

1 AN ACT relating to employment of part-time adjunct instructors for the Kentucky  
2 Fire Commission.

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

4 ➔Section 1. KRS 61.637 is amended to read as follows:

- 5 (1) A retired member who is receiving monthly retirement payments under any of the  
6 provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed  
7 as an employee by a participating agency prior to August 1, 1998, shall have his  
8 retirement payments suspended for the duration of reemployment. Monthly  
9 payments shall not be suspended for a retired member who is reemployed if he  
10 anticipates that he will receive less than the maximum permissible earnings as  
11 provided by the Federal Social Security Act in compensation as a result of  
12 reemployment during the calendar year. The payments shall be suspended at the  
13 beginning of the month in which the reemployment occurs.
- 14 (2) Employer and employee contributions shall be made as provided in KRS 61.510 to  
15 61.705 and 78.510 to 78.852 on the compensation paid during reemployment,  
16 except where monthly payments were not suspended as provided in subsection (1)  
17 of this section or would not increase the retired member's last monthly retirement  
18 allowance by at least one dollar (\$1), and the member shall be credited with  
19 additional service credit.
- 20 (3) In the month following the termination of reemployment, retirement allowance  
21 payments shall be reinstated under the plan under which the member was receiving  
22 payments prior to reemployment.
- 23 (4) (a) Notwithstanding the provisions of this section, the payments suspended in  
24 accordance with subsection (1) of this section shall be paid retroactively to the  
25 retired member, or his estate, if he does not receive more than the maximum  
26 permissible earnings as provided by the Federal Social Security Act in  
27 compensation from participating agencies during any calendar year of

1           reemployment.

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

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

10           1. The retired member's final compensation shall be recomputed using  
11           creditable compensation for his period of reemployment; however, the  
12           final compensation resulting from the recalculation shall not be less than  
13           that of the member when his retirement allowance was last determined;

14           2. If the retired member initially retired on or subsequent to his normal  
15           retirement date, his retirement allowance shall be recomputed by using  
16           the formula in KRS 61.595(1);

17           3. If the retired member initially retired prior to his normal retirement date,  
18           his retirement allowance shall be recomputed using the formula in KRS  
19           61.595(2), except that the member's age used in computing benefits shall  
20           be his age at the time of his initial retirement increased by the number of  
21           months of service credit earned for service performed during  
22           reemployment;

23           4. The retirement allowance payments resulting from the recomputation  
24           under this subsection shall be payable in the month following the  
25           termination of reemployment in lieu of payments under subparagraph 3.  
26           The member shall not receive less in benefits as a result of the  
27           recomputation than he was receiving prior to reemployment or would

1 receive as determined under KRS 61.691; and

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

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

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

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

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

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

6 (b) A retired member whose disability retirement was discontinued pursuant to  
7 KRS 61.615 and who is reemployed in one (1) of the systems administered by  
8 the Kentucky Retirement Systems prior to his or her normal retirement date  
9 shall have his or her accounts combined upon termination for determining  
10 eligibility for benefits. If the member is eligible for retirement, the member's  
11 service and creditable compensation earned as a result of his or her  
12 reemployment shall be used in the calculation of benefits, except that the  
13 member's final compensation shall not be less than the final compensation last  
14 used in determining his or her retirement allowance. The member shall not  
15 change beneficiary or payment option designations. This provision shall apply  
16 to members reemployed on or 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 within twelve (12) months of his or her retirement date, the retired member  
20 shall notify the retirement system and the participating employer shall submit the  
21 information required or requested by the systems to confirm the individual's  
22 employment or volunteer status. The retired member shall not be required to notify  
23 the retirement systems regarding any employment or volunteer service with a  
24 participating agency that is accepted after twelve (12) months following his or her  
25 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 within twelve (12) months of his or  
2 her retirement date, the member shall submit a copy of that contract to the  
3 retirement system, and the retirement system shall determine if the member is an  
4 independent contractor or leased employee for purposes of retirement benefits. The  
5 retired member and the participating employer shall submit the information required  
6 or requested by the systems to confirm the individual's status as an independent  
7 contractor or leased employee. The retired member shall not be required to notify  
8 the retirement systems regarding any services entered into as an independent  
9 contractor or leased employee with a participating agency that the employee enters  
10 into after twelve (12) months following his or her retirement date.

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

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

26 (b) A retired member of the County Employees Retirement System who after  
27 initial retirement is hired by the county from which the member retired shall

1 be considered to have been hired by the same employer.

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

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

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

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

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

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

26 (d) Except as provided in subsection (7) of this section, if the position in which a  
27 retired member is employed after initial retirement is a regular full-time

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

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

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

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

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

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

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

25 (17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this  
26 section, the following shall apply to retired members who are reemployed by an  
27 agency participating in one (1) of the systems administered by Kentucky Retirement

1 Systems on or after September 1, 2008:

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

16 1. The member shall contribute to a member account established for him or  
17 her in one (1) of the systems administered by Kentucky Retirement  
18 Systems, and employer contributions shall be paid on behalf of the  
19 member by the participating employer; and

20 2. Upon subsequent retirement, the member shall be eligible for a  
21 retirement allowance based upon total service and creditable  
22 compensation, including any additional service or creditable  
23 compensation earned after his or her initial retirement was voided;

24 (b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is  
25 receiving a retirement allowance from one (1) of the systems administered by  
26 Kentucky Retirement Systems and is employed in a regular full-time position  
27 required to participate in one (1) of the systems administered by Kentucky

1 Retirement Systems after a three (3) month period following the member's  
2 initial retirement date, the member may continue to receive his or her  
3 retirement allowance during the period of reemployment subject to the  
4 following provisions:

- 5 1. If a member is reemployed by a participating agency within twelve (12)  
6 months of the member's retirement date, the participating agency shall  
7 certify in writing on a form prescribed by the board that no prearranged  
8 agreement existed between the employee and agency prior to the  
9 employee's retirement for the employee to return to work with the  
10 participating agency. If an elected official is reelected to a new term of  
11 office in the same position and has retired from the elected office within  
12 twelve (12) months prior to taking the new term of office, he or she shall  
13 be deemed by the system as having a prearranged agreement under the  
14 provisions of this subparagraph and shall have his or her retirement  
15 voided. If the participating agency fails to complete the certification, the  
16 member's retirement shall be voided and the provisions of paragraph (a)  
17 of this subsection shall apply to the member and the employer.  
18 Employment that is accepted by the retired member after twelve (12)  
19 months following the member's retirement date shall not constitute a  
20 prearranged agreement under this paragraph;
- 21 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to  
22 the contrary, the member shall not contribute to the systems and shall  
23 not earn any additional benefits for any work performed during the  
24 period of reemployment;
- 25 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and  
26 except for any retiree employed as a school resource officer as defined  
27 by KRS 158.441, the employer shall pay employer contributions as

1 specified by KRS 61.565 and 61.702 on all creditable compensation  
2 earned by the employee during the period of reemployment. The  
3 additional contributions paid shall be used to reduce the unfunded  
4 actuarial liability of the systems; and

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

14 (c) If a member is receiving a retirement allowance from the State Police  
15 Retirement System or from hazardous duty retirement coverage with the  
16 Kentucky Employees Retirement System or the County Employees Retirement  
17 System, or has filed the forms required to receive a retirement allowance from  
18 the State Police Retirement System or from hazardous duty retirement  
19 coverage with the Kentucky Employees Retirement System or the County  
20 Employees Retirement System, and is employed in a regular full-time position  
21 required to participate in the State Police Retirement System or in a hazardous  
22 duty position with the Kentucky Employees Retirement System or the County  
23 Employees Retirement System within one (1) month following the member's  
24 initial retirement date, the member's retirement shall be voided, and the  
25 member shall repay to the retirement system all benefits received, including  
26 any health insurance benefits. If the member is returning to work in a regular  
27 full-time position required to participate in one (1) of the systems

1 administered by Kentucky Retirement Systems:

2 1. The member shall contribute to a member account established for him or  
3 her in one (1) of the systems administered by Kentucky Retirement  
4 Systems, and employer contributions shall be paid on behalf of the  
5 member by the participating employer; and

6 2. Upon subsequent retirement, the member shall be eligible for a  
7 retirement allowance based upon total service and creditable  
8 compensation, including any additional service or creditable  
9 compensation earned after his or her initial retirement was voided;

10 (d) If a member is receiving a retirement allowance from the State Police  
11 Retirement System or from hazardous duty retirement coverage with the  
12 Kentucky Employees Retirement System or the County Employees Retirement  
13 System and is employed in a regular full-time position required to participate  
14 in the State Police Retirement System or in a hazardous duty position with the  
15 Kentucky Employees Retirement System or the County Employees Retirement  
16 System after a one (1) month period following the member's initial retirement  
17 date, the member may continue to receive his or her retirement allowance  
18 during the period of reemployment subject to the following provisions:

19 1. If a member is reemployed by a participating agency within twelve (12)  
20 months of the member's retirement date, the participating agency shall  
21 certify in writing on a form prescribed by the board that no prearranged  
22 agreement existed between the employee and agency prior to the  
23 employee's retirement for the employee to return to work with the  
24 participating agency. If an elected official is reelected to a new term of  
25 office in the same position and has retired from the elected office within  
26 twelve (12) months prior to taking the new term of office, he or she shall  
27 be deemed by the system as having a prearranged agreement under the

- 1 provisions of this subparagraph and shall have his or her retirement  
2 voided. If the participating agency fails to complete the certification, the  
3 member's retirement shall be voided and the provisions of paragraph (c)  
4 of this subsection shall apply to the member and the employer.  
5 Employment that is accepted by the retired member after twelve (12)  
6 months following the member's retirement date shall not constitute a  
7 prearranged agreement under this paragraph;
- 8 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to  
9 the contrary, the member shall not contribute to the systems and shall  
10 not earn any additional benefits for any work performed during the  
11 period of reemployment;
- 12 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and  
13 except for any retiree employed as a school resource officer as defined  
14 by KRS 158.441, the employer shall pay employer contributions as  
15 specified by KRS 61.565 and 61.702 on all creditable compensation  
16 earned by the employee during the period of reemployment. The  
17 additional contributions paid shall be used to reduce the unfunded  
18 actuarial liability of the systems;
- 19 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and  
20 except for any retiree employed as a school resource officer as defined  
21 by KRS 158.441, the employer shall be required to reimburse the  
22 systems for the cost of the health insurance premium paid by the systems  
23 to provide coverage for the retiree, not to exceed the cost of the single  
24 premium;
- 25 (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member  
26 who qualifies as a volunteer for an employer participating in one (1) of the  
27 systems administered by Kentucky Retirement Systems and who is receiving

1 reimbursement of actual expenses, a nominal fee for his or her volunteer  
2 services, or both, shall not be considered an employee of the participating  
3 employer and shall not be subject to paragraphs (a) to (d) of this subsection if:

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

20 If a retired member, who provided volunteer services with a participating  
21 employer under this paragraph violates any provision of this paragraph, then  
22 he or she shall be deemed an employee of the participating employer as of the  
23 date he or she began providing volunteer services and both the retired member  
24 and the participating employer shall be subject to paragraphs (a) to (d) of this  
25 subsection for the period of volunteer service;

- 26 (f) Notwithstanding any provision of this section, any mayor or member of a city  
27 legislative body who has not participated in the County Employees Retirement

1 System prior to retirement, but who is otherwise eligible to retire from the  
 2 Kentucky Employees Retirement System or the State Police Retirement  
 3 System, shall not be:

- 4 1. Required to resign from his or her position as mayor or as a member of  
 5 the city legislative body in order to begin drawing benefits from the  
 6 Kentucky Employees Retirement System or the State Police Retirement  
 7 System; or
- 8 2. Subject to any provision of this section as it relates solely to his or her  
 9 service as a mayor or member of the city legislative body;

10 **(g) Notwithstanding any provision of this section, any current or future part-**  
 11 **time adjunct instructor for the Kentucky Fire Commission who has not**  
 12 **participated in the Kentucky Employees Retirement System prior to**  
 13 **retirement, but who is otherwise eligible to retire from the County**  
 14 **Employees Retirement System, shall not be:**

- 15 **1. Required to resign from his or her position as a part-time adjunct**  
 16 **instructor for the Kentucky Fire Commission in order to begin**  
 17 **drawing benefits from the County Employees Retirement System; or**
- 18 **2. Subject to any provision of this section as it relates solely to his or her**  
 19 **service as a part-time adjunct instructor for the Kentucky Fire**  
 20 **Commission;**

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

- 26 1. At any time following retirement, if the system determines the  
 27 employment arrangement does qualify as an independent contractor or

1 leased employee, the member may continue to receive his or her  
2 retirement allowance during the period of the contract;

3 2. Within three (3) months following the member's initial retirement date,  
4 if the system determines the employment arrangement does not qualify  
5 as an independent contractor or leased employee, the member's  
6 retirement shall be voided in accordance with paragraph (a) of this  
7 subsection;

8 3. After three (3) months but within twelve (12) months following the  
9 member's initial retirement, if the system determines the employment  
10 arrangement does not qualify as an independent contractor or leased  
11 employee and that a prearranged agreement existed between the member  
12 and the agency for the member to return to work with the agency, the  
13 member's retirement shall be voided in accordance with paragraph (a) of  
14 this subsection; and

15 4. After a twelve (12) month period following the member's initial  
16 retirement, the member may continue to receive his or her retirement  
17 allowance during the period of the contract and the member shall not be  
18 required to notify the system or submit any documentation for purposes  
19 of this section to the system.

20 The initiation of a contract or the initial date of the leased employment of a  
21 retired member by a participating agency that occurs after twelve (12) months  
22 or more following the retired member's retirement date shall not constitute a  
23 prearranged agreement under this subsection; and

24 ~~(h)~~(i) The Kentucky Retirement Systems shall issue a final determination  
25 regarding a certification of the absence of a prearranged agreement or the  
26 retired member's qualification as an independent contractor or leased  
27 employee as required under this section no later than thirty (30) days after the

1           retired member and participating employer provide all required forms and  
2           additional information required by the Kentucky Retirement Systems.

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