.S.C. sec.
21 401(h) within the funds established in KRS 16.510, 61.515, and 78.520,
22 or the ~~[Kentucky Retirement Systems]~~ insurance trust funds~~[fund]~~
23 established under KRS 61.701. No member may receive a rebate or
24 refund of contributions. If a member establishes a membership date prior
25 to September 1, 2008, pursuant to KRS 61.552(1) or 61.552(20), then
26 this paragraph shall not apply to the member and all contributions
27 previously deducted in accordance with this paragraph shall be refunded

1 to the member without interest. The contribution made pursuant to this
2 paragraph shall not act as a reduction or offset to any other contribution
3 required of a member or recipient under KRS 16.505 to 16.652, 61.510
4 to 61.705, and 78.510 to 78.852.

- 5 5. The respective board of trustees, at its discretion, may direct that the
6 contributions required by this paragraph be accounted for within
7 accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds
8 established in KRS 16.510, 61.515, and 78.520, or the ~~the Kentucky~~
9 ~~Retirement Systems~~ insurance trust funds~~[fund]~~ established under KRS
10 61.701, through the use of separate accounts.

11 (3) (a) The premium required to provide hospital and medical benefits under this
12 section shall be paid:

- 13 1. Wholly or partly from funds contributed by the recipient of a retirement
14 allowance, by payroll deduction, or otherwise;
- 15 2. Wholly or partly from funds contributed by the ~~the Kentucky Retirement~~
16 ~~Systems~~ insurance trust funds established under Section 27 of this
17 Act~~[fund]~~;
- 18 3. Wholly or partly from funds contributed to accounts established
19 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS
20 16.510, 61.515, and 78.520;
- 21 4. Wholly or partly from funds contributed by another state-administered
22 retirement system under a reciprocal arrangement, except that any
23 portion of the premium paid from the ~~the Kentucky Retirement Systems~~
24 insurance trust funds~~[fund]~~ or accounts established pursuant to 26
25 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515,
26 and 78.520 under a reciprocal agreement shall not exceed the amount
27 that would be payable under this section if all the member's service were

1 in one (1) of the systems administered by the Kentucky Retirement
2 Systems or County Employees Retirement System;

- 3 5. Partly from subparagraphs 1. to 4. of this paragraph, except that any
4 premium for hospital and medical insurance over the amount contributed
5 by the ~~{Kentucky Retirement Systems}~~ insurance trust funds~~{fund}~~;
6 accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds
7 established in KRS 16.510, 61.515, and 78.520; or another state-
8 administered retirement system under a reciprocal agreement shall be
9 paid by the recipient by an automatic electronic transfer of funds. If the
10 board provides for cross-referencing of insurance premiums, the
11 employer's contribution for the working member or spouse shall be
12 applied toward the premium, and the ~~{Kentucky Retirement Systems}~~
13 ~~{insurance trust}~~ funds~~{fund}~~ or accounts established pursuant to 26
14 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515,
15 and 78.520 shall pay the balance, not to exceed the monthly
16 contribution; or

- 17 6. In full from the ~~{Kentucky Retirement Systems}~~ insurance trust
18 funds~~{fund}~~ or accounts established pursuant to 26 U.S.C. sec. 401(h)
19 within the funds established in KRS 16.510, 61.515, and 78.520 for all
20 recipients of a retirement allowance from any of the three (3) retirement
21 systems administered by the Kentucky Retirement Systems or the
22 County Employees Retirement System where such recipient is a retired
23 former member of one (1) or more of the three (3) retirement systems
24 administered by the Kentucky Retirement Systems or the County
25 Employees Retirement System (not a beneficiary or dependent child
26 receiving benefits) and had two hundred and forty (240) months or more
27 of service upon retirement. Should such recipient have less than two

1 hundred forty (240) months of service but have at least one hundred
2 eighty (180) months of service, seventy-five percent (75%) of such
3 premium shall be paid from the insurance trust fund or accounts
4 established pursuant to 26 U.S.C. sec. 401(h) within the funds
5 established in KRS 16.510, 61.515, and 78.520, provided such recipient
6 agrees to pay the remaining twenty-five percent (25%) by payroll
7 deduction from his retirement allowance or by another method. Should
8 such recipient have less than one hundred eighty (180) months of service
9 but have at least one hundred twenty (120) months of service, fifty
10 percent (50%) of such premium shall be paid from the insurance trust
11 fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within
12 the funds established in KRS 16.510, 61.515, and 78.520, provided such
13 recipient agrees to pay the remaining fifty percent (50%) by payroll
14 deduction from his retirement allowance or by another method. Should
15 such recipient have less than one hundred twenty (120) months of
16 service but have at least forty-eight (48) months of service, twenty-five
17 percent (25%) of such premium shall be paid from the insurance trust
18 fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within
19 the funds established in KRS 16.510, 61.515, and 78.520, provided such
20 recipient agrees to pay the remaining seventy-five percent (75%) by
21 payroll deduction from his retirement allowance or by another method.
22 Notwithstanding the foregoing provisions of this subsection, an
23 employee participating in one (1) of the retirement systems administered
24 by the Kentucky Retirement Systems who becomes disabled as a direct
25 result of an act in line of duty as defined in KRS 16.505 or as a result of
26 a duty-related injury as defined in KRS 61.621, shall have his premium
27 paid in full as if he had two hundred forty (240) months or more of

1 service. Further, an employee participating in one (1) of the retirement
2 systems administered by the Kentucky Retirement Systems who is killed
3 as a direct result of an act in line of duty as defined in KRS 16.505 or as
4 a result of a duty-related injury as defined in KRS 61.621, shall have the
5 premium for the beneficiary, if the beneficiary is the member's spouse,
6 and for each dependent child as defined in KRS 16.505, paid so long as
7 they individually remain eligible for a monthly retirement benefit.
8 "Months of service" as used in this section shall mean the total months
9 of combined service used to determine benefits under any or all of the
10 three (3) retirement systems administered by the Kentucky Retirement
11 Systems or the County Employees Retirement System, except service
12 added to determine disability benefits shall not be counted as "months of
13 service." For current and former employees of the Council on
14 Postsecondary Education who were employed prior to January 1, 1993,
15 and who earn at least fifteen (15) years of service credit in the Kentucky
16 Employees Retirement System, "months of service" shall also include
17 vested service in another retirement system other than the Kentucky
18 Teachers' Retirement System sponsored by the Council on
19 Postsecondary Education.

- 20 (b) 1. For a member electing insurance coverage through the Kentucky
21 Retirement Systems or County Employees Retirement System, "months
22 of service" shall include, in addition to service as described in paragraph
23 (a) of this subsection, service credit in one (1) of the other state-
24 administered retirement plans.
- 25 2. Effective August 1, 1998, the Kentucky Retirement Systems or County
26 Employees Retirement System shall compute the member's combined
27 service, including service credit in another state-administered retirement

1 plan, and calculate the portion of the member's premium to be paid by
2 the insurance trust fund accounts established pursuant to 26 U.S.C. sec.
3 401(h) within the funds established in KRS 16.510, 61.515, and 78.520,
4 according to the criteria established in paragraph (a) of this subsection.
5 Each state-administered retirement plan annually shall pay to the
6 insurance trust fund the percentage of the system's cost of the retiree's
7 monthly contribution for single coverage for hospital and medical
8 insurance which shall be equal to the percentage of the member's
9 number of months of service in the other state-administered retirement
10 plan divided by his total combined service. The amounts paid by the
11 other state-administered retirement plans and the insurance trust fund or
12 accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds
13 established in KRS 16.510, 61.515, and 78.520 shall not be more than
14 one hundred percent (100%) of the monthly contribution adopted by the
15 respective boards of trustees.

- 16 3. A member may not elect coverage for hospital and medical benefits
17 under this subsection through more than one (1) of the state-
18 administered retirement plans.
- 19 4. A state-administered retirement plan shall not pay any portion of a
20 member's monthly contribution for medical insurance unless the member
21 is a recipient or annuitant of the plan.
- 22 5. The premium paid by the ~~{Kentucky Retirement Systems}~~ insurance
23 trust ~~funds~~~~[fund]~~ established by Section 27 of this Act or accounts
24 established pursuant to 26 U.S.C. sec. 401(h) within the funds
25 established in KRS 16.510, 61.515, and 78.520 shall not exceed one
26 hundred percent (100%) of the monthly contribution rate toward hospital
27 and medical insurance coverage approved by the board of trustees of the

Kentucky Retirement Systems or the board of trustees of the County
Employees Retirement System.

(4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, each dependent child, and each disabled child, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the hospital and medical insurance for the spouse, each dependent child, and each disabled child, or beneficiary is paid by payroll deduction from the retirement allowance or by another method. For purposes of this subsection only, a child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits or meets the dependent disability standard established by the Department of Employee Insurance in the Personnel Cabinet.

(b) The other provisions of this section notwithstanding, the insurance trust funds~~[fund]~~ or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall pay a percentage of the monthly contribution for the spouse and for each dependent child of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System. The percentage of the monthly contribution paid for the spouse and each dependent child of a recipient who was in a hazardous position shall be based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section, except that for any recipient of a retirement allowance from the County Employees Retirement System who was contributing to the system on

1 January 1, 1998, for service in a hazardous position, the percentage of the
2 monthly contribution shall be based on the total of hazardous service and any
3 nonhazardous service as a police or firefighter with the same agency, if that
4 agency was participating in the County Employees Retirement System but did
5 not offer hazardous duty coverage for its police and firefighters at the time of
6 initial participation.

7 (c) The insurance trust funds~~[fund]~~ or accounts established pursuant to 26 U.S.C.
8 sec. 401(h) within the funds established in KRS 16.510, ~~[KRS]~~ 61.515, and
9 78.520 shall continue the same level of coverage for a recipient who was a
10 member of the County Employees Retirement System after the age of sixty-
11 five (65) as before the age of sixty-five (65), if the recipient is not eligible for
12 Medicare coverage. If the insurance trust funds~~[fund]~~ or accounts established
13 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510,
14 61.515, and 78.520 provides coverage for the spouse or each dependent child
15 of a former member of the County Employees Retirement System, the
16 insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h)
17 within the funds established in KRS 16.510, 61.515, and 78.520 shall continue
18 the same level of coverage for the spouse or each dependent child after the age
19 of sixty-five (65) as before the age of sixty-five (65), if the spouse or
20 dependent child is not eligible for Medicare coverage.

21 (5) After July 1, 1998, notwithstanding any other provision to the contrary, a member
22 who holds a judicial office but did not elect to participate in the Judicial Retirement
23 Plan and is participating instead in the Kentucky Employees Retirement System, the
24 County Employees Retirement System, or the State Police Retirement System, as
25 provided in KRS 61.680, and who has at least twenty (20) years of total service,
26 one-half (1/2) of which is in a judicial office, shall receive the same hospital and
27 medical insurance benefits, including paid benefits for spouse and dependents, as

1 provided to persons retiring under the provisions of KRS 21.427. The
2 Administrative Office of the Courts shall pay the cost of the medical insurance
3 benefits provided by this subsection.

4 (6) Premiums paid for hospital and medical insurance coverage procured under
5 authority of this section shall be exempt from any premium tax which might
6 otherwise be required under KRS Chapter 136. The payment of premiums by the
7 insurance trust funds~~fund~~ or accounts established pursuant to 26 U.S.C. sec.
8 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not
9 constitute taxable income to an insured recipient. No commission shall be paid for
10 hospital and medical insurance procured under authority of this section.

11 (7) Each respective~~The~~ board shall promulgate an administrative regulation to
12 establish a medical insurance reimbursement plan to provide reimbursement for
13 hospital and medical insurance premiums of recipients of a retirement allowance
14 who are not eligible for the same level of hospital and medical benefits as recipients
15 living in Kentucky and having the same Medicare hospital and medical insurance
16 eligibility status. An eligible recipient shall file proof of payment for hospital and
17 medical insurance at the retirement office. Reimbursement to eligible recipients
18 shall be made on a quarterly basis. The recipient shall be eligible for reimbursement
19 of substantiated medical insurance premiums for an amount not to exceed the total
20 monthly premium determined under subsection (3) of this section. The plan shall
21 not be made available if all recipients are eligible for the same coverage as
22 recipients living in Kentucky.

23 (8) (a) 1. For employees having a membership date on or after July 1, 2003, and
24 before September 1, 2008, participation in the insurance benefits
25 provided under this section shall not be allowed until the employee has
26 earned at least one hundred twenty (120) months of service in the state-
27 administered retirement systems.

1 2. For an employee having a membership date on or after September 1,
2 2008, participation in the insurance benefits provided under this section
3 shall not be allowed until the employee has earned at least one hundred
4 eighty (180) months of service credited under KRS 16.543(1),
5 61.543(1), or 78.615(1) or another state-administered retirement system.

6 (b) An employee who meets the minimum service requirements as provided by
7 paragraph (a) of this subsection shall be eligible for benefits as follows:

8 1. For employees who are not in a hazardous position, a monthly insurance
9 contribution of ten dollars (\$10) for each year of service as a
10 participating employee.

11 2. For employees who are in a hazardous position or who participate in the
12 State Police Retirement System, a monthly insurance contribution of
13 fifteen dollars (\$15) for each year of service as a participating employee
14 in a hazardous position or as a participating member of the State Police
15 Retirement System. Upon the death of the retired member, the
16 beneficiary, if the beneficiary is the member's spouse, shall be entitled to
17 a monthly insurance contribution of ten dollars (\$10) for each year of
18 service the member attained as a participating employee in a hazardous
19 position or as a participating member of the State Police Retirement
20 System.

21 (c) 1. The minimum service requirement to participate in benefits as provided
22 by paragraph (a) of this subsection shall be waived for a member who is
23 disabled as a direct result of an act in line of duty as defined in KRS
24 16.505, and the member or his spouse and eligible dependents shall be
25 entitled to the benefits payable under this subsection as though the
26 member had twenty (20) years of service in a hazardous position.

27 2. The minimum service required to participate in benefits as provided by

1 paragraph (a) of this subsection shall be waived for a member who is
2 disabled by a duty-related injury as defined in KRS 61.621, and the
3 member shall be entitled to the benefits payable under this subsection as
4 though the member has twenty (20) years of service in a nonhazardous
5 position.

6 3. Notwithstanding the provisions of this section, the minimum service
7 required to participate in benefits as provided by paragraph (a) of this
8 subsection shall be waived for a member who dies as a direct result of an
9 act in line of duty as defined in KRS 16.505 or who dies as a result of a
10 duty-related injury as defined in KRS 61.621, and the premium for the
11 member's spouse and for each dependent child as defined in KRS 16.505
12 shall be paid in full by the systems so long as they individually remain
13 eligible for a monthly retirement benefit.

14 (d) Except as provided by paragraph (c)3. of this subsection, the monthly
15 insurance contribution amount shall be increased July 1 of each year by one
16 and one-half percent (1.5%). The increase shall be cumulative and shall
17 continue to accrue after the member's retirement for as long as a monthly
18 insurance contribution is payable to the retired member or beneficiary.

19 (e) The benefits of this subsection provided to a member whose participation
20 begins on or after July 1, 2003, shall not be considered as benefits protected
21 by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The
22 General Assembly reserves the right to suspend or reduce the benefits
23 conferred in this subsection if in its judgment the welfare of the
24 Commonwealth so demands.

25 (f) An employee whose membership date is on or after September 1, 2008, who
26 retires and is reemployed in a regular full-time position required to participate
27 in one (1) of the systems administered by Kentucky Retirement Systems shall

1 not be eligible for health insurance coverage or benefits provided by this
2 section and shall take coverage with his or her employing agency during the
3 period of reemployment in a regular full-time position.

4 ➔Section 29. KRS 64.475 is amended to read as follows:

5 (1) There is hereby established an advisory council to be known as the Executive
6 Branch Compensation Advisory Council.

7 (a) The council shall consist of three (3) voting members: the state budget
8 director, the secretary of the Governor's Executive Cabinet, and the secretary
9 of the Finance and Administration Cabinet.

10 (b) The state budget director shall serve as the chair of the council.

11 (c) If a voting member is unable to attend a meeting of the council, he shall
12 designate, in writing, a member of his staff to attend in his place, and such
13 designation shall confer on such designee, for that meeting only, the authority
14 to act, including the right to vote on any matter coming before the council.

15 (2) The council shall be attached to the Personnel Cabinet for administrative purposes.
16 Personnel Cabinet staff shall provide necessary administrative and operational
17 support for the council. The council may, from time to time, utilize the services of
18 professional and technical personnel employed by other agencies of state
19 government, if the need arises. The council shall meet on a quarterly basis at a time
20 and place to be determined by the council. Additional meetings may be called upon
21 request of two (2) voting members of the council.

22 (3) The duties of the council shall include the following:

23 (a) Advise and make recommendations to the secretary of the Personnel Cabinet
24 on appropriate salaries for the following:

25 1. The heads of the various departments in the executive branch of state
26 government, with the exception of:

27 a. Departments headed by constitutionally elected officers;

- 1 b. The Department of Education;
- 2 c. The Council on Postsecondary Education; and
- 3 d. The Kentucky Authority for Educational Television;
- 4 2. The heads of offices, as defined in KRS 12.010;
- 5 3. The administrative heads of boards and commissions and for their
- 6 employees, if they are not covered by the salary schedules set forth in
- 7 KRS Chapter 16, KRS Chapter 18A, or KRS Chapter 151B,
- 8 notwithstanding any other statute to the contrary empowering a board,
- 9 commission, authority, or other administrative body for which the
- 10 Personnel Cabinet provides personnel and payroll services except for
- 11 any board governing any of the Kentucky Retirement Systems, the
- 12 County Employees Retirement System, the Kentucky Public Pensions
- 13 Authority, the Kentucky Higher Education Assistance Authority, the
- 14 Kentucky Authority for Educational Television, or the Council on
- 15 Postsecondary Education to establish, set, or approve the salaries of its
- 16 administrative head and other employees;
- 17 4. Requests from boards, commissions, or cabinet heads to approve salary
- 18 increases in excess of those increases provided other state employees to
- 19 individuals in the positions listed in paragraphs (a), (b), and (c) of this
- 20 subsection;
- 21 (b) Advise the secretary of the Personnel Cabinet on requests from agencies to
- 22 establish or abolish a separate salary schedule, or schedules, reflective of the
- 23 marketplace need to recruit and hire classified employees in technical or
- 24 professional fields when the classified service salary schedule is inadequate. A
- 25 positive recommendation of such requests shall not be granted unless
- 26 significant credible evidence exists of a job market shortage and an
- 27 inadequacy of the classified or unclassified salary schedules to recruit and

1 retain competent, qualified applicants for such positions; and

2 (c) Recommend that the Personnel Cabinet conduct salary surveys of the
3 executive branch positions outlined in subsection (3)(a)1., 2., and 3. of this
4 section, using state governments in the seven (7) states contiguous to the
5 Commonwealth, other states in the southeastern United States, and private
6 sector employers, where appropriate.

7 (4) The council's recommendations shall:

8 (a) Take into consideration the provisions of KRS 64.640, if the specific position
9 in question is subject to the provisions of KRS 64.640; and

10 (b) Not take into consideration the provisions of KRS 64.640, if the specific
11 position in question is exempt from the provisions of KRS 64.640.

12 ➔Section 30. KRS 64.640 is amended to read as follows:

13 (1) Except as otherwise provided in subsection (2) of this section, and excepting
14 officers elected by popular vote, employees of the General Assembly, including
15 employees of the Legislative Research Commission, members of boards and
16 commissions, those officers and employees of Kentucky Educational Television
17 exempt from classified service as provided in KRS 18A.115, presidents and
18 employees of the state universities and the state colleges, officers employed by the
19 Department of Kentucky State Police under KRS Chapter 16, and persons employed
20 by the commissioner of parks on a temporary basis under KRS 148.026, the
21 Personnel Cabinet shall prepare schedules of compensation, payable out of the State
22 Treasury, with a minimum salary rate, and other salary rates as are deemed
23 necessary or advisable, for the office or position of employment of every state
24 officer and employee, including specifically the offices and positions of
25 employment in every constitutional administrative department, statutory
26 administrative department, independent agency, board, commission, or other unit of
27 state government. The language of any statute empowering a board, commission,

1 authority, or other administrative body for which the Personnel Cabinet provides
2 personnel and payroll services, except for any board governing any of the Kentucky
3 Retirement Systems, the County Employees Retirement System, the Kentucky
4 Public Pensions Authority, the Kentucky Higher Education Assistance Authority,
5 the Kentucky Authority for Educational Television, or the Council on
6 Postsecondary Education, to establish, set, or approve the salaries of its
7 administrative head and other employees to the contrary notwithstanding, the
8 establishment or setting of salaries for administrative heads or other employees shall
9 be subject to the approval of the secretary of the Personnel Cabinet. The schedules
10 and rates shall be based upon studies of the duties and responsibilities of the offices
11 and positions and upon a comparison with rates being paid for similar or
12 comparable services elsewhere, and in the preparation of such schedules, the
13 Personnel Cabinet shall ascertain and record the duties, responsibilities, and
14 authority pertaining to the various offices and positions in the state service, and
15 classify such positions in the manner provided in KRS 18A.030, 18A.035, 18A.110,
16 18A.130, 18A.135, and 18A.150 to 18A.160. No such schedule shall become
17 effective until it has been approved by the Governor by executive order.

- 18 (2) The Governor shall set the compensation payable out of the State Treasury to each
19 officer or position in the state service, which officer or position heads a statutory
20 administrative department, independent agency, or other unit of state government,
21 except for those excluded under subsection (1) of this section. Such compensation
22 shall be based upon studies of the duties and responsibilities and classification of
23 the positions by the Governor and upon a comparison with compensation being paid
24 for similar or comparable services elsewhere, provided, however, such
25 compensation shall not exceed the total taxable compensation of the Governor
26 derived from state sources, the provisions of KRS 64.660 to the contrary
27 notwithstanding. For the purposes of this section, the total taxable compensation of

1 the Governor from state sources shall include the amount provided for
2 compensation to the Governor under KRS 64.480 and any benefits or discretionary
3 spending accounts that are imputed as taxable income for federal tax purposes.

4 (3) The compensation payable out of the State Treasury to officers and employees
5 subordinate to any office or position covered by subsection (2) of this section shall
6 not exceed the maximum rate established pursuant to subsection (2) of this section
7 for such office or position, except with respect to physicians as provided in KRS
8 64.655 and employees of the Public Service Commission of Kentucky whose
9 compensation shall be fixed, within constitutional limits, by the Personnel Cabinet
10 with the approval of the Governor as provided in subsection (1) of this section.

11 (4) Nothing in this section shall preclude the allowance of maintenance to officers and
12 employees of the state.

13 ➔Section 31. KRS 70.293 is amended to read as follows:

14 (1) Individuals employed under KRS 70.291 to 70.293 shall:

15 (a) Serve for a term not to exceed one (1) year. The one (1) year employment term
16 may be renewed annually at the discretion of the employing county police
17 department or sheriff's office;

18 (b) Receive compensation according to the standard procedures applicable to the
19 employing county police department or sheriff's office; and

20 (c) Be employed based upon need as determined by the county police department
21 or the employing sheriff's office.

22 (2) Notwithstanding any provisions of KRS 16.505 to 16.652, 18A.225 to 18A.2287,
23 61.510 to 61.705, or 78.510 to 78.852 to the contrary:

24 (a) Individuals employed under KRS 70.291 to 70.293 shall continue to receive
25 all retirement and health insurance benefits to which they were entitled upon
26 retiring in the applicable system administered by Kentucky Retirement
27 Systems or the County Employees Retirement System;

- 1 (b) Individuals employed under KRS 70.291 to 70.293 shall not be eligible to
2 receive health insurance coverage through the county police department, the
3 sheriff's office, or the fiscal court of the county police department or sheriff's
4 office;
- 5 (c) The county police department, sheriff's office, or fiscal court of the county
6 police department or sheriff's office shall not pay any employer contributions
7 or retiree health expense reimbursements to the Kentucky Retirement Systems
8 required by KRS 61.637(17) for individuals employed under KRS 70.291 to
9 70.293; and
- 10 (d) The county police department, sheriff's office, or fiscal court of the county
11 police department or sheriff's office shall not pay any insurance contributions
12 to the state health insurance plan, as provided by KRS 18A.225 to 18A.2287,
13 for individuals employed under KRS 70.291 to 70.293.
- 14 (3) Individuals employed under KRS 70.291 to 70.293 shall be subject to any merit
15 system, civil service, or other legislative due process provisions applicable to the
16 county police department or sheriff's office. A decision not to renew a one (1) year
17 appointment term under this section shall not be considered a disciplinary action or
18 deprivation subject to due process.
- 19 ➔Section 32. KRS 78.510 is repealed, reenacted, and amended to read as follows:
20 As used in KRS 78.510 to 78.852, unless the context otherwise requires:
- 21 (1) "System" means the County Employees Retirement System;
- 22 (2) "Board" means the board of trustees of the system as provided in Section 3 of this
23 Act~~[KRS 78.780]~~;
- 24 (3) "County" means any county, or nonprofit organization created and governed by a
25 county, counties, or elected county officers, sheriff and his employees, county clerk
26 and his employees, circuit clerk and his deputies, former circuit clerks or former
27 circuit clerk deputies, or political subdivision or instrumentality, including school

- 1 boards, *cities*, charter county *governments*~~[government]~~~~[—or]~~ urban-county
2 *governments, consolidated local governments, or unified local*
3 *governments*~~[government]~~ participating in the system by order appropriate to its
4 governmental structure, as provided in KRS 78.530, and if the board is willing to
5 accept the agency, organization, or corporation, the board being hereby granted the
6 authority to determine the eligibility of the agency to participate;
- 7 (4) "School board" means any board of education participating in the system by order
8 appropriate to its governmental structure, as provided in KRS 78.530, and if the
9 board is willing to accept the agency or corporation, the board being hereby granted
10 the authority to determine the eligibility of the agency to participate;
- 11 (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- 12 (6) "Employee" means every regular full-time appointed or elective officer or employee
13 of a participating county and the coroner of a participating county, whether or not he
14 qualifies as a regular full-time officer. The term shall not include persons engaged
15 as independent contractors, seasonal, emergency, temporary, and part-time workers.
16 In case of any doubt, the board shall determine if a person is an employee within the
17 meaning of KRS 78.510 to 78.852;
- 18 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected
19 officials of a county, or any authority of the county having the power to appoint or
20 elect an employee to office or employment in the county;
- 21 (8) "Member" means any employee who is included in the membership of the system or
22 any former employee whose membership has *not ceased*~~[not been terminated]~~ under
23 *Section 34 of this Act*~~[KRS 61.535]~~;
- 24 (9) "Service" means the total of current service and prior service as defined in this
25 section;
- 26 (10) "Current service" means the number of years and months of employment as an
27 employee, on and after July 1, 1958, for which creditable compensation is paid and

1 employee contributions deducted, except as otherwise provided;

2 (11) "Prior service" means the number of years and completed months, expressed as a
3 fraction of a year, of employment as an employee, prior to July 1, 1958, for which
4 creditable compensation was paid. An employee shall be credited with one (1)
5 month of prior service only in those months he received compensation for at least
6 one hundred (100) hours of work. Twelve (12) months of current service in the
7 system shall be required to validate prior service;

8 (12) "Accumulated contributions" means the sum of all amounts deducted from the
9 compensation of a member and credited to his individual account in the members'
10 account, including employee contributions picked up after August 1, 1982, pursuant
11 to KRS 78.610(4), together with interest credited, ~~[- or investment returns earned as~~
12 ~~provided by KRS 61.5956,]~~ on the amounts, and any other amounts the member
13 shall have contributed thereto, including interest credited thereon ~~[- or investment~~
14 ~~returns earned as provided by KRS 61.5956].~~ "Accumulated contributions" shall not
15 include employee contributions that are deposited into accounts established
16 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS ~~16.510,~~
17 ~~61.515, and]~~ 78.520, as prescribed by KRS 61.702(2)(b);

18 (13) "Creditable compensation":

19 (a) Except as limited ~~[- provided]~~ by paragraph ~~[(b) or]~~ (c) of this subsection,
20 means all salary, wages, and fees, including payments for compensatory time,
21 paid to the employee as a result of services performed for the employer or for
22 time during which the member is on paid leave, which are includable on the
23 member's federal form W-2 wage and tax statement under the heading "wages,
24 tips, other compensation", including employee contributions picked up after
25 August 1, 1982, pursuant to KRS 78.610(4). *The creditable compensation of*
26 *fee officers who receive salary, fees, maintenance, or other perquisites as a*
27 *result of their official duties is the gross amount received decreased by the*

cost of salary paid deputies and clerks and the cost of office supplies and other official expenses;

(b) Includes:

1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
2. Cases where compensation includes maintenance and other perquisites, but the board shall fix the value of that part of the compensation not paid in money;
3. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;
4. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and
5. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after

1 January 1, 2001, that are not includable in the gross income of the
2 employee by reason of 26 U.S.C. sec. 132(f)(4); and

3 (c) Excludes:

- 4 1. ~~{Uniform, equipment, or any other expense allowances paid on or after~~
5 ~~January 1, 2019, }~~Living allowances, expense reimbursements, lump-
6 sum payments for accrued vacation leave, sick leave except as provided
7 in KRS 78.616(5), and other items determined by the board;
- 8 2. For employees who begin participating on or after September 1, 2008,
9 lump-sum payments for compensatory time;
- 10 3. Training incentive payments for city officers paid as set out in KRS
11 64.5277 to 64.5279;
- 12 4. For employees who begin participating on or after August 1, 2016,
13 nominal fees paid for services as a volunteer; and
- 14 5. ~~{For employees who are employed in a nonhazardous position, who~~
15 ~~began participating prior to September 1, 2008, and who retire after July~~
16 ~~1, 2023, lump-sum payments for compensatory time upon termination of~~
17 ~~employment; and~~
- 18 6. ~~—~~Any salary or wages paid to an employee for services as a Kentucky
19 State Police school resource officer as defined by KRS 158.441;

20 (14) "Final compensation" means:

- 21 (a) For a member who begins participating before September 1, 2008, who is
22 employed in a nonhazardous position, the creditable compensation of the
23 member during the five (5) fiscal years he was paid at the highest average
24 monthly rate divided by the number of months of service credit during that
25 five (5) year period multiplied by twelve (12). The five (5) years may be
26 fractional and need not be consecutive~~[-, except that for members retiring on or~~
27 ~~after January 1, 2019, the five (5) fiscal years shall be complete fiscal years].~~

1 If the number of months of service credit during the five (5) year period is less
2 than forty-eight (48)~~[for members retiring prior to January 1, 2019]~~, one (1)
3 or more additional fiscal years shall be used~~[. If a member retiring on or after~~
4 ~~January 1, 2019, does not have five (5) complete fiscal years that each contain~~
5 ~~twelve (12) months of service credit, then one (1) or more additional fiscal~~
6 ~~years, which may contain less than twelve (12) months of service credit, shall~~
7 ~~be added until the number of months in the final compensation calculation is~~
8 ~~at least sixty (60) months]~~;

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

22 (c) For a member who begins participating before September 1, 2008, who is
23 employed in a hazardous position, as provided in KRS 61.592~~[, and who~~
24 ~~retired prior to January 1, 2019]~~, the creditable compensation of the member
25 during the three (3) fiscal years he was paid at the highest average monthly
26 rate divided by the number of months of service credit during that three (3)
27 year period multiplied by twelve (12). The three (3) years may be fractional

1 and need not be consecutive. If the number of months of service credit during
2 the three (3) year period is less than twenty-four (24), one (1) or more
3 additional fiscal years, which may contain less than twelve (12) months of
4 service credit, shall be used;

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

15 (e) For a member who begins participating on or after September 1, 2008, but
16 prior to January 1, 2014, who is employed in a hazardous position as provided
17 in KRS 61.592[, or for a member who begins participating prior to September
18 1, 2008, who is employed in a hazardous position as provided in KRS 61.592,
19 who retires on or after January 1, 2019], the creditable compensation of the
20 member during the three (3) complete fiscal years he was paid at the highest
21 average monthly rate divided by three (3). Each fiscal year used to determine
22 final compensation must contain twelve (12) months of service credit. If the
23 member does not have three (3) complete fiscal years that each contain twelve
24 (12) months of service credit, then one (1) or more additional fiscal years,
25 which may contain less than twelve (12) months of service credit, shall be
26 added until the number of months in the final compensation calculation is at
27 least thirty-six (36) months;

- 1 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
2 calculated during the twelve (12) month period immediately preceding the
3 member's effective retirement date, and shall include employee contributions picked
4 up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to
5 the system by the employer and the following equivalents shall be used to convert
6 the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
7 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half
8 (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve
9 (12) months, one (1) year;
- 10 (16) "Retirement allowance" means the retirement payments to which a member is
11 entitled;
- 12 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
13 basis of the actuarial tables adopted by the board. In cases of disability retirement,
14 the options authorized by KRS 61.635 shall be computed by adding ten (10) years
15 to the age of the member, unless the member has chosen the Social Security
16 adjustment option as provided for in KRS 61.635(8), in which case the member's
17 actual age shall be used. For members who begin participating in the system prior to
18 January 1, 2014, no disability retirement option shall be less than the same option
19 computed under early retirement;
- 20 (18) "Normal retirement date" means the sixty-fifth birthday of a member unless
21 otherwise provided in KRS 78.510 to 78.852;
- 22 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
23 following June 30, which shall also be the plan year. The "fiscal year" shall be the
24 limitation year used to determine contribution and benefits limits as set out in 26
25 U.S.C. sec. 415;
- 26 (20) "Agency reporting official" means the person designated by the participating
27 employer~~[agency]~~ who shall be responsible for forwarding all employer and

1 employee contributions and a record of the contributions to the system and for
2 performing other administrative duties pursuant to the provisions of KRS 78.510 to
3 78.852;

4 (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean
5 all positions that average one hundred (100) or more hours per month, determined
6 by using the number of hours actually worked in a calendar or fiscal year, or eighty
7 (80) or more hours per month in the case of noncertified employees of school
8 boards, determined by using the number of hours actually worked in a calendar or
9 school year, unless otherwise specified, except:

10 (a) Seasonal positions, which although temporary in duration, are positions which
11 coincide in duration with a particular season or seasons of the year and that
12 may recur regularly from year to year, in which case the period of time shall
13 not exceed nine (9) months, except for employees of school boards, in which
14 case the period of time shall not exceed six (6) months;

15 (b) Emergency positions that are positions that do not exceed thirty (30) working
16 days and are nonrenewable;

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

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

27 (e) Part-time positions that are positions that may be permanent in duration, but

1 that require less than a calendar or fiscal year average of one hundred (100)
2 hours of work per month, determined by using the number of months actually
3 worked within a calendar or fiscal year, in the performance of duty, except in
4 case of noncertified employees of school boards, the school term average shall
5 be eighty (80) hours of work per month, determined by using the number of
6 months actually worked in a calendar or school year, in the performance of
7 duty;

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

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

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

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

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

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

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

- 1 (29) "Retirement office" means the Kentucky Public Pensions Authority [Kentucky
2 ~~Retirement Systems~~] office building in Frankfort;
- 3 (30) "Delayed contribution payment" means an amount paid by an employee for current
4 service obtained under KRS 61.552. The amount shall be determined using the
5 same formula in KRS 61.5525, except the determination of the actuarial cost for
6 classified employees of a school board shall be based on their final compensation,
7 and the payment shall not be picked up by the employer. A delayed contribution
8 payment shall be deposited to the member's account and considered as accumulated
9 contributions of the individual member. In determining payments under this
10 subsection, the formula found in this subsection shall prevail over the one found in
11 KRS 212.434;
- 12 (31) "Participating" means an employee is currently earning service credit in the system
13 as provided in KRS 78.615;
- 14 (32) "Month" means a calendar month;
- 15 (33) "Membership date" means the date upon which the member began participating in
16 the system as provided in KRS 78.615;
- 17 (34) "Participant" means a member, as defined by subsection (8) of this section, or a
18 retired member, as defined by subsection (23) of this section;
- 19 (35) "Qualified domestic relations order" means any judgment, decree, or order,
20 including approval of a property settlement agreement, that:
- 21 (a) Is issued by a court or administrative agency; and
22 (b) Relates to the provision of child support, alimony payments, or marital
23 property rights to an alternate payee;
- 24 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
25 participant, who is designated to be paid retirement benefits in a qualified domestic
26 relations order;
- 27 (37) "Accumulated employer credit" means the employer pay credit deposited to the

1 member's account and interest credited on such amounts as provided by ~~KRS~~
2 ~~16.583 and 61.597~~;

3 (38) "Accumulated account balance" means:

4 (a) For members who began participating in the system prior to January 1, 2014,
5 the member's accumulated contributions; or

6 (b) For members who began participating in the system on or after January 1,
7 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,
8 the combined sum of the member's accumulated contributions and the
9 member's accumulated employer credit; ~~or~~

10 ~~(c) For nonhazardous members who are participating in the 401(a) money~~
11 ~~purchase plan as provided by KRS 61.5956, the combined sum of the~~
12 ~~member's accumulated contributions and the member's accumulated employer~~
13 ~~contributions in the 401(a) money purchase plan];~~

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

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

21 (b) If a retired member, does not become an employee, leased employee, or
22 independent contractor of the employer for which he or she is performing
23 volunteer services for a period of at least twelve (12) ~~twenty-four (24)~~ months
24 following the retired member's most recent retirement date;

25 (40) "Nominal fee" means compensation earned for services as a volunteer that does not
26 exceed five hundred dollars (\$500) per month. Compensation earned for services as
27 a volunteer from more than one (1) participating employer during a month shall be

1 aggregated to determine whether the compensation exceeds the five hundred dollars
2 (\$500) per month maximum provided by this subsection;

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

5 ~~[(42) "Accumulated employer contribution" means the employer contribution deposited~~
6 ~~to the member's account and any investment returns on such amounts as provided~~
7 ~~by KRS 61.5956; and]~~

8 **(42) "Hazardous position" means a position that meets the requirements of Section**
9 **24 of this Act and has been approved by the board as hazardous;**

10 **(43) "Level-percentage-of-payroll amortization method" means a method of**
11 **determining the annual amortization payment on the unfunded actuarial accrued**
12 **liability as expressed as a percentage of payroll over a set period of years. Under**
13 **this method, the percentage of payroll shall be projected to remain constant for**
14 **all years remaining in the set period and the unfunded actuarially accrued**
15 **liability shall be projected to be fully amortized at the conclusion of the set**
16 **period;**

17 **(44) "Increment" means twelve (12) months of service credit which are purchased.**
18 **The twelve (12) months need not be consecutive. The final increment may be less**
19 **than twelve (12) months;**

20 ~~(45)~~~~[(43)]~~ "Monthly average pay" means the higher of the member's monthly final rate of
21 pay or the average monthly creditable compensation earned by the deceased
22 member during his or her last twelve (12) months of employment;

23 **(46) "Authority" means the Kentucky Public Pensions Authority as provided by**
24 **Section 2 of this Act; and**

25 **(47) "Executive director" means the executive director of the Kentucky Public**
26 **Pensions Authority.**

27 ➔Section 33. KRS 78.530 is amended to read as follows:

- 1 (1) (a) Each county and school board, as defined in KRS 78.510, will participate in
2 the system by appropriate order authorizing such participation which has been
3 entered and duly recorded in the records of the governing body of the county
4 or school board. In cases where general purpose county government does not
5 participate, but the sheriff and his employees or the county clerk and his
6 employees do, the sheriff or the clerk shall retain the order in his office. The
7 authority to issue and properly record such order of participation being hereby
8 granted, permits such county to participate in the system. The effective date of
9 such participation shall be fixed in the order.
- 10 (b) Notwithstanding any statute to the contrary, after April 9, 2002, the systems
11 shall deny the request for participation of any agency which does not have an
12 irrevocable contract with the state Personnel Cabinet for health insurance
13 coverage under KRS 18A.225 to 18A.229 for its active employees, except
14 that:
- 15 1. County governments entering the system between April 9, 2002, and
16 July 1, 2003, under this section shall be excluded from this requirement;
17 and
- 18 2. Agencies entering the system on or after April 9, 2002, which were
19 established by a merger or an interlocal agreement to provide public
20 services shall be excluded from this requirement if all agencies entering
21 into the merger or interlocal agreement had an initial participation date
22 with the system prior to April 9, 2002.
- 23 (2) Once a county or school board participates, it shall thereafter continue to
24 participate, except as provided in KRS 78.535.
- 25 (3) (a) Concurrent with the adoption of the appropriate resolution to participate in the
26 system, a county may elect the alternate participation plan which will require
27 the county to purchase on behalf of each employee electing coverage, at the

1 time the county elected to participate in the system as provided under
2 subsection (1)(b) and (c) of Section 35 of this Act~~[KRS 78.540(2)]~~, current
3 service credit for employment in regular full-time positions between July 1,
4 1958, and the participation date of the county. Cities which participate in the
5 system pursuant to subsection (6) of this section, KRS 79.080, 90.400, 90.410,
6 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 shall be required to
7 purchase on behalf of each employee electing coverage only as much service
8 credit as the employee has accumulated in the city-administered plan, up to
9 the participation date of the city. Accumulated service shall include service for
10 which an employee received a refund pursuant to KRS 95.620 or 95.866, if
11 such refund has been repaid. If the employee has not yet repaid the refund, he
12 may make payment to the system by any method acceptable to the system, and
13 the requirement of five (5) years of continuous reemployment prior to
14 repayment of refunds shall not apply. Upon the employee's repayment, the city
15 shall purchase the associated service credit for the employee. Cost of such
16 service credit over and above that which would be funded within the existing
17 employer contribution rate shall be determined by the board's consulting
18 actuary. The expense of such actuarial service shall be paid by the county;

- 19 (b) The county shall establish a payment schedule subject to approval by the
20 board for payment of the cost of such service over and above that which
21 would be funded within the existing employer contribution rate. The
22 maximum period allowed in a payment schedule shall be thirty (30) years,
23 with interest at the rate actuarially assumed by the board. A shorter period is
24 desirable and the board may approve any payment schedule provided it is not
25 longer than a thirty (30) year period, except that cities which participate in the
26 system pursuant to subsection (6) of this section, KRS 79.080, 90.400, 90.410,
27 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 may, at their option, extend

1 the payment schedule to a maximum of thirty (30) years, may choose to make
2 level payments at the interest rate actuarially assumed by the board over the
3 life of the payment schedule chosen, and may retain employer contributions
4 and the earnings thereon attributable to employees electing coverage;

5 (c) A city entering the system under the alternate participation plan, may, by
6 ordinance, levy a special property tax to pay for current service credit
7 purchased for the period between July 1, 1958, and the participation date of
8 the city. The special tax shall be to pay, within a period of no more than
9 fifteen (15) years, for the cost of such service credit over that which would be
10 funded within the existing employer contribution rate, as determined by the
11 board's consulting actuary. The reason for levying the special tax and the
12 disposition of the proceeds shall be part of the ordinance levying the tax. The
13 special tax shall be rescinded when the unfunded prior service liability has
14 been amortized, and shall not be subject to the provisions of KRS 132.017 or
15 132.027. In addition, the city may maintain any tax, the proceeds of which had
16 been devoted to funding pension obligations under the locally administered
17 plan prior to participation in the system, for the purpose of funding current
18 service costs incurred after the date of participation. The city may increase the
19 tax to pay current service costs which exceed the local pension system costs to
20 which the tax had been devoted, but the city shall not collect from the tax
21 more revenues than are necessary to pay current service costs incurred after
22 the date of participation. The city may continue the tax so long as it
23 participates in the system, and the tax shall not be subject to the provisions of
24 KRS 132.017 or 132.027. The city shall not collect either tax authorized by
25 this paragraph if its participation has been terminated pursuant to Section 34
26 of this Act~~[KRS 61.522]~~;

27 (d) The county may at a later date purchase current service credit from July 1,

1 1958, to the participation date of the county by alternate participation plan for
2 those employees who rejected membership in the system at the time the
3 county first participated. In addition, the employer shall pay the employer
4 contributions on the creditable compensation of the employees who later elect
5 membership from the participation date of the county to the date the member
6 elects participation. The employee shall pay the employee contributions on his
7 creditable compensation from the participation date of the county to the date
8 he elects membership plus interest at the current actuarial rate compounded
9 annually on the employee and employer contributions. Cost of the service
10 credit over and above that which would be funded within the existing
11 employer contribution rate shall be determined by the board's consulting
12 actuary. The expense of the actuarial service shall be paid by the county. The
13 county shall pay the cost of the service by lump sum or by adding it to the
14 existing payment schedule established under paragraph (b) of this subsection;

15 (e) A county which did not participate by alternate participation may, until July 1,
16 1991, purchase current service credit for those employees who rejected
17 membership in the system at the time the county first participated. The
18 employer shall pay the employer contributions on the creditable compensation
19 of the employees who later elect membership from the participation date of
20 the county to the date the member elects participation. The employee shall pay
21 the employee contributions on his creditable compensation from the
22 participation date of the county to the date he elects membership plus interest
23 at the current actuarial rate compounded annually on the employee and
24 employer contributions. The county shall pay the cost of the service credit by
25 lump sum or by establishing a payment schedule under paragraph (b) of this
26 subsection; and

27 (f) A county which participated in the system but did not elect the alternate

1 participation plan may at a later date elect the alternate participation plan. In
2 this case, the county shall purchase on behalf of each employee participating
3 in the system current service credit for employment in regular full-time
4 positions between July 1, 1958, or a later date selected by the county
5 government, and the participation date of the county. The county shall also
6 purchase, for employees who decide to participate when the county elects the
7 alternate participation plan, current service credit for employment in regular
8 full-time positions between July 1, 1958, or the later date selected by the
9 county government, and the participation date of the county. In addition, the
10 county shall pay the employer contributions on the creditable compensation of
11 the employees who later elect membership from the participation date of the
12 county to the date the member elects participation. The employee shall pay the
13 employee contributions on his creditable compensation from the participation
14 date of the county to the date he elects membership plus interest at the current
15 actuarial rate compounded annually on the employee and employer
16 contributions. Cost of the service credit over that which would be funded
17 within the existing employer contribution rate shall be determined by the
18 board's consulting actuary. The expense of the actuarial service shall be paid
19 by the county. The county shall pay the cost of the service by lump sum or by
20 a payment schedule established under paragraph (b) of this subsection.

21 (g) Notwithstanding any other provision of the Kentucky Revised Statutes to the
22 contrary, this subsection shall not apply to members who begin participating
23 in the system on or after January 1, 2014, and no county that elects to
24 participate in the system on or after January 1, 2014, shall be eligible to
25 participate under the alternate participation plan.

26 (4) Every school board not participating on June 21, 1974, shall enact a resolution of
27 participation no later than July 1, 1976.

- 1 (5) The order of the governing body of a county, as provided for in subsection (1) of
2 this section, may exclude from participation in the system hospitals and any other
3 semi-independent agency. Each such excluded agency shall be identified in the
4 order authorizing participation and such excluded agency may participate in the
5 system as a separate agency.
- 6 (6) (a) After August 1, 1988, except as permitted by KRS 65.156, no local
7 government retirement system shall be created pursuant to KRS 70.580 to
8 70.598 and any local government retirement systems created pursuant to KRS
9 79.080, 90.400, 90.410, 95.768, and KRS Chapter 96 shall be closed to new
10 members. New employees who would have been granted membership in such
11 retirement systems shall instead be granted membership in the County
12 Employees Retirement System. Employees who would have been granted
13 membership in retirement systems created pursuant to KRS 95.768, or any
14 other policemen or firefighters who would have been granted membership in
15 retirement systems created pursuant to KRS 79.080, 90.400, or 90.410, or any
16 such policemen or firefighter members employed on or prior to August 1,
17 1988, who transfer to the County Employees Retirement System, shall be
18 certified by their employers as working in hazardous positions. Each city
19 participating in the County Employees Retirement System pursuant to this
20 subsection shall execute the appropriate order authorizing such participation,
21 shall select the alternate participation plan as described in subsection (3) of
22 this section, and shall pay for the actuarial services necessary to determine the
23 additional costs of alternate participation. Cities which closed their local
24 pension systems to new members and participated in the system prior to July
25 15, 1988, whose employees at the time of transition were given the option to
26 join the system shall not be required to offer said employees a second option
27 to join the system.

1 (b) Notwithstanding any statute to the contrary, after April 9, 2002, the
2 system~~systems~~ shall deny the request for participation of any agency which
3 does not have an irrevocable contract with the state Personnel Cabinet for
4 health insurance coverage under KRS 18A.225 to 18A.229 for its active
5 employees, except that agencies entering the system on or after April 9, 2002,
6 which were established by a merger or an interlocal agreement to provide
7 public services shall be excluded from this requirement if all agencies entering
8 into the merger or interlocal agreement had an initial participation date with
9 the system prior to April 9, 2002.

10 (7) Any city which closed a police and firefighter pension plan to new members
11 between January 1, 1988, and July 15, 1988, and participated in the system under
12 the alternate participation plan shall, if its police and firefighters were not covered
13 by Social Security, or any city which operates a pension under KRS 90.400 or
14 90.410, shall be required to certify that its police and firefighters are working in
15 hazardous positions, and shall offer its police and firefighters in service at the time
16 of entry a second option to participate under hazardous duty coverage if they were
17 not offered hazardous duty coverage at the time of their first option. The provisions
18 of subsection (3)(b) of this section notwithstanding, a city affected by this
19 subsection may, at its option, extend its payment schedule to the County Employees
20 Retirement System for alternate participation to thirty (30) years at the rate
21 actuarially assumed by the board.

22 ➔Section 34. KRS 78.535 is amended to read as follows:

23 **Notwithstanding any other provision of KRS 78.510 to 78.852 to the contrary:**

24 **(1) For purposes of this section:**

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

26 **(b) "Employer" means the governing body of a county as defined by KRS**
27 **78.510;**

1 (c) "Employer's effective cessation date" means the last day of the system's
2 plan year in the year in which the employer has elected to cease
3 participation in the system, provided the employer has met the requirements
4 of this section and has given the system sufficient notice as provided by
5 administrative regulations promulgated by the system; and

6 (d) "Inactive member" means a member who is not participating with the
7 system.

8 (2) Any employer participating in the County Employees Retirement System on July
9 1, 2015, may:

10 (a) If the employer is a nonstock nonprofit corporation organized under KRS
11 Chapter 273, voluntarily cease participation in the system subject to the
12 requirements and restrictions of this section; or

13 (b) Be required to involuntarily cease participation in the system under the
14 provisions of this section if the board has determined the employer is no
15 longer qualified to participate in a governmental plan or has failed to
16 comply with the provisions of KRS 78.510 to 78.852.

17 (3) (a) If an employer desires to voluntarily cease participation in the County
18 Employees Retirement System as provided by subsection (2)(a) of this
19 section:

20 1. The employer shall adopt a resolution requesting to cease
21 participation in the system and shall submit the resolution to the
22 board for its approval;

23 2. The cessation of participation in the system shall apply to all
24 employees of the employer;

25 3. The employer shall pay for all administrative costs of an actuarial
26 study to be completed by the County Employees Retirement System
27 consulting actuary and for any other administrative costs for

1 discontinuing participation in the system as determined by the board
2 and as provided by this section;

3 4. The employer shall provide an alternative retirement program for
4 employees who will no longer be covered by the system, which may
5 include a voluntary defined contribution plan;

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

17 6. The employer shall pay by lump sum to the system the full actuarial
18 cost of the benefits accrued by its current and former employees in the
19 system as determined separately for the pension fund and the
20 insurance fund by the actuarial study required by subparagraph 3. of
21 this paragraph. The full actuarial cost shall not include any employee
22 who seeks to transfer his or her account balance to the alternative
23 retirement program as provided by subparagraph 5. of this paragraph
24 within sixty (60) days of the employer's effective cessation date. The
25 actuarial cost shall be fixed, and the employer shall not be subject to
26 any increases or subsequent adjustments, once the lump sum is paid.

27 (b) If the board determines an employer must involuntarily cease participation

1 in the system as provided by subsection (2)(b) of this section:

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

4 2. The employer shall pay for all administrative costs of an actuarial
5 study to be completed by the County Employees Retirement System
6 consulting actuary and for any other administrative costs for
7 discontinuing participation in the system as determined by the board
8 and as provided by this section; and

9 3. The employer shall pay by lump sum to the system the full actuarial
10 cost of the benefits accrued by its current and former employees in the
11 system as determined separately for the pension fund and the
12 insurance fund by the actuarial study required by subparagraph 2. of
13 this paragraph. The actuarial cost shall be fixed, and the employer
14 shall not be subject to any increases or subsequent adjustments, once
15 the lump sum is paid.

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

22 (5) If an employer has ceased participation in the system as provided by this section:

23 (a) The rights of recipients and the vested rights of inactive members accrued
24 as of the employer's effective cessation date shall not be impaired or
25 reduced in any manner as a result of the employer ceasing participation in
26 the system; and

27 (b) Employees of the employer ceasing participation shall accrue benefits

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

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

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

1 actuarial valuation minus three and one-half percent (3.5%).

2 (7) The system shall promulgate administrative regulations pursuant to KRS Chapter
3 13A to administer this section.

4 (8) Any employer who voluntarily ceases participation, or who is required to
5 involuntarily cease participation as provided in this section, shall hold the
6 Commonwealth harmless from damages, attorney's fees, and costs from legal
7 claims for any cause of action brought by any member or retired member of the
8 departing employer.

9 ~~[(1) If a participating county fails to fully comply with the provisions of KRS 78.510 to~~
10 ~~78.852, the board may require the county to involuntarily cease participation in the~~
11 ~~system as provided by KRS 61.522.]~~

12 (9)~~[(2)]~~ In lieu of cessation of participation of a county which fails to fully comply
13 with the provisions of KRS 78.510 to 78.852, the board may file an action in the
14 Franklin Circuit Court to collect money owed and to attach so much of the general
15 fund of the delinquent county as is necessary to achieve full compliance with the
16 provisions of KRS 78.625.

17 (10) The board may utilize the provisions of subsection (3)(b) or (4) of Section 38 of
18 this Act to ensure employer compliance and payment of any amount payable by
19 an employer under the provisions of this section.

20 ➔Section 35. KRS 78.540 is amended to read as follows:

21 Membership in the system shall consist of the following:

22 (1) (a) All persons who become employees of a participating county after the date the
23 county first participates in the system, except that:

24 1. Mayors and members of city legislative bodies may decline prior to their
25 participation in the system; and

26 2. City managers or other appointed local government executives who
27 participate in a retirement system, other than Social Security, may

1 decline prior to their participation in the system;

2 ~~(b)(2)~~—(a) All persons who are employees of a county on the date the county
3 first participates in the system, either in service or on authorized leave from
4 service, and who elect within thirty (30) days next following the county's
5 participation, or in the case of persons on authorized leave, within thirty (30)
6 days of their return to active service, to become members and thereby agree to
7 make contributions as provided in KRS 78.520 to 78.852;

8 ~~(c)(b)~~ All persons who are employees of a county who did not elect to
9 participate within thirty (30) days of the date the county first participated in
10 the system or within thirty (30) days of their return to active service and who
11 subsequently elect to participate the first day of a month after the county's date
12 of participation;

13 ~~(d)(3)~~ All persons who declined participation as provided by paragraph (a) ~~in~~
14 ~~subsection (1)~~ of this subsection ~~section~~ and who later elect to participate.
15 Persons who elect to participate under this paragraph ~~subsection~~ may
16 purchase service credit for any prior years by paying a delayed contribution
17 payment, provided the person began participating in the system prior to
18 January 1, 2014. The service shall not be included in the member's total
19 service for purposes of determining benefits under KRS 61.702; and

20 ~~(e)(4)~~ All persons electing coverage in the system under KRS 78.530(3)(d).

21 ~~(2)(5)~~ The provisions of subsection ~~subsections~~ (1)(a) to (1)(c) ~~and (2)~~ of this
22 section notwithstanding, cities which participate in the CERS and close existing
23 local pension systems to new, or all members pursuant to the provisions of KRS
24 78.530, 95.520, 95.621, or 95.852 shall not be required to provide membership in
25 the County Employees Retirement System to employees in any employee category
26 not covered by a city pension system at the date of participation.

27 ~~(3)(6)~~ Membership in the system shall not include;

1 (a) Persons who are not eligible to participate in the system as provided by
2 Section 34 of this Act; or ~~[KRS 61.522 or those]~~

3 (b) Employees who are simultaneously participating in another state-administered
4 defined benefit plan within Kentucky other than those administered by the
5 Kentucky Retirement Systems or the County Employees Retirement System,
6 except for employees who have ceased to contribute to one (1) of the state-
7 administered retirement plans as provided in KRS 21.360.

8 (4) (a) The membership of any person in the system shall cease:

9 1. Upon withdrawal of his accumulated account balance at or any time
10 after termination of employment, regardless of length of service;

11 2. Upon retirement;

12 3. Upon death;

13 4. For persons hired prior to August 1, 2000, upon termination of
14 employment with prejudice, as defined by paragraph (b) of this
15 subsection; or

16 5. For persons hired on or after August 1, 2000, upon conviction of a
17 felony relating to the person's employment as provided in paragraph
18 (c) of this subsection.

19 (b) For purposes of KRS 78.510 to 78.852, termination of employment with
20 prejudice shall mean termination as the result of conviction of the member
21 in a court of competent jurisdiction of embezzlement or larceny of public
22 funds or property or malfeasance in office, or the forcing of a member to
23 make restitution for any funds or property criminally taken by the member
24 at the time of termination of employment.

25 (c) Notwithstanding any provision of law to the contrary, an employee hired on
26 or after August 1, 2000, who participates in the system and who is
27 convicted, in any state or federal court of competent jurisdiction, of a felony

1 related to his employment shall forfeit rights and benefits earned under the
2 system, except for the return of his accumulated contributions and interest
3 credited on those contributions. The payment of retirement benefits ordered
4 forfeited shall be stayed pending any appeal of the conviction. If the
5 conviction is reversed on final judgment, no retirement benefit shall be
6 forfeited. The employer shall notify the system when an employee is
7 convicted under the provisions of this subsection.

8 (d) When membership ceases, except in the case of retirement, the member
9 shall thereafter lose all right to any retirement allowance or benefits under
10 KRS 78.510 to 78.852 arising from service prior to the date of such
11 cessation of membership.

12 ➔Section 36. KRS 78.610 is amended to read as follows:

- 13 (1) Each employee shall, commencing on August 1, 1990, contribute, for each pay
14 period for which he receives compensation, five percent (5%) of his creditable
15 compensation.
- 16 (2) The agency reporting official of a participating county shall cause to be deducted
17 from the "creditable compensation" of each employee for each and every payroll
18 period subsequent to the date the county participated in the system the contribution
19 payable by the member as provided in KRS 78.510 to 78.852. The agency reporting
20 official shall promptly pay the deducted employee contributions to the system in
21 accordance with KRS 78.625.
- 22 (3) The deductions provided for in subsection (2) of this section shall be made
23 notwithstanding that the minimum compensation provided by law for any employee
24 shall be reduced thereby. Every employee shall be deemed to consent and agree to
25 the deductions made as provided in subsection (2) of this section; and payment of
26 salary or compensation less the deductions shall be a full and complete discharge of
27 all claims for services rendered by the person during the period covered by the

1 payment, except as to any benefits provided by KRS 78.510 to 78.852.

2 (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of
3 the United States Internal Revenue Code, pick up the employee contributions
4 required by this section for all compensation earned after August 1, 1982, and the
5 contributions picked up shall be treated as employer contributions in determining
6 tax treatment under the United States Internal Revenue Code and KRS 141.010.
7 These contributions shall not be included as gross income of the employee until the
8 contributions are distributed or made available to the employee. The picked-up
9 employee contribution shall satisfy all obligations to the retirement system satisfied
10 prior to August 1, 1982, by the employee contribution, and the picked-up employee
11 contribution shall be in lieu of an employee contribution. Each employer shall pay
12 these picked-up employee contributions from the same source of funds which is
13 used to pay earnings to the employee. The employee shall have no option to receive
14 the contributed amounts directly instead of having them paid by the employer to the
15 system. Employee contributions picked up after August 1, 1982, shall be treated for
16 all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as
17 employee contributions made prior to August 1, 1982.

18 (5) The provisions of this section shall not apply to individuals who are not eligible for
19 membership as provided by Section 34 of this Act~~[KRS 61.522]~~.

20 ➔Section 37. KRS 78.615 is amended to read as follows:

21 (1) Employee contributions shall be deducted each payroll period from the creditable
22 compensation of each employee of an agency participating in the system while he is
23 classified as regular full-time as defined in KRS 78.510 unless the person did not
24 elect to become a member as provided by KRS 78.540~~[(2)]~~ or is not eligible to
25 participate in the system as provided by Section 34 of this Act~~[KRS 61.522]~~. After
26 August 1, 1982, employee contributions shall be picked up by the employer
27 pursuant to KRS 78.610(4).

1 (a) For employees who are not employed by a school board, service credit shall
2 be allowed for each month contributions are deducted or picked up during a
3 fiscal or calendar year, if the employee receives creditable compensation for
4 an average of one hundred (100) hours or more of work per month based on
5 the actual hours worked in a calendar or fiscal year. If the average number of
6 hours of work is less than one hundred (100) hours per month, the employee
7 shall be allowed credit only for those months he receives creditable
8 compensation for one hundred (100) hours of work.

9 (b) For noncertified employees of school boards, for service prior to July 1, 2000,
10 service credit shall be allowed for each month contributions are deducted or
11 picked up under the employee's employment contract during a school year
12 determined by dividing the actual number of contracted calendar days worked
13 by twenty (20) and rounded to the nearest whole month if the employee
14 receives creditable compensation for an average of eighty (80) or more hours
15 of work per month based on the employee's employment contract. The school
16 board shall certify the number of calendar days worked, the rate of pay, and
17 the hours in a work day for each employee monthly or annually. The employer
18 shall file at the retirement office the final monthly report or the annual report
19 for a fiscal year no later than twenty (20) days following the completion of the
20 fiscal year. The retirement system shall impose a penalty on the employer of
21 one thousand dollars (\$1,000) if the information is not submitted by the date
22 required with an additional two hundred and fifty dollars (\$250) for each
23 additional thirty (30) day period the information is reported late.

24 1. If the employee works fewer than the number of contracted calendar
25 days, the employee shall receive service credit determined by dividing
26 the actual number of contracted calendar days worked by twenty (20)
27 and rounded to the nearest whole month, provided that the number of

1 hours worked during the period averages eighty (80) or more hours.

2 2. If the employee works fewer than the number of contracted calendar
3 days and the average number of hours worked is less than eighty (80) per
4 month, then the employee shall receive service credit for each calendar
5 month in which he worked eighty (80) or more hours.

6 3. The retirement system shall refund contributions and service credit for
7 any period for which the employee is not given credit under this
8 subsection.

9 (c) For noncertified employees of school boards, for service on and after July 1,
10 2000, at the close of each fiscal year, the retirement system shall add service
11 credit to the account of each employee who made contributions to his or her
12 account during the year. Employees shall be entitled to a full year of service
13 credit if their total paid calendar days were not less than one hundred eighty
14 (180) calendar days for a regular school or fiscal year. In the event an
15 employee is paid for less than one hundred eighty (180) calendar days, the
16 employee may purchase credit according to administrative regulations
17 promulgated by the system. In no case shall more than one (1) year of service
18 be credited for all service performed in one (1) fiscal year. Employees who
19 complete their employment contract prior to the close of a fiscal year and elect
20 to retire prior to the close of a fiscal year shall have their service credit
21 reduced by eight percent (8%) for each calendar month that the retirement
22 becomes effective prior to July 1. Employees who are employed and paid for
23 less than the number of calendar days required in their normal employment
24 year shall be entitled to pro rata service credit for the fractional service. This
25 credit shall be based upon the number of calendar days employed and the
26 number of calendar days in the employee's annual employment agreement or
27 normal employment year. Service credit may not exceed the ratio between the

1 school or fiscal year and the number of months or fraction of a month the
2 employee is employed during that year.

3 (d) Notwithstanding paragraph (c) of this subsection, a noncertified employee of a
4 school board who retires between July 1, 2000, and August 1, 2001, may
5 choose to have service earned between July 1, 2000, and August 1, 2001,
6 credited as described in paragraph (b) of this subsection, if the employee or
7 retired member notifies the retirement system within one (1) year of his initial
8 retirement. The decision once made shall be irrevocable.

9 (2) Employee contributions shall not be deducted from the creditable compensation of
10 any employee or picked up by the employer while he is seasonal, emergency,
11 temporary, or part-time. No service credit shall be earned.

12 (3) Contributions shall not be made or picked up by the employer and no service credit
13 shall be earned by a member while on leave except:

14 (a) A member on military leave shall be entitled to service credit in accordance
15 with KRS 61.555; and

16 (b) A member on educational leave who meets the criteria established by the state
17 Personnel Cabinet for approved educational leave, who is receiving seventy-
18 five percent (75%) or more of full salary, shall receive service credit and shall
19 pay member contributions in accordance with KRS 78.610, and his employer
20 shall pay employer contributions or the contributions shall be picked up in
21 accordance with Section 8 of this Act ~~[KRS 61.565]~~. If a tuition agreement is
22 broken by the member, the member and employer contributions paid or picked
23 up during the period of educational leave shall be refunded.

24 (4) The retirement office, upon detection, shall refund any erroneous employer and
25 employee contributions made to the retirement system and any interest credited in
26 accordance with KRS 78.640.

27 ➔Section 38. KRS 78.625 is amended to read as follows:

(1) The employer shall prepare the reporting records necessary for the system to administer the provisions of KRS 78.510 to 78.852 and, from time to time, shall furnish the information the system may require in the discharge of its duties. Upon employment of an employee, the employer shall inform him or her of his or her duties and obligations in connection with the system as a condition of employment.

(2) The agency reporting official of the county shall file the following at the retirement office on or before the tenth day of the month following the period being reported:

(a) The employee and employer contributions required under KRS 78.610, Section 8 of this Act~~[61.565]~~, and Section 28 of this Act~~[61.702]~~;

(b) The employer contributions and reimbursements for retiree health insurance premiums required under KRS 61.637; and

(c) A record of all contributions to the system on the forms prescribed by the systems.

~~(3)~~~~(2)~~ (a) If the agency reporting official fails to file at the retirement office all contributions and reports on or before the tenth day of the month following the period being reported, interest on the delinquent contributions at the actuarial rate adopted by the board compounded annually, but not less than one thousand dollars (\$1,000), may be added to the amount due the system.

(b) Delinquent contributions, with interest at the rate adopted by the board compounded annually, or penalties may be recovered by action in the Franklin Circuit Court against the county liable or may, at the request of the board, be deducted from any other moneys payable to the county by any department or agency of the state.

~~(4)~~~~(3)~~ If an agency is delinquent in the payment of contributions due in accordance with any of the provisions of KRS 78.510 to 78.852, refunds and retirement allowance payments to members of this agency may be suspended until the

1 delinquent contributions, with interest at the rate adopted by the board compounded
2 annually, or penalties have been paid to the system.

3 (5) The system may at any time conduct an audit of the employer in order to
4 determine if the employer is complying with the provisions of KRS 78.510 to
5 78.852. The system shall have access to and may examine all books, accounts,
6 reports, correspondence files, and records of any employer. Every employer,
7 employee, or agency reporting official of a county, as defined in subsection (3) of
8 Section 32 of this Act, having records in its possession or under its control, shall
9 permit access to and examination of the records upon the request of the system.

10 ➔Section 39. KRS 78.852 is amended to read as follows:

11 (1) For members who begin participating in the County Employees Retirement System
12 prior to January 1, 2014, it is hereby declared that in consideration of the
13 contributions by the members and in further consideration of benefits received by
14 the county from the member's employment, KRS 78.510 to 78.852 shall, except as
15 provided in KRS 6.696 effective September 16, 1993, constitute an inviolable
16 contract of the Commonwealth, and the benefits provided therein shall not be
17 subject to reduction or impairment by alteration, amendment, or repeal~~], except:~~

18 ~~(a) As provided in KRS 6.696; and~~

19 ~~(b) The General Assembly reserves the right to amend, reduce, or suspend any~~
20 ~~legislative changes to the provisions of KRS 78.510 to 78.852 that become~~
21 ~~effective on or after July 1, 2018].~~

22 (2) (a) For members who begin participating in the County Employees Retirement
23 System on or after January 1, 2014, the General Assembly reserves the right to
24 amend, suspend, or reduce the benefits and rights provided under KRS 78.510
25 to 78.852 if, in its judgment, the welfare of the Commonwealth so demands,
26 except that the amount of benefits the member has accrued at the time of
27 amendment, suspension, or reduction shall not be affected.

1 (b) For purposes of this subsection, the amount of benefits the member has
2 accrued at the time of amendment, suspension, or reduction shall be limited to
3 the accumulated account balance the member has accrued at the time of
4 amendment, suspension, or reduction.

5 (c) The provisions of this subsection shall not be construed to limit the General
6 Assembly's authority to change any other benefit or right specified by KRS
7 78.510 to 78.852, except the benefits specified by paragraph (b) of this
8 subsection, for members who begin participating in the County Employees
9 Retirement System on or after January 1, 2014.

10 (3) The provisions of this section shall not be construed to limit the General Assembly's
11 authority to amend, reduce, or suspend the benefits and rights of members of the
12 County Employees Retirement System as provided by KRS 78.510 to 78.852 that
13 the General Assembly had the authority to amend, reduce, or suspend, prior to July
14 1, 2013.

15 **(4) The responsibility for funding the provisions of KRS 78.510 to 78.852 shall be the**
16 **responsibility of the employers participating in the County Employees Retirement**
17 **System. For any employer failing to fund the requirements of KRS 78.510 to**
18 **78.852, the board shall have the full authority under the law to:**

19 **(a) Require the employer to involuntarily cease participating and pay all costs**
20 **for ceasing participation as provided by Section 34 of this Act; or**

21 **(b) Suspend benefit payments and refunds or to seek legal action as provided by**
22 **Section 38 of this Act for any employer failing to fund the requirements of**
23 **KRS 78.510 to 78.852.**

24 ➔Section 40. KRS 78.545 is amended to read as follows:

25 The following matters shall be administered **for the County Employees Retirement**
26 **System** in the same manner subject to the same limitations and requirements as provided
27 for the Kentucky Employees Retirement System as follows:

- 1 ~~(1) [Cessation of membership, conditions, as provided for by KRS 61.535;~~
2 ~~(2)]~~ Statement of member and employer, as provided for by KRS 61.540;
3 ~~(2)]~~(3) Beneficiary to be designated by member, change, rights, as provided for by
4 KRS 61.542;
5 ~~(3)]~~(4) Service credit determination, as provided for by KRS 61.545;
6 ~~[(5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;]~~
7 ~~(4)]~~(6) Service credit, Armed Forces, as provided for by KRS 61.555;
8 ~~(5)]~~(7) Normal and early retirement eligibility requirements, as provided for by KRS
9 61.559;
10 ~~(6)]~~(8) Retirement allowance increases as provided for by KRS 61.691;
11 ~~(7)]~~(9) Retirement application procedure, effective retirement date, as provided for by
12 KRS 61.590;
13 ~~(8)]~~(10) Disability retirement, conditions, as provided for by KRS 61.600;
14 ~~(9)]~~(11) Disability retirement, allowance, as provided for by KRS 61.605;
15 ~~(10)]~~(12) Medical examination after disability retirement, as provided for by KRS
16 61.610;
17 ~~(11)]~~(13) Disability retirement allowance, reduction, as provided for by KRS 61.615;
18 ~~(12)]~~(14) Determination of retirement allowance, as provided for by KRS 61.595;
19 ~~(13)]~~(15) Refund of contributions, conditions, as provided for by KRS 61.625;
20 ~~(14)]~~(16) Refund of contributions, death after retirement, as provided for by KRS
21 61.630;
22 **(15) Recontribution and delayed contribution payments, purchase of service credit,**
23 **interest, and installment payments, as provided for by Section 43 of this Act;**
24 ~~(16)]~~(17) Optional retirement plans, as provided for by KRS 61.635;
25 ~~(17)]~~(18) Suspension of retirement payments on reemployment, reinstatement, as
26 provided for by KRS 61.637;
27 ~~(18)]~~(19) Death before retirement, beneficiary's options, as provided for by KRS

- 1 61.640;
- 2 ~~(19)~~~~(20)~~ Board of trustees, conflict of interest, as provided for by KRS 61.655;
- 3 ~~(20)~~~~(21)~~ Custodian of funds, payments made, when, as provided for by KRS 61.660;
- 4 ~~(21)~~~~(22)~~ Medical examiners and hearing procedures, as provided for by KRS 61.665;
- 5 ~~[(23) Actuarial bases, as provided for by KRS 61.670;~~
- 6 ~~(24) Employer's administrative duties, as provided for by KRS 61.675;]~~
- 7 ~~(22)~~~~(25)~~ Correction of errors in records, as provided for by KRS 61.685;
- 8 ~~(23)~~~~(26)~~ Exemptions of retirement allowances, and qualified domestic relations orders,
- 9 as provided for by KRS 61.690;
- 10 ~~(24)~~~~(27)~~ Credit for service prior to membership date, as provided for by KRS 61.526;
- 11 ~~[(28) Creditable compensation of fee officers, as provided for by KRS 61.541;]~~
- 12 ~~(25)~~~~(29)~~ Members' account, confidential, as provided for by KRS 61.661;
- 13 ~~(26)~~~~(30)~~ Retirement plan for employees determined to be in a hazardous position, as
- 14 provided for by KRS 61.592;
- 15 ~~(27)~~~~(31)~~ Maximum disability benefit, as provided for by KRS 61.607;
- 16 ~~(28)~~~~(32)~~ Consent of employees to deductions and reciprocal arrangement between
- 17 systems, as provided for by KRS 61.680;
- 18 ~~[(33) Employer contributions, as provided for by KRS 61.565;~~
- 19 ~~(34) Recontribution and delayed contribution payments, purchase of service credit,~~
- 20 ~~interest, and installment payments, as provided for by KRS 61.552;]~~
- 21 ~~(29)~~~~(35)~~ Hospital and medical insurance plan, as provided by KRS 61.702;
- 22 ~~(30)~~~~(36)~~ Death benefit, as provided by KRS 61.705;
- 23 ~~(31)~~~~(37)~~ Reinstated employee, contributions on creditable compensation, as provided
- 24 for by KRS 61.569;
- 25 ~~(32)~~~~(38)~~ Statement to be made under oath, good faith reliance, as provided for in KRS
- 26 61.699;
- 27 ~~(33)~~~~(39)~~ Disability procedure for members in hazardous positions as provided for in

1 KRS 16.582;

2 ~~(34)~~~~((40))~~ Direct deposit of recipient's retirement allowance as provided for in KRS

3 61.623;

4 ~~(35)~~~~((41))~~ Death or disability from a duty-related injury as provided in KRS 61.621;

5 ~~(36)~~~~((42))~~ Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;

6 ~~(37)~~~~((43))~~ Payment of small accounts upon death of member, retiree, or recipient without

7 formal administration of the estate as provided in KRS 61.703;

8 ~~(38)~~~~((44))~~ Hybrid cash balance plan ~~and 401(a) money purchase plan~~ provided to new

9 members as provided by KRS ~~61.5956 and~~ 61.597;

10 ~~(39)~~~~((45))~~ Employer payment of increases in creditable compensation and adjustments to

11 creditable compensation during the last five (5) years of employment as provided by

12 KRS 61.598;

13 ~~(40)~~~~((46))~~ Calculation of retirement allowance, as provided by KRS 61.599;

14 ~~((47))~~ Voluntary and involuntary cessation of participation by a participating agency as

15 provided by KRS 61.522; }and

16 ~~(41)~~~~((48))~~ Benefit election for members of the Kentucky Retirement Systems ~~{who~~

17 ~~began participating prior to July 1, 2019,}~~ as provided by KRS 61.5955.

18 Effective April 1, 2021, as it relates to KRS 16.582, 61.545, 61.552, 61.590, 61.598,

19 61.600, 61.615, 61.655, 61.660, 61.665, 61.691, 61.703, and 61.705, references to

20 "Kentucky Retirement Systems" or "systems administered by Kentucky Retirement

21 Systems" as it relates to benefit eligibility shall include the County Employees

22 Retirement System and references to "Kentucky Retirement Systems" or the

23 "Kentucky Retirement Systems board of trustees" as it relates to administrative

24 decisions, duties, requirements, or conflict of interest provisions shall for purposes of

25 the County Employees Retirement System mean the County Employees Retirement

26 System or County Employees Retirement System board of trustees, as applicable.

27 ➔Section 41. KRS 95.022 is amended to read as follows:

1 (1) As used in this section:

2 (a) "City" means any incorporated city, consolidated local government, unified
3 local government, urban-county government, or charter county government,
4 operating under the law of this Commonwealth, and the offices and agencies
5 thereof; and

6 (b) "Police officer" has the same meaning as "police officer" in KRS 15.420 and
7 as "officer" in KRS 16.010.

8 (2) Subject to the limitations of subsection (7) of this section, a city may employ
9 individuals as police officers under this section who have retired from the Kentucky
10 Employees Retirement System, the County Employees Retirement System, or the
11 State Police Retirement System.

12 (3) To be eligible for employment under this section, an individual shall have:

13 (a) Participated in the Law Enforcement Foundation Program fund under KRS
14 15.410 to 15.510 or retired as a commissioned officer pursuant to KRS
15 Chapter 16;

16 (b) Retired with at least twenty (20) years of service credit;

17 (c) Been separated from service for the period required by KRS 61.637 so that the
18 member's retirement is not voided;

19 (d) Retired with no administrative charges pending; and

20 (e) Retired with no preexisting agreement between the individual and the city
21 prior to the individual's retirement for the individual to return to work for the
22 city.

23 (4) Individuals employed under this section shall:

24 (a) Serve for a term not to exceed one (1) year. The one (1) year employment term
25 may be renewed annually at the discretion of the employing city;

26 (b) Receive compensation according to the standard procedures applicable to the
27 employing city; and

- 1 (c) Be employed based upon need as determined by the employing city.
- 2 (5) Notwithstanding any provisions of KRS 16.505 to 16.652, 18A.225 to 18A.2287,
3 61.510 to 61.705, or 78.510 to 78.852 to the contrary:
- 4 (a) Individuals employed under this section shall continue to receive all
5 retirement and health insurance benefits to which they were entitled upon
6 retiring in the applicable system administered by Kentucky Retirement
7 Systems or the County Employees Retirement System;
- 8 (b) Individuals employed under this section shall not be eligible to receive health
9 insurance coverage through the employing city;
- 10 (c) The city shall not pay any employer contributions or retiree health expense
11 reimbursements to the Kentucky Retirement Systems required by KRS
12 61.637(17) for individuals employed under this section; and
- 13 (d) The city shall not pay any insurance contributions to the state health insurance
14 plan, as provided by KRS 18A.225 to 18A.2287, for individuals employed
15 under this section.
- 16 (6) Individuals employed under this section shall be subject to any merit system, civil
17 service, or other legislative due process provisions applicable to the employing city.
18 A decision not to renew a one (1) year appointment term under this section shall not
19 be considered a disciplinary action or deprivation subject to due process.
- 20 (7) A city government shall be limited in the number of retired police officers that it
21 may hire under this section as follows:
- 22 (a) A city government that employed an average of five (5) or fewer police
23 officers over the course of calendar year 2015 shall not be limited in the
24 number of officers that they may hire under this section;
- 25 (b) A city government that employed an average of more than five (5) but fewer
26 than one hundred (100) police officers over the course of calendar year 2015
27 shall not hire more than five (5) police officers or a number equal to twenty-

1 five percent (25%) of the police officers employed by the city in calendar year
2 2015, whichever is greater; and

3 (c) A city government that employed an average of ~~more than~~ one hundred
4 (100) or more police officers over the course of calendar year 2015 shall not
5 hire more than twenty-five (25) police officers or a number equal to ten
6 percent (10%) of the police officers employed by the city in calendar year
7 2015, whichever is greater.

8 ➔Section 42. KRS 95.290 is amended to read as follows:

9 (1) The city legislative body in cities of the first class may enact ordinances providing
10 for a system of pensions for retired and disabled members of the police and fire
11 divisions of the department of public safety and their dependents, may appropriate
12 funds for the purpose of paying such pensions, may allot and pay to the policemen's
13 pension fund or the firefighters' pension fund or either or both of them, all fines and
14 forfeitures imposed upon members of the respective divisions, and may provide for,
15 assess, and collect contributions from the members for the benefit of the fund.

16 (2) (a) There shall be a governing body of the policemen's pension fund, and a
17 governing body of the firefighters' pension fund. The governing bodies of the
18 respective funds shall hold title to all assets in their respective funds, and shall
19 have exclusive authority relating to investment of the assets of the funds,
20 including contracting with investment advisors or managers to perform
21 investment services as deemed necessary and prudent by the board. A majority
22 of the governing body of each fund shall be composed of persons receiving
23 pension benefits from the respective pension systems, and no more than one
24 (1) member of the city legislative body may be a member of the governing
25 body of either the policemen's or the firefighters' pension fund, except if there
26 are fewer than six (6) active and retired members of the policemen's or the
27 firefighters' pension fund, the governing body of the pension fund shall be

1 composed of the mayor, city treasurer or chief financial officer, and two (2)
2 employees appointed by the mayor from the city's respective police
3 department or fire department. To be effective, an action of the governing
4 body of a fund shall require only a simple majority of the votes cast at a
5 properly convened meeting of the governing body where a quorum is present,
6 with a quorum being a majority of the members of a governing body.

7 (b) If all liabilities to all individuals entitled to benefits from the policemen's
8 pension fund or firefighters' pension fund have been satisfied, the ordinances
9 establishing the fund may be repealed by the majority vote of the duly elected
10 members of the entire legislative body. If repealed, the governing body of the
11 policemen's or firefighters' pension fund shall, within sixty (60) days of repeal,
12 proceed with the liquidation of any residual assets of the fund. All residual
13 assets liquidated pursuant to this paragraph shall be distributed by the
14 governing body to the city's general fund provided the return of assets
15 complies with federal and state law governing the distribution of assets.
16 Within thirty (30) days following the distribution of residual assets, the
17 governing body of the fund shall as its last act file a complete report with the
18 legislative body of the city, for retention by the city clerk the same as for other
19 city records, of the actions taken to dissolve the fund and liquidate residual
20 assets of the fund.

21 (3) Any policemen's pension fund or any firefighters' pension fund established under
22 the provisions of this section shall be held or distributed for, and only for, any of the
23 following purposes of the respective fund as applicable:

- 24 (a) Paying pensions, and any bonus payments under applicable ordinances;
25 (b) Making payments to the city for transfer to the County Employees Retirement
26 System for alternate participation pursuant to KRS 78.530(3)(a) and 78.531(2)
27 or for the distribution of residual assets in the event the fund is dissolved

- 1 pursuant to subsection (2)(b) of this section;
- 2 (c) Transferring pension assets through investment contract or other financial
- 3 instrument for the purpose of amortizing unfunded service liabilities; and
- 4 (d) Payment from the city to the County Employees Retirement System for future
- 5 pension contributions required pursuant to Sections 8 and 28 of this Act~~KRS~~
- 6 ~~61.565~~.

7 Pursuant to the terms of this section, if policemen of the city of the first class elect

8 entry into the County Employees Retirement System and thereby create excess

9 funds over those required to provide for the purposes set forth in paragraphs (a), (b),

10 and (c) of this subsection, these excess funds shall be distributed to the city for use

11 by the city for any other purpose it may elect, including, but not limited to, the

12 establishment of a reserve for payment under paragraph (d) of this subsection. The

13 governing board of the fund may annually expend for the necessary expenses

14 connected with the fund, including but not limited to expenses for medical,

15 actuarial, accounting, and legal services, the amount such governing board deems

16 proper.

- 17 (e) Payment from the city to the County Employees Retirement System for future
- 18 pension contributions required pursuant to Sections 8 and 28 of this Act~~KRS~~
- 19 ~~61.565~~. Pursuant to the terms of this section, if firefighters of the city of the
- 20 first class elect entry into the County Employees Retirement System and
- 21 thereby create excess funds over those required to provide for the purposes set
- 22 forth in paragraphs (a), (b), and (c) of this subsection, these excess funds shall
- 23 be distributed according to the terms of an agreement negotiated between the
- 24 city and the union organization representing the firefighters. The city may use
- 25 its share of the distributed excess funds for any purpose it may elect,
- 26 including, but not limited to, the establishment of a reserve for payment under
- 27 paragraph (e) of this subsection.

- 1 (4) (a) The governing body of each pension fund shall insure that all of the assets in
2 the fund are distributed for the purposes in subsection (3) of this section, and
3 only for these purposes. If in any calendar year the assets in either fund exceed
4 those needed for the actuarial liability for payment of pension benefits and any
5 anticipated liabilities under subsection (3)(b) and (c) of this section, the
6 legislative body of the city establishing the pension system shall insure by
7 pension bonus ordinance that a portion of these excess funds be distributed in
8 an equitable manner to all eligible pension recipients. Nothing in this
9 subsection shall be construed to require any change to be made to any pension
10 ordinance as it exists on July 15, 1998.
- 11 (b) The governing board of either fund may annually expend for the necessary
12 expenses connected with the fund, including but not limited to expenses for
13 medical, actuarial, accounting, and legal or other professional services, the
14 amount such governing board deems proper.
- 15 (5) Any ordinance establishing a pension fund under this section shall make equitable
16 provision for the rights of persons having an interest in assets transferred to the fund
17 from any fund heretofore established by statute.
- 18 (6) To assure equal protection for the beneficiaries of either fund, any action taken by
19 the city executive or legislative body in cities of the first class that affects a
20 policemen's pension fund or a firefighters' pension fund established under this
21 section shall, to the maximum extent permitted by law, treat each fund in a uniform
22 manner and shall not cause any change to be made to the structure or operation of
23 either fund, whether through legislation, litigation, compromise, settlement, or
24 otherwise, unless any proposed change is offered to the other fund before it takes
25 effect. Nothing in this subsection shall be construed to require any change to be
26 made to any pension ordinance as it exists on July 15, 1998.
- 27 (7) The legislative body in a city of the first class shall issue the appropriate order,

1 pursuant to KRS 78.530(1), directing participation for policemen in the County
2 Employees Retirement System. All new employees who would have been granted
3 membership in the local policemen's pension system shall be members of the
4 County Employees Retirement System. All active members of the local policemen's
5 pension system at the time of transition to the County Employees Retirement
6 System may choose membership in the County Employees Retirement System or
7 may retain membership in the local system. The city shall elect the alternate
8 participation plan, pursuant to KRS 78.530(3), for policemen who transfer to the
9 County Employees Retirement System. Notwithstanding the provisions of KRS
10 78.530(3)(b), the city may, at its option, extend the payment period for the cost of
11 alternate participation to a maximum of twenty (20) years with the interest at the
12 rate actuarially assumed by the board. The city shall have the right to use assets in
13 the local pension fund, other than assets necessary to pay benefits to the remaining
14 active members of the local policemen's pension system and to retirees and their
15 survivors as determined by actuarial valuation, to assist in the payment of the
16 annual installment cost of alternate participation. All policemen who become
17 members of the County Employees Retirement System pursuant to this section shall
18 be granted hazardous duty coverage, and the city may, at its option, purchase
19 accumulated sick leave for each policeman upon retirement pursuant to KRS
20 78.616.

- 21 (8) The legislative body in a city of the first class may issue the appropriate order,
22 pursuant to KRS 78.530(1), directing participation for firefighters in the County
23 Employees Retirement System. In the event that the legislative body in a city of the
24 first class issues such an order, then all new employees who would have been
25 granted membership in the local firefighters' pension system shall be members of
26 the County Employees Retirement System. All active members of the local
27 firefighters' pension system at the time of transition to the County Employees

1 Retirement System may choose membership in the County Employees Retirement
2 System or may retain membership in the local system. The city shall elect the
3 alternate participation plan, pursuant to KRS 78.530(3), for firefighters who transfer
4 to the County Employees Retirement System. Notwithstanding the provisions of
5 KRS 78.530(3)(b), the city may, at its option, extend the payment period for the cost
6 of alternate participation to a maximum of twenty (20) years with the interest at the
7 rate actuarially assumed by the board. The city shall have the right to use assets in
8 the local firefighters' pension fund, other than assets necessary to pay benefits to the
9 remaining active members of the local firefighters' pension system and to retirees
10 and their survivors as determined by actuarial valuation, to assist in the payment of
11 the annual installment cost of alternate participation. After certification by the
12 County Employees Retirement System of eligibility for hazardous duty coverage,
13 each firefighter who becomes a member of the County Employees Retirement
14 System pursuant to this section shall be granted hazardous duty coverage.

15 (9) Notwithstanding the provisions of Sections 8 and 28 of this Act~~KRS 61.565~~,
16 which relate to the contributions required of participating employers, any city of the
17 first class participating in the County Employees Retirement System hazardous duty
18 pension plan which has in effect a collective bargaining agreement with a group of
19 employees who participate in said plan, shall have the right to enter into agreement
20 with its employees or with their respective collective bargaining representatives.
21 This agreement may include, but is not limited to, specifications of what portion of
22 the required employer contribution shall be borne by the participating employer and
23 what portion shall be borne by the participating employee. This provision in no way
24 modifies the employer's obligation to remit the contributions required by the County
25 Employees Retirement System pursuant to Sections 8 and 28 of this Act~~KRS~~
26 ~~61.565~~, whether such contributions are borne by the city or by its participating
27 employees.

1 (10) With regard to the employer participation or employer contributions pursuant to
2 Sections 8 and 28 of this Act~~[KRS 61.565]~~ as it relates to future pension
3 contribution requirements or as it relates to payback period or interest charge for
4 service liability cost under alternate participation, if any statute or any resolution of
5 the appropriate state board of trustees having authority over employer participation
6 or employer contribution grants any terms or conditions to any city of the home rule
7 class, or to any county, or to any urban-county government, which are more
8 favorable in terms of participation than terms or conditions granted to any city of
9 the first class, then said provisions for employer participation or contribution shall
10 be available to the city of the first class, at its option and effective upon adoption by
11 the city of the first class and notification to the County Employees Retirement
12 System.

13 ➔Section 43. KRS 61.552 is amended to read as follows:

14 (1) (a) Any employee participating in one (1) of the state-administered retirement
15 systems who has been refunded his accumulated account balance under the
16 provisions of KRS 16.645(21), 61.625, or 78.545(15), thereby losing service
17 credit, may regain the credit by paying to the system from which he received
18 the refund or refunds the amount or amounts refunded with interest at a rate
19 determined by the board of the respective retirement system.

20 (b) Service purchased under this subsection shall not be used in determining a
21 retirement allowance until the member has accrued at least six (6) months of
22 service credit in a state-administered retirement system, excluding the service
23 purchased under this subsection. If the member does not accrue at least six (6)
24 months of service credit in a state-administered retirement system, excluding
25 service purchased under this subsection, then the payment plus interest as
26 provided in KRS 61.575 shall be refunded upon retirement, death, or written
27 request following termination of employment. The service requirement shall

1 be waived if the member dies or becomes disabled as provided for by KRS
2 16.582, 61.600, or 61.621.

3 (c) Service purchased under this subsection on or after January 1, 2014, shall not
4 be used to determine the member's participation date in the system. Members
5 participating in the 401(a) money purchase plan as provided by KRS 61.5956
6 shall not be eligible to purchase service under this subsection.

7 (2) Any employee participating in one (1) of the retirement systems administered by
8 Kentucky Retirement Systems, who has at least forty-eight (48) months of service if
9 age sixty-five (65) or at least sixty (60) months of service if under age sixty-five
10 (65) in the systems administered by the Kentucky Retirement Systems, and who did
11 not elect membership in the County Employees Retirement System, as provided in
12 KRS 78.540~~[(2)]~~, may purchase service credit in the County Employees Retirement
13 System for the service he would have received had he elected membership.

14 (3) Any employee participating in one (1) of the retirement systems administered by
15 Kentucky Retirement Systems, who has at least forty-eight (48) months of service if
16 age sixty-five (65) or at least sixty (60) months of service if under age sixty-five
17 (65) in the systems administered by the Kentucky Retirement Systems, and who did
18 not elect membership in the Kentucky Employees Retirement System, as provided
19 in KRS 61.525(2), may purchase service credit in the Kentucky Employees
20 Retirement System for the service he would have received had he elected
21 membership.

22 (4) An employee participating in one (1) of the retirement systems administered by
23 Kentucky Retirement Systems, who has at least forty-eight (48) months of service if
24 age sixty-five (65) or at least sixty (60) months of service if under age sixty-five
25 (65) in the systems administered by the Kentucky Retirement Systems, may
26 purchase service credit in the Kentucky Employees Retirement System for service
27 between July 1, 1956, and the effective date of participation of his department.

- 1 (5) (a) An employee participating in one (1) of the retirement systems administered
2 by Kentucky Retirement Systems, who has at least forty-eight (48) months of
3 service if age sixty-five (65) or at least sixty (60) months of service if under
4 age sixty-five (65) in the systems administered by the Kentucky Retirement
5 Systems, may purchase service credit in the County Employees Retirement
6 System for service between July 1, 1958, and the effective date of
7 participation of his county.
- 8 (b) An employee participating in one (1) of the retirement systems administered
9 by Kentucky Retirement Systems, who has at least forty-eight (48) months of
10 service if age sixty-five (65) or at least sixty (60) months of service if under
11 age sixty-five (65) in the systems administered by Kentucky Retirement
12 Systems may purchase service credit for the period of his service with an area
13 development district created pursuant to KRS 147A.050 or with a business
14 development corporation created pursuant to KRS 155.001 to 155.230 if that
15 service was not covered by a state-administered retirement system. The
16 employee may obtain credit for employment with a business development
17 corporation only if the Kentucky Retirement Systems receives a favorable
18 private letter ruling from the United States Internal Revenue Service or a
19 favorable opinion letter from the United States Department of Labor.
- 20 (6) The member shall not receive service credit for the same period of time in which
21 the member has service credit in one (1) of the systems administered by Kentucky
22 Retirement Systems or another public defined benefit retirement fund.
- 23 (7) Any employee participating in one (1) of the retirement systems administered by
24 Kentucky Retirement Systems who has at least forty-eight (48) months' service if
25 age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65)
26 in the retirement systems administered by the Kentucky Retirement Systems, who
27 formerly worked for a state university in a nonteaching position which would have

1 qualified as a regular full-time position had the university been a participating
2 department, and who did not participate in a defined benefit retirement program at
3 the university, may purchase service credit in any of the systems administered by
4 Kentucky Retirement Systems in which the employee is a member for the service he
5 would have received had his period of university employment been covered by the
6 County Employees Retirement System, Kentucky Employees Retirement System, or
7 State Police Retirement System.

8 (8) (a) Effective August 1, 1980, any county participating in the County Employees
9 Retirement System may purchase current service, between July 1, 1958, and
10 participation date of the county, for present employees of the county who have
11 obtained coverage under KRS 78.540~~[(2)]~~.

12 (b) Effective July 1, 1973, any department participating in the Kentucky
13 Employees Retirement System may purchase current service between July 1,
14 1956, and participation date of the department, for present employees of the
15 department who were employees on the participation date of the department
16 and elected coverage under KRS 61.525(2).

17 (c) Cost of the service credit purchased under this subsection shall be determined
18 by computing the discounted value of the additional service credit based on an
19 actuarial formula recommended by the board's consulting actuary and
20 approved by the board. A department shall make payment for the service
21 credit within the same fiscal year in which the option is elected. The county
22 shall establish a payment schedule subject to approval by the board for
23 payment of the service credit. The maximum period allowed in a payment
24 schedule shall be ten (10) years with interest at the rate actuarially assumed by
25 the board; however, a shorter period is desirable and the board may approve
26 any schedule provided it is not longer than a ten (10) year period.

27 (d) If a county or department elects the provisions of this subsection, any present

1 employee who would be eligible to receive service credit under the provisions
2 of this subsection and has purchased service credit under subsection (4) or (5)
3 of this section shall have his payment for the service credit refunded with
4 interest at the rate paid under KRS 61.575 or 78.640.

5 (e) Any payments made by a county or department under this subsection shall be
6 deposited to the retirement allowance account of the proper retirement system
7 and these funds shall not be considered accumulated contributions of the
8 individual members.

9 (9) Interest paid by a member of the Kentucky Employees Retirement System, County
10 Employees Retirement System, or State Police Retirement System under this
11 section or other similar statutes under KRS 16.505 to 16.652, 61.510 to 61.705, or
12 78.510 to 78.852 prior to June 19, 1976, shall be credited to the individual
13 member's account in the appropriate retirement system and considered as
14 accumulated contributions of the member.

15 (10) Employees who served as assistants to officers and employees of the General
16 Assembly who have at least forty-eight (48) months of service if age sixty-five (65)
17 or at least sixty (60) months of service if under age sixty-five (65) in the systems
18 administered by Kentucky Retirement Systems and who were unable to acquire
19 service under KRS 61.510(20) may purchase credit for the service performed after
20 January 1, 1960.

21 (11) (a) Effective August 1, 1988, any employee participating in one (1) of the
22 retirement systems administered by Kentucky Retirement Systems who has at
23 least forty-eight (48) months of service if age sixty-five (65) or at least sixty
24 (60) months of service if under age sixty-five (65) in the systems administered
25 by Kentucky Retirement Systems may purchase service credit for interim,
26 seasonal, emergency, temporary, probationary, or part-time employment
27 averaging one hundred (100) or more hours of work per month on a calendar

1 or fiscal year basis. If the average number of hours of work is less than one
2 hundred (100) per month, the member shall be allowed credit only for those
3 months he receives creditable compensation for one hundred (100) or more
4 hours of work.

5 (b) Any noncertified employee of a school board who has at least forty-eight (48)
6 months of service if age sixty-five (65) or at least sixty (60) months of service
7 if under age sixty-five (65) in the systems administered by Kentucky
8 Retirement Systems may purchase service credit in the County Employees
9 Retirement System for part-time employment prior to the 1990-91 school year
10 which averaged eighty (80) or more hours of work per month on a calendar or
11 fiscal year basis. If the average number of hours of work is less than eighty
12 (80) per month, the noncertified employee of a school board shall be allowed
13 to purchase service credit only for those months he received creditable
14 compensation for eighty (80) or more hours of work.

15 (12) Any employee participating in one (1) of the systems administered by Kentucky
16 Retirement Systems who has at least forty-eight (48) months of service if age sixty-
17 five (65) or at least sixty (60) months of service if under age sixty-five (65) in the
18 systems administered by Kentucky Retirement Systems may purchase service credit
19 for any period of approved educational leave, or for agency-approved leave to work
20 for a work-related labor organization if the agency subsequently participated in the
21 County Employees Retirement System. The employee may also purchase service
22 credit for agency-approved leave to work for a work-related labor organization if
23 the agency subsequently participated in the County Employees Retirement System,
24 but only if the Kentucky Retirement Systems receives a favorable private letter
25 ruling from the United States Internal Revenue Service or a favorable opinion letter
26 from the United States Department of Labor.

27 (13) Any employee participating in one (1) of the retirement systems administered by

1 Kentucky Retirement Systems who has at least forty-eight (48) months of service if
2 age sixty-five (65) or at least sixty (60) months of service if under age sixty-five
3 (65) in the systems administered by Kentucky Retirement Systems may purchase
4 service credit for any period of authorized maternity leave, unpaid leave authorized
5 under the Federal Family and Medical Leave Act, or for any period of authorized
6 sick leave without pay.

7 (14) (a) Any employee participating in one (1) of the retirement systems administered
8 by Kentucky Retirement Systems may purchase service credit under any of the
9 provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852,
10 or as otherwise required by 38 U.S.C. ch. 43, by:

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

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

20 a. On a before-tax basis in which the service is purchased pursuant to
21 the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2); or

22 b. On an after-tax basis if the employee is purchasing service credit
23 under subsection (1) or (20) of this section, service available
24 pursuant to 38 U.S.C. ch. 43 not otherwise provided for in this
25 section, or grandfathered service as defined in paragraph (b) of this
26 subsection; or

27 3. Transferring funds to the systems through a direct trustee-to-trustee

1 transfer as permitted under the applicable sections of the Internal
2 Revenue Code and any regulations or rulings issued thereunder, through
3 a direct rollover as contemplated by and permitted under 26 U.S.C. sec.
4 401(a)(31) and any regulations or rulings issued thereunder, or through a
5 rollover of funds pursuant to and permitted under the rules specified in
6 26 U.S.C. secs. 402(c) and 408(d)(3). The Kentucky Retirement Systems
7 shall accept the transfer or rollover to the extent permitted under the
8 rules specified in the applicable provisions of the Internal Revenue Code
9 and any regulations and rulings issued thereunder.

10 (b) For purposes of this subsection, "grandfathered service" means service
11 purchases for which a member, whose membership date in the system is prior
12 to July 1, 1999, is eligible to purchase under KRS 16.505 to 16.652, 61.510 to
13 61.705, or 78.510 to 78.852, that were available for all members of the system
14 to purchase on August 5, 1997.

15 (c) 1. For service purchased under a before-tax or after-tax installment
16 purchase of service agreement as provided by paragraph (a)2. of this
17 subsection, the cost of the service shall be computed in the same manner
18 as for a lump-sum payment which shall be the principal, except that
19 interest compounded annually at the actuarial rate in effect at the time
20 the member elects to make the purchase shall be added for the period
21 that the installments are to be made.

22 2. Multiple service purchases may be combined under a single installment
23 agreement, except that no employee may make more than one (1)
24 installment purchase at the same time.

25 3. For after-tax installment purchase of service agreements, the employee
26 may elect to stop the installment payments by notifying the retirement
27 system; may have the installment purchase recalculated to add one (1) or

- 1 more additional service purchases; or may pay by lump sum the
2 remaining principal or a portion of the remaining principal.
- 3 4. Before-tax installment purchase of service agreements shall be
4 irrevocable, and the employee shall not be able to stop installment
5 payments or to pay off the remaining balance of the purchase of service
6 agreement, except upon termination of employment or death.
- 7 5. One (1) year of installment payments shall be made for each one
8 thousand dollars (\$1,000) or any part thereof of the total cost, except that
9 the total period allowed for installments shall not be less than one (1)
10 year and shall not exceed five (5) years.
- 11 6. The employee shall pay the installments by payroll deduction for after-
12 tax purchase of service agreements, and the employer shall pick up
13 installments for before-tax purchase of service agreements. Upon
14 notification by the retirement system, the employer shall report the
15 installment payments either monthly or semimonthly continuously over
16 each twelve (12) month period at the same time as, but separate from,
17 regular employee contributions on the forms or by the computer format
18 specified by the board.
- 19 7. The retirement system shall determine how much of the total cost
20 represents payment for one (1) month of the service to be purchased and
21 shall credit one (1) month of service to the member's account each time
22 this amount has been paid. The first service credited shall represent the
23 first calendar month of the service to be purchased and each succeeding
24 month of service credit shall represent the succeeding months of that
25 service.
- 26 8. If the employee utilizing an installment purchase of service agreement
27 dies, retires, does not continue employment in a position required to

1 participate in the retirement system, or elects to stop an after-tax
2 installment purchase of service agreement, the member, or in the case of
3 death, the beneficiary, shall have sixty (60) days to pay the remaining
4 principal or a portion of the remaining principal of the installment
5 purchase of service agreement by lump sum, subject to the restrictions of
6 paragraph (a)1. of this subsection, or by transfer of funds under
7 paragraph (a)3. of this subsection, except that payment by the member
8 shall be filed with the system prior to the member's effective retirement
9 date. If the member or beneficiary does not pay the remaining cost, the
10 retirement system shall refund to the member or the beneficiary the
11 payment, payments, or portion of a payment that does not represent a
12 full month of service purchased, except as provided by subsection (22)
13 of this section.

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

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

24 11. If payments have ceased under subparagraph 8. or 9. of this paragraph
25 and the member later becomes a participating employee in one (1) of the
26 three (3) systems administered by Kentucky Retirement Systems, the
27 employee may complete the adjusted original installment purchase by

1 lump sum or installment payments, subject to the restrictions of this
2 subsection. If the employee elects to renew the installment purchase, the
3 cost of the remaining service shall be recalculated in accordance with
4 paragraph (a) of this subsection.

5 (d) Except as provided by paragraph (a)2.a. of this subsection, the cost of
6 purchasing service shall not be picked up, as described in KRS 16.545(4),
7 61.560(4), or 78.610(4), by the employer.

8 (e) The cost of purchasing service credit under any provision of this section,
9 except as provided by subsections (1) and (20) of this section, shall be
10 determined by the delayed contribution method as provided by KRS 61.5525.

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

14 (15) After August 1, 1998, any employee participating in one (1) of the retirement
15 systems administered by Kentucky Retirement Systems who is age sixty-five (65) or
16 older and has forty-eight (48) months of service credit or, if younger, who has sixty
17 (60) months of service credit in systems administered by Kentucky Retirement
18 Systems may purchase service credit in the system in which the employee has the
19 service credit for up to ten (10) years service in a regular full-time position that was
20 credited to a state or local government-administered public defined benefit plan in
21 another state other than a defined benefit plan for teachers. The employee shall
22 provide proof that he is not eligible for a retirement benefit for the period of service
23 from the other state's plan.

24 (16) After August 1, 1998, any employee participating in one (1) of the retirement
25 systems administered by Kentucky Retirement Systems, who has sixty (60) or more
26 months of service in the State Police Retirement System or in a hazardous position
27 in the Kentucky Employees Retirement System or the County Employees

1 Retirement System, may purchase service credit in the system in which the
2 employee has the sixty (60) months of service credit for up to ten (10) years of
3 service in a regular full-time position that was credited to a defined benefit
4 retirement plan administered by a state or local government in another state, if the
5 service could be certified as hazardous pursuant to KRS 61.592. The employee shall
6 provide proof that he is not eligible for a retirement benefit for the period of service
7 from the other unit of government's plan.

8 (17) Any employee participating in one (1) of the retirement systems administered by
9 Kentucky Retirement Systems who has at least forty-eight (48) months of service if
10 age sixty-five (65) or at least sixty (60) months of service if under age sixty-five
11 (65) in the systems administered by Kentucky Retirement Systems and who has
12 completed service as a volunteer in the Kentucky Peace Corps, created by KRS
13 154.1-720, may purchase service credit for the time served in the corps.

14 (18) An employee participating in any retirement system administered by Kentucky
15 Retirement Systems who has at least forty-eight (48) months of service if age sixty-
16 five (65), or at least sixty (60) months of service if under age sixty-five (65) in the
17 systems administered by Kentucky Retirement Systems, and who was formerly
18 employed in a regional community services program for mental health and
19 individuals with an intellectual disability, organized and operated under the
20 provisions of KRS 210.370 to 210.480, which does not participate in a state-
21 administered retirement system may purchase service credit for the period of his
22 service in the regional community program for mental health and individuals with
23 an intellectual disability.

24 (19) An employee participating in one (1) of the retirement systems administered by
25 Kentucky Retirement Systems who has at least forty-eight (48) months of service if
26 age sixty-five (65) or at least sixty (60) months of service if under age sixty-five
27 (65) in the systems administered by the Kentucky Retirement Systems, who was

1 employed by a vocational technical school in a noncertified part-time position
2 averaging eighty (80) or more hours per month, determined by using the number of
3 months actually worked within a calendar or fiscal year, may purchase service credit
4 in the Kentucky Employees Retirement System.

5 (20) (a) Any person who is entitled to service credit for employment which was not
6 reported in accordance with KRS 16.543, 61.543, or 78.615 may obtain credit
7 for the service by paying the employee contributions due within six (6)
8 months of notification by the system. No interest shall be added to the
9 contributions. The service credit shall not be credited to the member's account
10 until the employer contributions are received. If a retired member makes the
11 payment within six (6) months, the retired member's retirement allowance
12 shall be adjusted to reflect the added service after the employer contributions
13 and any interest or penalties on the delinquent employer contributions are
14 received by the retirement system.

15 (b) Any employee participating in one (1) of the state-administered retirement
16 systems who is entitled to service credit under paragraph (a) of this subsection
17 and who has not repaid the employee contributions due within six (6) months
18 of notification by the system may regain the credit after the six (6) months by
19 paying to the system the employee contributions plus interest at the actuarially
20 assumed rate from the date of initial notification under paragraph (a) of this
21 subsection. Service credit shall not be credited to the member's account until
22 the employer contributions and any interest or penalties on the delinquent
23 employer contributions are received by the retirement system.

24 (c) Service purchased under this subsection by employees who begin participating
25 on or after September 1, 2008, shall be considered service credited under KRS
26 16.543(1), 61.543(1), or 78.615(1) for purposes of determining eligibility for
27 retirement benefits under KRS 16.505 to 16.652, 61.510 to 61.705, and

1 78.510 to 78.852.

2 (d) Employees who begin participating on or after January 1, 2014, in the hybrid
3 cash balance plan provided by KRS 16.583 and 61.597 shall, upon payment of
4 the employee and employer contributions due under this subsection, have their
5 accumulated account balance increased by the employee contributions,
6 employer pay credits, and interest credits that would have been credited to
7 their member's account if the contributions had been paid on time.

8 (e) An employee participating in the 401(a) money purchase plan as provided by
9 KRS 61.5956 shall, upon payment of the employee and employer
10 contributions due under this subsection, have his or her accumulated account
11 balance increased by the employee contributions and employer contributions
12 that would have been credited to his or her member account if the
13 contributions had been paid on time.

14 (f) Employer contributions payable under this subsection shall be considered
15 delinquent and the employer shall be required to pay interest and any other
16 penalties on the delinquent contributions in accordance with KRS
17 61.675(3)(b) and 78.625~~(3)(2)~~(a) from the date the employee should have
18 been reported and received service credit in accordance with KRS 16.543,
19 61.543, and 78.615.

20 (21) Any employee participating in one (1) of the retirement systems administered by
21 Kentucky Retirement Systems who has at least forty-eight (48) months of service if
22 age sixty-five (65) or at least sixty (60) months of service if under age sixty-five
23 (65) in the systems administered by the Kentucky Retirement Systems may
24 purchase service credit for employment with a public agency that would have been
25 eligible to participate under KRS 61.520 but which did not participate in the
26 Kentucky Employees Retirement System or a political subdivision that would have
27 been eligible to participate under KRS 78.530 but which did not participate in the

1 County Employees Retirement System if the former public agency or political
2 subdivision has merged with or been taken over by a participating department or
3 county.

4 (22) Any employee participating in one (1) of the retirement systems administered by the
5 Kentucky Retirement Systems prior to July 15, 2002, who has accrued at least forty-
6 eight (48) months of service if age sixty-five (65) or at least sixty (60) months of
7 service if under age sixty-five (65) in the systems administered by the Kentucky
8 Retirement Systems and who has total service in all state-administered retirement
9 systems of at least one hundred eighty (180) months of service credit may purchase
10 a combined maximum total of five (5) years of retirement service credit which is
11 not otherwise purchasable under any of the provisions of KRS 16.505 to 16.652,
12 61.510 to 61.705, and 78.510 to 78.852. The purchase shall be made in any of the
13 systems administered by Kentucky Retirement Systems in which the employee is a
14 member. The service purchased under this subsection shall not be used in
15 determining a retirement allowance until the member has accrued at least two
16 hundred forty (240) months of service, excluding service purchased under this
17 subsection. If the member does not accrue at least two hundred forty (240) months
18 of service, excluding service purchased under this subsection, upon retirement,
19 death, or written request following termination, the payment, plus interest as
20 provided in KRS 61.575, shall be refunded.

21 (23) An employee participating in one (1) of the retirement systems administered by
22 Kentucky Retirement Systems, who has at least forty-eight (48) months of service if
23 age sixty-five (65), or at least sixty (60) months of service if under age sixty-five
24 (65), in the systems administered by Kentucky Retirement Systems, may obtain
25 credit in the County Employees Retirement System for the period of that employee's
26 service with a community action agency created under KRS 273.405 to 273.453 if
27 that service was not covered by a state-administered retirement system.

- 1 (24) An employee may obtain credit for regular full-time service with an agency prior to
2 August 1, 1998, for which the employee did not receive credit due to KRS
3 61.637(1). Service credit obtained under this subsection shall not be used in
4 determining benefits under KRS 61.702. The employee may purchase credit for
5 service prior to August 1, 1998, if:
- 6 (a) The employee retired from one (1) of the retirement systems administered by
7 the Kentucky Retirement Systems and was reemployed prior to August 1,
8 1998, earning less than the maximum permissible earnings under the Federal
9 Social Security Act;
- 10 (b) The employee elected to participate in a second retirement account effective
11 August 1, 1998, in accordance with KRS 61.637(7); and
- 12 (c) The employee has at least forty-eight (48) months of service if age sixty-five
13 (65), or at least sixty (60) months of service if under age sixty-five (65), in a
14 second account in the systems administered by Kentucky Retirement Systems.
- 15 (25) An employee participating in one (1) of the retirement systems administered by the
16 Kentucky Retirement Systems, who has at least forty-eight (48) months of service if
17 age sixty-five (65) or at least sixty (60) months of service if under age sixty-five
18 (65) in the systems administered by the Kentucky Retirement Systems, may obtain
19 credit for the service in a regular full-time position otherwise creditable under the
20 Kentucky Employees Retirement System, the County Employees Retirement
21 System, or the State Police Retirement System for service in the United States
22 government, other than service in the Armed Forces, for which service is not
23 otherwise given.
- 24 (26) An employee participating in a hazardous position in one (1) of the retirement
25 systems administered by the Kentucky Retirement Systems, who has at least forty-
26 eight (48) months of service if age sixty-five (65) or at least sixty (60) months of
27 service if under age sixty-five (65) in the systems administered by the Kentucky

1 Retirement Systems, may obtain credit for service in a regular full-time position in
2 an urban-county government that would qualify for hazardous duty coverage under
3 KRS 61.592.

4 (27) Subsections (2) to (5), (7) to (13), (15) to (19), and (21) to (26) of this section shall
5 not apply to members who begin participating in the systems administered by
6 Kentucky Retirement Systems on or after January 1, 2014, or to members who
7 make an election as provided by KRS 21.374, 61.5955, or 61.5956.

8 (28) Service purchases made pursuant to subsections (2) to (5), (7), (10) to (13), (15) to
9 (19), (21) to (23), (25), and (26) of this section shall be purchased by the entire
10 amount of service available pursuant to that subsection or by increments. Service
11 purchases made pursuant to subsections (1), (20), and (24) of this section shall be
12 purchased by the entire amount of service available.

13 ➔Section 44. The following KRS sections are repealed:

14 78.533 Employees of Metropolitan Park and Recreation Board of Jefferson County,
15 credit for former service.

16 78.534 Participation of qualified circuit clerks and deputy clerks -- Transfer of service
17 credit.

18 78.532 Employees formerly employed by private employer -- Credit for former service.

19 78.542 Required participation by retired hazardous members in an elected city or county
20 office on June 21, 2001 -- Election not to participate -- Purchase of service credit.

21 78.780 Administration of systems by board of trustees of state system.

22 ➔Section 45. All administrative decisions made by the Kentucky Retirement
23 Systems board of trustees prior to April 1, 2021, on behalf of the County Employees
24 Retirement System, including but not limited to approval for hazardous positions,
25 administrative decisions, and disability determinations, shall be implemented on April 1,
26 2021, and shall not be reversed except under the authority granted by KRS 78.510 to
27 78.852 to the County Employees Retirement System board of trustees or the Kentucky

1 Public Pensions Authority as granted by Section 2 of this Act, as applicable, except that
2 the retiree health plans established for the plan year beginning January 1, 2021, through
3 December 31, 2021, by the Kentucky Retirement Systems board of trustees for recipients
4 of the County Employees Retirement System shall not be altered by the County
5 Employees Retirement System board of trustees for that specific plan year. All
6 administrative regulations promulgated by the Kentucky Retirement Systems board of
7 trustees prior to April 1, 2021, on behalf of the County Employees Retirement System
8 shall continue to apply to the County Employees Retirement System on or after April 1,
9 2021, and shall not be reversed except under the authority granted by KRS 78.510 to
10 78.852 to the County Employees Retirement System board of trustees.

11 ➡Section 46. The three trustees elected by the County Employees Retirement
12 System membership to serve a term on the Kentucky Retirement Systems board of
13 trustees that includes April 1, 2021, shall serve as the three elected trustees of the County
14 Employees Retirement System board of trustees as provided by Section 3 of this Act and
15 shall serve for the duration of the terms for which they were elected. The two trustees
16 elected by the Kentucky Employees Retirement System membership and the one trustee
17 elected by the State Police Retirement System membership who are serving as trustees of
18 the Kentucky Retirement Systems board of trustees immediately prior to the effective
19 date of this Act shall serve as the three elected trustees of the Kentucky Retirement
20 Systems board of trustees as provided by Section 4 of this Act and shall serve for the
21 duration of the terms for which they were elected.

22 ➡Section 47. The Governor shall on or before March 1, 2021, appoint the six
23 appointed trustees of the County Employees Retirement System board as provided by
24 subsection (1)(b) to (d) of Section 3 of this Act so that the new trustees can assume their
25 term of office on April 1, 2021. Notwithstanding the provisions of Section 3 of this Act
26 as it relates solely to terms of office, three of the trustees appointed by the Governor
27 pursuant to Section 3 of this Act shall be appointed to an initial term of two years and

1 three of the trustees appointed by the Governor pursuant to Section 3 of this Act shall be
2 appointed to an initial term of four years. The Kentucky League of Cities, the Kentucky
3 Association of Counties, and the Kentucky School Boards Association shall submit a list
4 of applicants on or before January 1, 2021, to be appointed by the Governor pursuant to
5 Section 3 of this Act.

6 ➔Section 48. The Governor shall appoint the six appointed trustees of the
7 Kentucky Retirement Systems as provided by subsection (1)(c) to (e) of Section 4 of this
8 Act prior to April 1, 2021, and any trustees previously appointed by a Governor and
9 currently serving on the Kentucky Retirement Systems board of trustees may be
10 appointed by the Governor provided he or she meets the qualifications of Section 4 of this
11 Act for the appointment. Notwithstanding the provisions of Section 4 of this Act as it
12 relates solely to terms of office, three of the trustees appointed by the Governor pursuant
13 to Section 4 of this Act shall be appointed to an initial term of two years and three of the
14 trustees appointed by the Governor pursuant to Section 4 of this Act shall be appointed to
15 an initial term of four years.

16 ➔Section 49. Notwithstanding any other provision of statute to the contrary,
17 including but not limited to any provision of KRS Chapter 12:

- 18 (1) The Governor shall have no authority to change any provision of KRS 16.505 to
19 16.652, 61.510 to 61.705, and 78.510 to 78.852 as it relates to reorganizing,
20 replacing, amending, or abolishing the membership of the County Employees
21 Retirement System board of trustees as provided by Section 3 of this Act, the
22 Kentucky Retirement Systems board of trustees as provided by KRS 61.645, or the
23 Kentucky Public Pensions Authority as provided by Section 2 of this Act; and
24 (2) Effective April 1, 2021, the board of trustees of the Kentucky Retirement Systems
25 and the County Employees Retirement System shall include the number and
26 composition of the boards established by Sections 3 and 4 of this Act respectively.

27 ➔Section 50. No provisions of this Act shall increase or decrease benefits being

1 paid to retirees, beneficiaries, or recipients of the Kentucky Retirement Systems or the
2 County Employees Retirement System nor shall any provisions of this Act increase or
3 decrease benefits that have accrued to members of the Kentucky Retirement Systems or
4 the County Employees Retirement System on the effective date of this Act.

5 ➔Section 51. The provisions of this Act shall not be construed to limit the
6 General Assembly's authority to amend, reduce, or suspend any provision of KRS 16.505
7 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, that the General Assembly had the
8 authority to amend, reduce, or suspend, prior to the effective date of any provision of this
9 Act.

10 ➔Section 52. The provisions of Section 5. of 2019 Ky. Acts Chapter 182 shall
11 apply to the County Employees Retirement System board.

12 ➔Section 53. Sections 1 to 46 of this Act take effect April 1, 2021.