

1 AN ACT relating to the Kentucky Public Pensions Authority.

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

3 ➔Section 1. KRS 16.582 is amended to read as follows:

- 4 (1) (a) Total and permanent disability means a disability which results in the
5 member's incapacity to engage in any occupation for remuneration or profit.
6 Loss by severance of both hands at or above the wrists, or both feet at or
7 above the ankles, or one (1) hand above the wrist and one (1) foot above the
8 ankle, or the complete, irrevocable loss of the sight of both eyes shall be
9 considered as total and permanent.
- 10 (b) Hazardous disability means a disability which results in the member's total
11 incapacity to continue as a regular full-time officer or as an employee in a
12 hazardous position, as defined in KRS 61.592, but which does not result in the
13 member's total and permanent incapacity to engage in other occupations for
14 remuneration or profit.
- 15 (c) In determining whether the disability meets the requirement of this section,
16 any reasonable accommodation provided by the employer as provided in 42
17 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.
- 18 (d) If the board determines that the total and permanent disability of a member
19 receiving a retirement allowance under this section has ceased, then the board
20 shall determine if the member has a hazardous disability.
- 21 (2) Any person may qualify to retire on disability, subject to the following:
- 22 (a) The person shall have sixty (60) months of service, twelve (12) of which shall
23 be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The
24 service requirement shall be waived if the disability is a total and permanent
25 disability or a hazardous disability and is a direct result of an act in line of
26 duty;
- 27 (b) For a person whose membership date is prior to August 1, 2004, the person

- 1 shall not be eligible for an unreduced retirement allowance;
- 2 (c) The person's application shall be on file in the retirement office no later than
3 twenty-four (24) months after the person's last day of paid employment, as
4 defined in KRS 16.505, as a regular full-time officer or in a regular full-time
5 hazardous position under KRS 61.592;
- 6 (d) The person shall receive a satisfactory determination pursuant to KRS 61.665;
7 and
- 8 (e) A person's disability application based on the same claim of incapacity shall
9 be accepted and reconsidered for disability if accompanied by new objective
10 medical evidence. The application shall be on file in the retirement office no
11 later than twenty-four (24) months after the person's last day of paid
12 employment as a regular full-time officer or in a regular full-time hazardous
13 position.
- 14 (3) Upon the examination of the objective medical evidence by licensed physicians
15 pursuant to KRS 61.665, it shall be determined that:
- 16 (a) The incapacity results from bodily injury, mental illness, or disease. For
17 purposes of this section, "injury" means any physical harm or damage to the
18 human organism other than disease or mental illness;
- 19 (b) The incapacity is deemed to be permanent; and
- 20 (c) The incapacity does not result directly or indirectly from:
- 21 1. Injury intentionally self-inflicted while sane or insane; or
22 2. Bodily injury, mental illness, disease, or condition which pre-existed
23 membership in the system or reemployment, whichever is most recent,
24 unless:
- 25 a. The disability results from bodily injury, mental illness, disease, or
26 a condition which has been substantially aggravated by an injury or
27 accident arising out of or in the course of employment; or

1 b. The person has at least sixteen (16) years' current or prior service
2 for employment with employers participating in the retirement
3 systems administered by the Kentucky Retirement Systems or the
4 County Employees Retirement System.

5 For purposes of this subparagraph, "reemployment" shall not mean a
6 change of employment between employers participating in the
7 retirement systems administered by the Kentucky Retirement Systems or
8 the County Employees Retirement System with no loss of service credit.

9 (4) (a) 1. An incapacity shall be deemed to be permanent for the purpose of
10 hazardous disability if it is expected to result in death or can be
11 expected to last for a continuous period of not less than twelve (12)
12 months from the person's last day of paid employment in a position as a
13 regular full-time officer or a hazardous position.

14 2. The determination of a permanent incapacity for the purpose of
15 hazardous disability shall be based on the medical evidence contained
16 in the member's file and the member's residual functional capacity and
17 physical exertion requirements.

18 3. The determination of a total and permanent incapacity shall be based
19 on the medical evidence contained in the member's file and the
20 member's residual functional capacity.

21 (b) The person's residual functional capacity shall be the person's capacity for
22 work activity on a regular and continuing basis. The person's physical ability
23 shall be assessed in light of the severity of the person's physical, mental, and
24 other impairments. The person's ability to walk, stand, carry, push, pull, reach,
25 handle, and other physical functions shall be considered with regard to
26 physical impairments. The person's ability to understand, remember, and carry
27 out instructions and respond appropriately to supervision, coworkers, and

1 work pressures in a work setting shall be considered with regard to mental
2 impairments. Other impairments, including skin impairments, epilepsy, visual
3 sensory impairments, postural and manipulative limitations, and
4 environmental restrictions, shall be considered in conjunction with the
5 person's physical and mental impairments to determine residual functional
6 capacity.

7 (c) The person's physical exertion requirements shall be determined based on the
8 following standards:

- 9 1. Sedentary work shall be work that involves lifting no more than ten (10)
10 pounds at a time and occasionally lifting or carrying articles such as
11 large files, ledgers, and small tools. Although a sedentary job primarily
12 involves sitting, occasional walking and standing may also be required
13 in the performance of duties.
- 14 2. Light work shall be work that involves lifting no more than twenty (20)
15 pounds at a time with frequent lifting or carrying of objects weighing up
16 to ten (10) pounds. A job shall be in this category if lifting is
17 infrequently required but walking and standing are frequently required,
18 or if the job primarily requires sitting with pushing and pulling of arm or
19 leg controls. If the person has the ability to perform substantially all of
20 these activities, the person shall be deemed capable of light work. A
21 person deemed capable of light work shall be deemed capable of
22 sedentary work unless the person has additional limitations such as the
23 loss of fine dexterity or inability to sit for long periods.
- 24 3. Medium work shall be work that involves lifting no more than fifty (50)
25 pounds at a time with frequent lifting or carrying of objects weighing up
26 to twenty-five (25) pounds. If the person is deemed capable of medium
27 work, the person shall be deemed capable of light and sedentary work.

- 1 4. Heavy work shall be work that involves lifting no more than one
2 hundred (100) pounds at a time with frequent lifting or carrying of
3 objects weighing up to fifty (50) pounds. If the person is deemed capable
4 of heavy work, the person shall also be deemed capable of medium,
5 light, and sedentary work.
- 6 5. Very heavy work shall be work that involves lifting objects weighing
7 more than one hundred (100) pounds at a time with frequent lifting or
8 carrying of objects weighing fifty (50) or more pounds. If the person is
9 deemed capable of very heavy work, the person shall be deemed capable
10 of heavy, medium, light, and sedentary work.
- 11 (5) (a) The disability retirement allowance shall be determined as provided in KRS
12 16.576, except if the member's total service credit on his or her last day of
13 paid employment in a regular full-time position is less than twenty (20) years,
14 service shall be added beginning with his or her last date of paid employment
15 and continuing to his or her fifty-fifth birthday. The maximum service credit
16 added shall not exceed the total service the member had on his or her last day
17 of paid employment, and the maximum service credit for calculating his or her
18 retirement allowance, including his or her total service and service added
19 under this section, shall not exceed twenty (20) years.
- 20 (b) For a member whose participation begins on or after August 1, 2004, but prior
21 to January 1, 2014, the disability retirement allowance shall be the higher of
22 twenty-five percent (25%) of the member's monthly final rate of pay or the
23 retirement allowance determined in the same manner as for retirement at his
24 or her normal retirement date with years of service and final compensation
25 being determined as of the date of his disability.
- 26 (c) For a member who begins participating on or after January 1, 2014, in the
27 hybrid cash balance plan as provided by KRS 16.583, the disability retirement

1 allowance shall be the higher of twenty-five percent (25%) of the member's
2 monthly final rate of pay or the retirement allowance determined in the same
3 manner as for retirement at his or her normal retirement date under KRS
4 16.583.

5 (6) If the member receives a satisfactory determination of hazardous disability pursuant
6 to KRS 61.665 and the disability is the direct result of an act in line of duty as
7 defined in KRS 16.505, the member's retirement allowance shall be calculated as
8 follows:

9 (a) For the disabled member, benefits as provided in subsection (5) of this section
10 except that the monthly retirement allowance payable shall not be less than
11 twenty-five percent (25%) of the member's monthly final rate of pay; and

12 (b) For each dependent child of the member on his or her disability retirement
13 date, who is alive at the time any particular payment is due, a monthly
14 payment equal to ten percent (10%) of the disabled member's monthly final
15 rate of pay; however, total maximum dependent children's benefit shall not
16 exceed forty percent (40%) of the member's monthly final rate of pay. The
17 payments shall be payable to each dependent child, or to a legally appointed
18 guardian or as directed by the system.

19 (7) If the member receives a satisfactory determination of total and permanent disability
20 pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty
21 as defined in KRS 16.505, the member's retirement allowance shall be calculated as
22 follows:

23 (a) For the disabled member, the benefits as provided in subsection (5) of this
24 section except that the monthly retirement allowance payable shall not be less
25 than seventy-five percent (75%) of the member's monthly average pay; and

26 (b) For each dependent child of the member on his or her disability retirement
27 date, who is alive at the time any particular payment is due, a monthly

1 payment equal to ten percent (10%) of the disabled member's monthly average
2 pay, except that:

3 1. Member and dependent children payments under this subsection shall
4 not exceed one hundred percent (100%) of the member's monthly
5 average pay; and

6 2. Total maximum dependent children's benefits shall not exceed twenty-
7 five percent (25%) of the member's monthly average pay while the
8 member is living and forty percent (40%) of the member's monthly
9 average pay after the member's death. The payments shall be payable to
10 each dependent child, or to a legally appointed guardian or as directed by
11 the system, and shall be divided equally among all dependent children.

12 (8) No benefit provided in this section shall be reduced as a result of any change in the
13 extent of disability of any retired member who is the age of normal retirement age
14 ~~fifty five (55)~~ or older.

15 (9) If a regular full-time officer or hazardous position member has been approved for
16 benefits under a hazardous disability, the board shall, upon request of the member,
17 permit the member to receive the hazardous disability allowance while accruing
18 benefits in a nonhazardous position, subject to proper medical review of the
19 nonhazardous position's job description by the system's medical examiner.

20 (10) For a member of the State Police Retirement System, in lieu of the allowance
21 provided in subsection (5) to (7) of this section, the member may be retained on the
22 regular payroll and receive the compensation authorized by KRS 16.165, if he or
23 she is qualified.

24 ➔Section 2. KRS 61.505 is amended to read as follows:

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

27 (a) A single personnel system for the staffing needs of the Kentucky Retirement

- 1 Systems and the County Employees Retirement System;
- 2 (b) A system of accounting that is developed by the Authority for the Kentucky
3 Retirement Systems and the County Employees Retirement System;
- 4 (c) Day-to-day administrative needs of the Kentucky Retirement Systems and the
5 County Employees Retirement System, including but not limited to:
- 6 1. Benefit counseling and administration;
- 7 2. Information technology and services, including a centralized Web site
8 for the Authority, the Kentucky Retirement Systems, and the County
9 Employees Retirement System;
- 10 3. Legal services;
- 11 4. Employer reporting and compliance;
- 12 5. Processing and distribution of benefit payments, and other financial,
13 investment administration, and accounting duties as directed by the
14 Kentucky Retirement Systems board of trustees or the County
15 Employees Retirement System board of trustees;
- 16 6. All administrative actions, orders, decisions, and determinations
17 necessary to carry out benefit functions required by the Kentucky
18 Retirement Systems and the County Employment Retirement System
19 statutes, including but not limited to administration of reduced and
20 unreduced retirement benefits, disability retirement, reemployment after
21 retirement, service purchases, computation of sick-leave credit costs,
22 correction of system records, qualified domestic relations orders, and
23 pension spiking determinations~~[, and all other administrative decisions~~
24 ~~and orders]; and~~
- 25 7. Completing and compiling financial data and reports;
- 26 (d) Any jointly held assets used for the administration of the Kentucky Retirement
27 Systems and the County Employees Retirement System, including but not

- 1 limited to real estate, office space, equipment, and supplies;
- 2 (e) **The** hiring **of** a single actuarial consulting firm who shall serve both the
- 3 Kentucky Retirement Systems and the County Employees Retirement System;
- 4 (f) **The hiring of a single external certified public accountant who shall**
- 5 **perform audits for both the Kentucky Retirement Systems and the County**
- 6 **Employees Retirement System;**
- 7 (g) The **promulgation of**~~Authority may promulgate~~ administrative regulations
- 8 as an authority or on behalf of the Kentucky Retirement Systems and the
- 9 County Employees Retirement System, individually or collectively, provided
- 10 such regulations are not inconsistent with the provisions of this section and
- 11 KRS 16.505 to 16.652, 61.505, 61.510 to 61.705, and 78.510 to 78.852,
- 12 necessary or proper in order to carry out the provisions of this section and
- 13 duties authorized by KRS 16.505 to 16.652 and 61.510 to 61.705;
- 14 ~~(h)~~~~(g)~~ **A system of** contracting management for administrative services; and
- 15 ~~(i)~~~~(h)~~ Other tasks or duties as directed solely or jointly by the boards of the
- 16 Kentucky Retirement Systems or the County Employees Retirement System.
- 17 (2) The eight (8) member Kentucky Public Pensions Authority shall be composed of
- 18 the following individuals:
- 19 (a) The chair of the Kentucky Retirement Systems board of trustees;
- 20 (b) The chair of the County Employees Retirement System board of trustees;
- 21 (c) The investment committee chair of the Kentucky Retirement Systems board of
- 22 trustees, unless the investment committee chair is also the chair of the board
- 23 of trustees in which case the chair of the Kentucky Retirement Systems shall
- 24 appoint an individual who serves on the investment committee;
- 25 (d) The investment committee chair of the County Employees Retirement System
- 26 board of trustees, unless the investment committee chair is also the chair of
- 27 the County Employees Retirement System board of trustees in which case the

1 chair of the County Employees Retirement System shall appoint an individual
2 who serves on the investment committee;

3 (e) Two additional (2) trustees of the Kentucky Retirement Systems board of
4 trustees selected by the chair of the Kentucky Retirement Systems board of
5 trustees of which one (1) shall be a trustee who was elected by the
6 membership of one (1) of the systems administered by Kentucky Retirement
7 Systems and one (1) shall be a trustee of Kentucky Retirement Systems who
8 was appointed by the Governor; and

9 (f) Two additional (2) trustees of the County Employees Retirement System
10 board of trustees selected by the chair of the County Employees Retirement
11 System board of trustees of which one (1) shall be a trustee who was elected
12 by the membership of the County Employees Retirement System and one (1)
13 shall be a trustee of the County Employees Retirement System who was
14 appointed by the Governor.

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

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

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

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

21 (d) To carry out the obligations of the Authority subject to KRS Chapters 45,
22 45A, 56, and 57;

23 (e) To purchase fiduciary liability insurance; and

24 (f) The Kentucky Public Pensions Authority shall reimburse any Authority
25 member, officer, or employee for any legal expense resulting from a civil
26 action arising out of the performance of his or her official duties. The hourly
27 rate of reimbursement for any contract for legal services under this paragraph

1 shall not exceed the maximum hourly rate provided in the Legal Services
2 Duties and Maximum Rate Schedule promulgated by the Government
3 Contract Review Committee established pursuant to KRS 45A.705, unless a
4 higher rate is specifically approved by the secretary of the Finance and
5 Administration Cabinet or his or her designee.

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

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

14 (b) An Authority member shall be removed from office upon conviction of a
15 felony or for a finding of a violation of any provision of KRS 11A.020 or
16 11A.040 by a court of competent jurisdiction.

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

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

- 1 (7) (a) The Authority shall meet at least once in each quarter of the year and may
2 meet in special session upon the call of the chair or the executive director of
3 the Authority.
- 4 (b) The Authority shall elect a chair and a vice chair. The chair shall not serve
5 more than four (4) consecutive years as chair or vice chair of the Authority.
6 The vice chair shall not serve more than four (4) consecutive years as chair or
7 vice chair of the Authority. A member who has served four (4) consecutive
8 years as chair or vice chair of the Authority may be elected chair or vice chair
9 of the Authority after an absence of two (2) years from the positions.
- 10 (c) A majority of the Authority members shall constitute a quorum and all actions
11 taken by the Authority shall be by affirmative vote of a majority of the
12 Authority members present.
- 13 (d) The Authority shall post on the Authority's Web site and shall make available
14 to the public:
- 15 1. All meeting notices and agendas of the Authority. Notices and agendas
16 shall be posted to the Authority's Web site at least seventy-two (72)
17 hours in advance of the Authority's meetings, except in the case of
18 special or emergency meetings as provided by KRS 61.823;
 - 19 2. All Authority minutes or other materials that require adoption or
20 ratification by the Authority. The items listed in this subparagraph shall
21 be posted within seventy-two (72) hours of adoption or ratification of
22 the Authority;
 - 23 3. All bylaws, policies, or procedures adopted or ratified by the Authority;
24 and
 - 25 4. A listing of the members of the Authority and membership on each
26 committee established by the Authority.
- 27 (8) (a) The Kentucky Public Pensions Authority shall appoint or contract for the

1 services of an executive director and fix the compensation and other terms of
 2 employment for this position without limitation of the provisions of KRS
 3 Chapter 18A, 45A, and KRS 64.640. The executive director shall be the chief
 4 administrative officer of the Authority, the Kentucky Retirement Systems
 5 board of trustees, and the County Employees Retirement System board of
 6 trustees. The executive director shall work cooperatively with the chief
 7 executive officers of the Kentucky Retirement Systems and the County
 8 Employees Retirement System. **The Authority shall annually conduct a**
 9 **performance evaluation of the executive director.**

10 (b) The Kentucky Public Pensions Authority shall authorize the executive director
 11 to appoint the employees deemed necessary to transact the duties of the
 12 Authority for the purposes outlined in subsection (1) of this section. **After the**
 13 **effective date of this Act, approval by the Authority shall be required for a**
 14 **petition to the secretary of the Personnel Cabinet for the creation of any**
 15 **new unclassified position pursuant to KRS 18A.115(1)(e), (g), (h), and (i).**

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

19 (d) **1.** All employees of the Kentucky Public Pensions Authority, except for the
 20 executive director **and no more than six (6) unclassified employees of**
 21 **the Office of Investments employed pursuant to KRS 18A.115(1)(e),**
 22 **(g), (h), and (i)** [~~chief investment officer, and one (1) deputy chief~~
 23 ~~investment officer~~], shall be subject to the state personnel system
 24 established pursuant to KRS 18A.005 to 18A.204 and shall have their
 25 salaries determined by the secretary of the Personnel Cabinet.

26 **2. The employees exempted from the classified service under this**
 27 **paragraph shall not be subject to the salary limitations specified in**

1 **KRS 64.640(2) and (3).**

2 **3. The Kentucky Public Pensions Authority shall adopt a written salary**
3 **and classification plan fixing a range of compensation and written**
4 **terms of employment for any of the unclassified employees of the**
5 **Office of Investments it authorizes under this paragraph. The**
6 **Authority shall authorize the executive director to appoint up to six (6)**
7 **unclassified employees of the Office of Investments subject to the**
8 **compensation ranges and terms of employment the Authority has**
9 **established. The Authority may amend the written salary and**
10 **classification plan adopted under this paragraph at any time.**

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

15 (f) The Authority shall require the executive director and the employees as it
16 thinks proper to execute bonds for the faithful performance of their duties
17 notwithstanding the limitations of KRS Chapter 62.

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

23 (9) All employees of the Authority shall serve during its will and pleasure.
24 Notwithstanding any statute to the contrary, employees shall not be considered
25 legislative agents under KRS 6.611.

26 (10) The Attorney General, or an assistant designated by him or her, may attend each
27 meeting of the Authority and may receive the agenda, board minutes, and other

1 information distributed to Authority members upon request. The Attorney General
2 may act as legal adviser and attorney for the Authority, and the Authority may
3 contract for legal services, notwithstanding the limitations of KRS Chapter 12 or
4 13B.

5 (11) (a) All expenses incurred by or on behalf of the Kentucky Public Pensions
6 Authority shall be paid by the systems administered by the Kentucky
7 Retirement Systems or the County Employees Retirement System and shall be
8 prorated, assigned, or allocated to each system as determined by Kentucky
9 Public Pensions Authority. Any additional initial costs determined by the
10 Authority to be attributable solely to establishing a separate County
11 Employees Retirement System board and the Kentucky Public Pensions
12 Authority as provided by this section and KRS 78.782 shall be paid by the
13 County Employees Retirement System. Any additional ongoing annual
14 administrative and investment expenses that occur after the establishment of a
15 separate County Employees Retirement System board and the Kentucky
16 Public Pensions Authority that are determined by the Authority to be a direct
17 result of establishing a separate County Employees Retirement System board
18 and the Kentucky Public Pensions Authority shall be paid by the County
19 Employees Retirement System.

20 (b) Any other statute to the contrary notwithstanding, authorization for all
21 expenditures relating to the administrative operations of the Kentucky Public
22 Pensions Authority, the Kentucky Retirement Systems, and the County
23 Employees Retirement System shall be contained in the biennial budget unit
24 request, branch budget recommendation, and the financial plan adopted by the
25 General Assembly pursuant to KRS Chapter 48. **The Kentucky Public**
26 **Pensions Authority shall approve the biennial budget unit request prior to**
27 **its submission by the Authority.** The request from the Kentucky Public

1 Pensions Authority shall include any specific administrative expenses
2 requested by the Kentucky Retirement Systems board of trustees or the
3 County Employees Retirement System board of trustees pursuant to KRS
4 61.645(13) or 78.782(13), as applicable, that are not otherwise expenses
5 specified by paragraph (a) of this subsection.

6 (12) (a) An Authority member shall discharge his or her duties as a member of the
7 Authority, including his or her duties as a member of a committee of the
8 Authority:

- 9 1. In good faith;
- 10 2. On an informed basis; and
- 11 3. In a manner he or she honestly believes to be in the best interest of the
12 County Employees Retirement System and the Kentucky Retirement
13 Systems, as applicable.

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

19 (c) In discharging his or her duties, an Authority member may rely on
20 information, opinions, reports, or statements, including financial statements
21 and other financial data, if prepared or presented by:

- 22 1. One (1) or more officers or employees of the Authority whom the
23 Authority member honestly believes to be reliable and competent in the
24 matters presented;
- 25 2. Legal counsel, public accountants, actuaries, or other persons as to
26 matters the Authority member honestly believes are within the person's
27 professional or expert competence; or

- 1 3. A committee of the Authority of which he or she is not a member if the
2 Authority member honestly believes the committee merits confidence.
- 3 (d) An Authority member shall not be considered as acting in good faith if he or
4 she has knowledge concerning the matter in question that makes reliance
5 otherwise permitted by paragraph (c) of this subsection unwarranted.
- 6 (e) Any action taken as a member of the Authority, or any failure to take any
7 action as an Authority member, shall not be the basis for monetary damages or
8 injunctive relief unless:
- 9 1. The Authority member has breached or failed to perform the duties of
10 the member's office in compliance with this section; and
- 11 2. In the case of an action for monetary damages, the breach or failure to
12 perform constitutes willful misconduct or wanton or reckless disregard
13 for human rights, safety, or property.
- 14 (f) A person bringing an action for monetary damages under this section shall
15 have the burden of proving by clear and convincing evidence the provisions of
16 paragraph (e)1. and 2. of this subsection, and the burden of proving that the
17 breach or failure to perform was the legal cause of damages suffered by the
18 Kentucky Retirement Systems or County Employees Retirement System, as
19 applicable.
- 20 (g) In discharging his or her administrative duties under this section, an Authority
21 member shall strive to administer the systems in an efficient and cost-effective
22 manner for the taxpayers of the Commonwealth of Kentucky and shall take all
23 actions available under the law to contain costs for the trusts, including costs
24 for participating employers, members, and retirees.

25 ➔Section 3. KRS 61.510 is amended to read as follows:

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

- 27 (1) "System" means the Kentucky Employees Retirement System created by KRS

- 1 61.510 to 61.705;
- 2 (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- 3 (3) "Department" means any state department or board or agency participating in the
4 system in accordance with appropriate executive order, as provided in KRS 61.520.
5 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the
6 General Assembly and any other body, entity, or instrumentality designated by
7 executive order by the Governor, shall be deemed to be a department,
8 notwithstanding whether said body, entity, or instrumentality is an integral part of
9 state government;
- 10 (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- 11 (5) "Employee" means the members, officers, and employees of the General Assembly
12 and every regular full-time, appointed or elective officer or employee of a
13 participating department, including the Department of Military Affairs. The term
14 does not include persons engaged as independent contractors, seasonal, emergency,
15 temporary, interim, and part-time workers. In case of any doubt, the board shall
16 determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- 17 (6) "Employer" means a department or any authority of a department having the power
18 to appoint or select an employee in the department, including the Senate and the
19 House of Representatives, or any other entity, the employees of which are eligible
20 for membership in the system pursuant to KRS 61.525;
- 21 (7) "State" means the Commonwealth of Kentucky;
- 22 (8) "Member" means any employee who is included in the membership of the system or
23 any former employee whose membership has not been terminated under KRS
24 61.535;
- 25 (9) "Service" means the total of current service and prior service as defined in this
26 section;
- 27 (10) "Current service" means the number of years and months of employment as an

1 employee, on and after July 1, 1956, except that for members, officers, and
2 employees of the General Assembly this date shall be January 1, 1960, for which
3 creditable compensation is paid and employee contributions deducted, except as
4 otherwise provided, and each member, officer, and employee of the General
5 Assembly shall be credited with a month of current service for each month he
6 serves in the position;

7 (11) "Prior service" means the number of years and completed months, expressed as a
8 fraction of a year, of employment as an employee, prior to July 1, 1956, for which
9 creditable compensation was paid; except that for members, officers, and employees
10 of the General Assembly, this date shall be January 1, 1960. An employee shall be
11 credited with one (1) month of prior service only in those months he received
12 compensation for at least one hundred (100) hours of work; provided, however, that
13 each member, officer, and employee of the General Assembly shall be credited with
14 a month of prior service for each month he served in the position prior to January 1,
15 1960. Twelve (12) months of current service in the system are required to validate
16 prior service;

17 (12) "Accumulated contributions" at any time means the sum of all amounts deducted
18 from the compensation of a member and credited to his individual account in the
19 members' account, including employee contributions picked up after August 1,
20 1982, pursuant to KRS 61.560(4), together with interest credited, on such amounts
21 and any other amounts the member shall have contributed thereto, including interest
22 credited thereon. For members who begin participating on or after September 1,
23 2008, "accumulated contributions" shall not include employee contributions that are
24 deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the
25 funds established in KRS 16.510 and 61.515, as prescribed by KRS 61.702(3)(b);

26 (13) "Creditable compensation":

27 (a) Means all salary, wages, tips to the extent the tips are reported for income tax

1 purposes, and fees, including payments for compensatory time, paid to the
2 employee as a result of services performed for the employer or for time during
3 which the member is on paid leave, which are includable on the member's
4 federal form W-2 wage and tax statement under the heading "wages, tips,
5 other compensation," including employee contributions picked up after
6 August 1, 1982, pursuant to KRS 61.560(4). For members of the General
7 Assembly, it shall mean all amounts which are includable on the member's
8 federal form W-2 wage and tax statement under the heading "wages, tips,
9 other compensation," including employee contributions picked up after
10 August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4);

11 (b) Includes:

- 12 1. Lump-sum bonuses, severance pay, or employer-provided payments for
13 purchase of service credit, which shall be averaged over the employee's
14 total service with the system in which it is recorded if it is equal to or
15 greater than one thousand dollars (\$1,000);
- 16 2. Cases where compensation includes maintenance and other perquisites,
17 but the board shall fix the value of that part of the compensation not paid
18 in money;
- 19 3. Lump-sum payments for creditable compensation paid as a result of an
20 order of a court of competent jurisdiction, the Personnel Board, or the
21 Commission on Human Rights, or for any creditable compensation paid
22 in anticipation of settlement of an action before a court of competent
23 jurisdiction, the Personnel Board, or the Commission on Human Rights,
24 including notices of violations of state or federal wage and hour statutes
25 or violations of state or federal discrimination statutes, which shall be
26 credited to the fiscal year during which the wages were earned or should
27 have been paid by the employer. This subparagraph shall also include

1 lump-sum payments for reinstated wages pursuant to KRS 61.569,
2 which shall be credited to the period during which the wages were
3 earned or should have been paid by the employer;

4 4. Amounts which are not includable in the member's gross income by
5 virtue of the member having taken a voluntary salary reduction provided
6 for under applicable provisions of the Internal Revenue Code; and

7 5. Elective amounts for qualified transportation fringes paid or made
8 available on or after January 1, 2001, for calendar years on or after
9 January 1, 2001, that are not includable in the gross income of the
10 employee by reason of 26 U.S.C. sec. 132(f)(4); and

11 (c) Excludes:

12 1. Living allowances, expense reimbursements, lump-sum payments for
13 accrued vacation leave, and other items determined by the board;

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

16 3. For employees who begin participating on or after August 1, 2016,
17 nominal fees paid for services as a volunteer; and

18 4. 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" of a member 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 or she was paid at the highest
24 average monthly rate divided by the number of months of service credit during
25 that five (5) year period multiplied by twelve (12). The five (5) years may be
26 fractional and need not be consecutive. If the number of months of service
27 credit during the five (5) year period is less than forty-eight (48), one (1) or

1 more additional fiscal years shall be used;

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, the creditable
17 compensation of the member during the three (3) fiscal years he or she was
18 paid at the highest average monthly rate divided by the number of months of
19 service credit during that three (3) year period multiplied by twelve (12). The
20 three (3) years may be fractional and need not be consecutive. If the number of
21 months of service credit during the three (3) year period is less than twenty-
22 four (24), one (1) or more additional fiscal years shall be used;

23 (d) For a member who begins participating on or after September 1, 2008, but
24 prior to January 1, 2014, who is employed in a nonhazardous position, the
25 creditable compensation of the member during the five (5) complete fiscal
26 years immediately preceding retirement divided by five (5). Each fiscal year
27 used to determine final compensation must contain twelve (12) months of

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

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

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

26 (16) "Retirement allowance" means the retirement payments to which a member is
27 entitled;

- 1 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
2 basis of the actuarial tables that are adopted by the board. In cases of disability
3 retirement, the options authorized by KRS 61.635 shall be computed by adding ten
4 (10) years to the age of the member, unless the member has chosen the Social
5 Security adjustment option as provided for in KRS 61.635(8), in which case the
6 member's actual age shall be used. For members who began participating in the
7 system prior to January 1, 2014, no disability retirement option shall be less than the
8 same option computed under early retirement;
- 9 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless
10 otherwise provided in KRS 61.510 to 61.705;
- 11 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
12 following June 30, which shall also be the plan year. The "fiscal year" shall be the
13 limitation year used to determine contribution and benefit limits as established by
14 26 U.S.C. sec. 415;
- 15 (20) "Officers and employees of the General Assembly" means the occupants of those
16 positions enumerated in KRS 6.150. The term shall also apply to assistants who
17 were employed by the General Assembly for at least one (1) regular legislative
18 session prior to July 13, 2004, who elect to participate in the retirement system, and
19 who serve for at least six (6) regular legislative sessions. Assistants hired after July
20 13, 2004, shall be designated as interim employees;
- 21 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean
22 all positions that average one hundred (100) or more hours per month determined by
23 using the number of months actually worked within a calendar or fiscal year,
24 including all positions except:
- 25 (a) Seasonal positions, which although temporary in duration, are positions which
26 coincide in duration with a particular season or seasons of the year and which
27 may recur regularly from year to year, the period of time shall not exceed nine

- 1 (9) months;
- 2 (b) Emergency positions which are positions which do not exceed thirty (30)
- 3 working days and are nonrenewable;
- 4 (c) Temporary positions which are positions of employment with a participating
- 5 department for a period of time not to exceed nine (9) months and are
- 6 nonrenewable;
- 7 (d) Part-time positions which are positions which may be permanent in duration,
- 8 but which require less than a calendar or fiscal year average of one hundred
- 9 (100) hours of work per month, determined by using the number of months
- 10 actually worked within a calendar or fiscal year, in the performance of duty;
- 11 and
- 12 (e) Interim positions which are positions established for a one-time or recurring
- 13 need not to exceed nine (9) months;
- 14 (22) "Vested" for purposes of determining eligibility for purchasing service credit under
- 15 KRS 61.552 means the employee has at least forty-eight (48) months of service if
- 16 age sixty-five (65) or older or at least sixty (60) months of service if under the age
- 17 of sixty-five (65). For purposes of this subsection, "service" means service in the
- 18 systems administered by the Kentucky Retirement Systems and County Employees
- 19 Retirement System;
- 20 (23) "Parted employer" means a department, portion of a department, board, or agency,
- 21 such as Outwood Hospital and School, which previously participated in the system,
- 22 but due to lease or other contractual arrangement is now operated by a publicly held
- 23 corporation or other similar organization, and therefore is no longer participating in
- 24 the system. The term "parted employer" shall not include a department, board, or
- 25 agency that ceased participation in the system pursuant to KRS 61.522;
- 26 (24) "Retired member" means any former member receiving a retirement allowance or
- 27 any former member who has filed the necessary documents for retirement benefits

- 1 and is no longer contributing to the retirement system;
- 2 (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
3 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
4 pay. The rate shall be certified by the employer;
- 5 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by
6 the member in accordance with KRS 61.542 or 61.705 to receive any available
7 benefits in the event of the member's death. As used in KRS 61.702, "beneficiary"
8 does not mean an estate, trust, or trustee;
- 9 (27) "Recipient" means the retired member or the person or persons designated as
10 beneficiary by the member and drawing a retirement allowance as a result of the
11 member's death or a dependent child drawing a retirement allowance. An alternate
12 payee of a qualified domestic relations order shall not be considered a recipient,
13 except for purposes of KRS 61.623;
- 14 (28) "Level percentage of payroll amortization method" means a method of determining
15 the annual amortization payment on the unfunded actuarial accrued liability as
16 expressed as a percentage of payroll over a set period of years but that may be
17 converted to a dollar value for purposes of KRS 61.565(1)(d). Under this method,
18 the percentage of payroll shall be projected to remain constant for all years
19 remaining in the set period of time and the unfunded actuarially accrued liability
20 shall be projected to be fully amortized at the conclusion of the set period of years;
- 21 (29) "Increment" means twelve (12) months of service credit which are purchased. The
22 twelve (12) months need not be consecutive. The final increment may be less than
23 twelve (12) months;
- 24 (30) "Person" means a natural person;
- 25 (31) "Retirement office" means the Kentucky Public Pensions Authority's office building
26 in Frankfort, unless otherwise designated by the Kentucky Public Pensions
27 Authority;

- 1 (32) "Last day of paid employment" means the last date employer and employee
2 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
3 78.615 to the retirement office in order for the employee to receive current service
4 credit for the month. Last day of paid employment does not mean a date the
5 employee receives payment for accrued leave, whether by lump sum or otherwise, if
6 that date occurs twenty-four (24) or more months after previous contributions;
- 7 (33) "Objective medical evidence" means reports of examinations or treatments; medical
8 signs which are anatomical, physiological, or psychological abnormalities that can
9 be observed; psychiatric signs which are medically demonstrable phenomena
10 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
11 or contact with reality; or laboratory findings which are anatomical, physiological,
12 or psychological phenomena that can be shown by medically acceptable laboratory
13 diagnostic techniques, including but not limited to chemical tests,
14 electrocardiograms, electroencephalograms, X-rays, and psychological tests. **The**
15 **testimonial evidence of the person applying for disability retirement shall not**
16 **constitute or be deemed the equivalent of objective medical evidence;**
- 17 (34) "Participating" means an employee is currently earning service credit in the system
18 as provided in KRS 61.543;
- 19 (35) "Month" means a calendar month;
- 20 (36) "Membership date" means:
- 21 (a) The date upon which the member began participating in the system as
22 provided in KRS 61.543; or
- 23 (b) For a member electing to participate in the system pursuant to KRS
24 196.167(4) who has not previously participated in the system or the Kentucky
25 Teachers' Retirement System, the date the member began participating in a
26 defined contribution plan that meets the requirements of 26 U.S.C. sec.
27 403(b);

- 1 (37) "Participant" means a member, as defined by subsection (8) of this section, or a
2 retired member, as defined by subsection (24) of this section;
- 3 (38) "Qualified domestic relations order" means any judgment, decree, or order,
4 including approval of a property settlement agreement, that:
- 5 (a) Is issued by a court or administrative agency; and
 - 6 (b) Relates to the provision of child support, alimony payments, or marital
7 property rights to an alternate payee;
- 8 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
9 participant, who is designated to be paid retirement benefits in a qualified domestic
10 relations order;
- 11 (40) "Accumulated employer credit" mean the employer pay credit deposited to the
12 member's account and interest credited on such amounts as provided by KRS
13 16.583 and 61.597;
- 14 (41) "Accumulated account balance" means:
- 15 (a) For members who began participating in the system prior to January 1, 2014,
16 the member's accumulated contributions; or
 - 17 (b) For members who began participating in the system on or after January 1,
18 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,
19 the combined sum of the member's accumulated contributions and the
20 member's accumulated employer credit;
- 21 (42) "Volunteer" means an individual who:
- 22 (a) Freely and without pressure or coercion performs hours of service for an
23 employer participating in one (1) of the systems administered by Kentucky
24 Retirement Systems without receipt of compensation for services rendered,
25 except for reimbursement of actual expenses, payment of a nominal fee to
26 offset the costs of performing the voluntary services, or both; and
 - 27 (b) If a retired member, does not become an employee, leased employee, or

1 independent contractor of the employer for which he or she is performing
2 volunteer services for a period of at least twelve (12) months following the
3 retired member's most recent retirement date;

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

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

11 (45) "Monthly average pay" means:

12 (a) In the case of a member who dies as a direct result of an act in line of duty as
13 defined in KRS 16.505 or who dies as a result of a duty-related injury as
14 defined in KRS 61.621, the higher of the member's monthly final rate of pay
15 or the average monthly creditable compensation earned by the deceased
16 member during his or her last twelve (12) months of employment; or

17 (b) In the case where a member becomes totally and permanently disabled as a
18 direct result of an act in line of duty as defined in KRS 16.505 or becomes
19 disabled as a result of a duty-related injury as defined in KRS 61.621 and is
20 eligible for the benefits provided by KRS 61.621(5)(a), the higher of the
21 member's monthly final rate of pay or the average monthly creditable
22 compensation earned by the disabled member during his or her last twelve
23 (12) months of employment prior to the date the act in line of duty or duty-
24 related injury occurred;

25 (46) "Authority" means the Kentucky Public Pensions Authority as provided by KRS
26 61.505;~~and~~

27 (47) "Executive director" means the executive director of the Kentucky Public Pensions

1 Authority; and

2 (48) "Instructional staff" means the employees of a state college or university
 3 participating under Section 4 of this Act who are:

4 (a) Faculty;

5 (b) Staff responsible for teaching; or

6 (b) Other individuals employed in an administrative position that is eligible for
 7 participation in the Teachers' Insurance and Annuity Association (TIAA)
 8 or the Teachers' Retirement System.

9 ➔Section 4. KRS 61.520 is amended to read as follows:

10 (1) Each department determined by the board to be eligible and qualified for
 11 participation shall participate in the system when the Governor by appropriate
 12 executive order, the authority to issue such executive order being granted, directs
 13 such department to participate in the system. The effective date of such participation
 14 shall be determined by the board and fixed by the Governor in his executive order.

15 (2) (a) Notwithstanding the provisions of subsection (1) of this section, the Governor
 16 is authorized to permit any state college or university, which he directs by
 17 appropriate executive order to participate in the system after January 1, 1972,
 18 to include its noninstructional employees in the membership of the system
 19 while excluding the instructional employees of the state college or university
 20 from membership.

21 (b) All employees of an agency participating under authority of paragraph (a) of
 22 this subsection ~~[(2)(a) of this section]~~ shall be considered noninstructional
 23 employees except the members of the instructional staff as defined in Section
 24 3 of this Act ~~[of the state college or university who are responsible for~~
 25 ~~teaching and the administrative positions which are included in the Teachers'~~
 26 ~~Insurance and Annuity Association (TIAA) or the Kentucky Teachers'~~
 27 ~~Retirement System]~~.

1 (3) All executive orders issued under authority of this section since July 1, 1956, are
2 hereby ratified by the General Assembly and each participating and contributing
3 department, board, agency, corporation, board for mental health or individuals with
4 an intellectual disability, or entity participating since that date under such executive
5 order is hereby declared to be a participating department under the Kentucky
6 Employees Retirement System.

7 (4) Except as provided by KRS 61.522:

8 (a) Once a department participates it shall continue to participate as long as it
9 remains qualified; and

10 (b) Any position initially required to participate in the Kentucky Employees
11 Retirement System shall continue to participate as long as the position exists.

12 ➔Section 5. KRS 61.565 is 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 and the Kentucky Employees
15 Retirement System as provided for in KRS 61.510 to 61.705 shall contribute
16 annually to the respective retirement system an amount determined by the
17 actuarial valuation completed in accordance with KRS 61.670 and as specified
18 by this section. Employer contributions for each respective retirement system
19 shall be equal to the sum of the "normal cost contribution" and the "actuarially
20 accrued liability contribution."

21 (b) For purposes of this section, the normal cost contribution shall be computed as
22 a percentage of pay and shall be an annual amount that is sufficient when
23 combined with employee contributions to fund benefits earned during the year
24 in the respective system. The amount shall be:

25 1. Paid as a percentage of creditable compensation reported for each
26 employee participating in the system and accruing benefits; and

27 2. The same percentage of pay for all employees who are participating in

1 the same retirement system, except that separate percentage rates shall
2 be developed in each system for those employers whose employees are
3 participating in hazardous duty retirement coverage as provided by KRS
4 61.592.

5 (c) For purposes of this section, the actuarially accrued liability contribution for
6 all employers, except for contributions paid by nonhazardous employers in the
7 Kentucky Employees Retirement System on or after July 1, 2021, shall be:

8 1. Computed by amortizing the total unfunded actuarially accrued liability
9 of each system over a closed period of thirty (30) years beginning with
10 the 2019 actuarial valuation using the level percentage of payroll
11 amortization method, except that any increase or decrease in the
12 unfunded actuarially accrued liability occurring after the completion of
13 the 2019 actuarial valuation shall be amortized over a closed period of
14 twenty (20) years beginning with the actuarial valuation in which the
15 increase or decrease in the unfunded actuarially accrued liability is
16 recognized. An increase or decrease in the unfunded actuarially accrued
17 liability may result from, but not be limited to, legislative changes to
18 benefits, changes in actuarial methods or assumptions, or actuarial gains
19 or losses;

20 2. Paid as a percentage of payroll on the creditable compensation reported
21 for each employee participating in the system and accruing benefits; and

22 3. The same percentage of pay for all employees who are participating in
23 the same retirement system, except that separate percentage rates shall
24 be developed in each system for those employers whose employees are
25 participating in hazardous duty retirement coverage as provided by KRS
26 61.592.

27 (d) 1. For purposes of this section, the actuarially accrued liability contribution

1 for nonhazardous employers in the Kentucky Employees Retirement
2 System on or after July 1, 2021:

3 a. Shall be an annual dollar amount that is sufficient to amortize the
4 total unfunded actuarially accrued liability of the system over a
5 closed period of thirty (30) years beginning with the 2019 actuarial
6 valuation using the level percentage of payroll amortization
7 method, except that any increase or decrease in the unfunded
8 actuarially accrued liability occurring after the completion of the
9 2019 actuarial valuation shall be amortized over a closed period of
10 twenty (20) years beginning with the actuarial valuation in which
11 the increase or decrease in the unfunded actuarially accrued
12 liability is recognized. An increase or decrease in the unfunded
13 actuarially accrued liability may result from but not be limited to
14 legislative changes to benefits, changes in actuarial methods or
15 assumptions, or actuarial gains or losses;

16 b. Shall be prorated to each individual nonhazardous employer in the
17 Kentucky Employees Retirement System by multiplying the annual
18 dollar amount of the actuarially accrued liability contribution for
19 the system as determined by subdivision a. of this subparagraph by
20 the individual employer's percentage of the system's total
21 actuarially accrued liability as of the June 30, 2019, actuarial
22 valuation which shall be determined solely by the system's
23 consulting actuary and assigned to each employer based upon the
24 last participating employer of the member or retiree as of June 30,
25 2019. The individual employer's percentage of the system's total
26 actuarially accrued liability as of the June 30, 2019, actuarial
27 valuation shall be used to determine the individual employer's

1 prorated dollar amount of the system's actuarially accrued liability
2 contribution in all future fiscal years of the amortization period or
3 periods, except that the employer's percentage shall be adjusted to
4 reflect any employer who voluntarily or involuntarily ceases
5 participation as provided by KRS 61.522 and except as provided
6 by subparagraphs 4. and 5. of this paragraph. For purposes of this
7 subdivision, all executive branch departments, program cabinets
8 and their respective departments, and administrative bodies
9 enumerated in KRS 12.020, and any other executive branch
10 agencies administratively attached to a department, program
11 cabinet, or administrative body enumerated in KRS 12.020, shall
12 be considered a single individual employer and only one (1) value
13 shall be computed for these executive branch employers. For
14 purposes of this subdivision, all employers of the legislative
15 branch, including the Legislative Research Commission and the
16 General Assembly that covers legislators and staff who participate
17 in the Kentucky Employees Retirement System, shall be
18 considered a single individual employer and only one (1) value
19 shall be computed for these employers. For purposes of this
20 subdivision, all employers of the judicial branch, including the
21 Administrative Office of the Courts, the Judicial Form Retirement
22 System, and all master commissioners, shall be considered a single
23 individual employer and only one (1) value shall be computed for
24 these employers;

25 c. Shall be payable by an individual employer in equal monthly dollar
26 installments during the fiscal year in accordance with the reporting
27 requirements specified by KRS 61.675 so that the individual

- 1 employer pays its full prorated dollar amount of the actuarially
2 accrued liability contribution as determined by subdivision b. of
3 this subparagraph; and
- 4 d. Notwithstanding subdivision b. of this subparagraph for those
5 individual participating employers who are local and district health
6 departments governed by KRS Chapter 212, community mental
7 health centers, and employers whose employees are not subject to
8 KRS 18A.005 to 18A.200, who received or were eligible to
9 receive a distribution of general fund appropriations in the 2018-
10 2020 biennial executive branch budget to assist in paying
11 retirement costs under 2018 Ky. Acts ch. 169, Part I, G., 4., (5);
12 2018 Ky. Acts ch. 169, Part I, G., 5., (2); or 2018 Ky. Acts ch. 169,
13 Part I, G., 9., (2), shall not, once the initial dollar amounts are
14 established in accordance with this paragraph, be adjusted in terms
15 of dollars paid by the individual employer, except that adjustments
16 shall be made by the system upon completion of an actuarial
17 investigation as provided by KRS 61.670, so long as at least four
18 (4) years have passed since the last adjustment to the actuarially
19 accrued liability contribution for these employers. The provisions
20 of this subdivision shall not be interpreted to mean that employers
21 described by this subdivision may continue paying the dollar value
22 of contributions or employer contribution rates established or paid
23 by the employer in budget periods occurring prior to July 1, 2021.
- 24 2. Individual employers, solely for purposes of collecting employer
25 contributions from various fund sources during the fiscal year, may
26 convert the actuarially accrued liability contribution established by this
27 paragraph to a percentage of pay and may adjust the percent of pay

1 during the fiscal year in order to pay the required dollar value of
2 actuarially accrued liability contribution required by this paragraph. No
3 provision of this subparagraph shall be construed to reduce an individual
4 employer's actuarially accrued liability contribution as otherwise
5 provided by this paragraph.

6 3. The provisions of this paragraph shall not apply to those employers who
7 cease participation as provided by KRS 61.522.

8 4. In the event an individual Kentucky Employees Retirement System
9 nonhazardous employer who is required to pay an actuarially accrued
10 liability contribution as provided by this paragraph and as calculated
11 from the 2019 actuarial valuation or subsequent valuations, merges with
12 another employer or entity, forms a new or separate employer or entity,
13 or splits or separates operations into multiple employers or entities, the
14 system shall, except for those employers or entities who pay the costs to
15 cease participation as provided by KRS 61.522, have full authority to
16 assign a portion or all of the total actuarially accrued liability
17 contribution to the merged, new, split, or separate employers or entities,
18 regardless of whether or not the merged, new, split, or separate
19 employers or entities participate in the system. In the case of a district
20 health department established pursuant to KRS Chapter 212, which
21 ceases to operate or which has a county or counties that withdraw from
22 the district health department, the systems shall assign the total
23 actuarially accrued liability contribution based upon the proportion of
24 taxable property of each county as certified by the Department for Public
25 Health in the Cabinet for Health and Family Services in accordance with
26 KRS 212.132. The system shall establish by administrative regulations
27 the process of assigning actuarially accrued liability contributions as

1 authorized by this subparagraph.

- 2 5. a. An employer who is not in the executive, legislative, or judicial
3 branch of Kentucky state government as enumerated in
4 subparagraph 1.b. of this paragraph may on or before July 1, 2021,
5 appeal to the board regarding any current or former employees or
6 retirees the employer believes should not be used to determine the
7 employer's percentage of the system's total actuarially accrued
8 liability. The only appeals that shall be submitted by the employer
9 or considered by the board shall be potential errors where the last
10 participating employer is in dispute, situations where employees of
11 the employer were hired through a contract between the executive
12 branch and the employer for the employee to provide services to
13 the executive branch, or situations where a community mental
14 health center was contracted to provide services at a facility
15 previously operated by the executive branch. The employer shall
16 submit the information required by the board to verify potential
17 errors or contract employees with employers.
- 18 b. The board shall review and issue a final determination regarding
19 any appeals by December 31, 2021. In situations where the board
20 determines the last participating employer was incorrect and
21 should be assigned to another employer, the system shall, effective
22 for employer contributions payable on or after July 1, 2022, assign
23 the cost to the executive branch until such time ownership of the
24 liability can be determined and assigned to the correct employer. In
25 situations where the board determines certain employees of
26 employers were hired through a contract between the executive
27 branch and the employer for an employee or employees to provide

1 services to the executive branch, those liabilities shall, effective for
2 employer contributions payable on or after July 1, 2022, be
3 assigned to the executive branch. In situations where the board
4 determines the community mental health center was contracted to
5 provide services at a facility previously operated by the executive
6 branch, the liabilities for employees providing services at that
7 facility shall, effective for employer contributions payable on or
8 after July 1, 2022, be assigned to the executive branch.

9 c. No appeal shall be submitted by the employer or considered by the
10 board regarding the assumptions or methodology used by the
11 actuary to determine a particular employer's percentage of the
12 system's total actuarially accrued liability or the use of the last
13 participating employer to assign liabilities to an employer, except
14 as otherwise provided by this subparagraph.

15 d. The board shall within thirty (30) days following the final
16 determinations submit to the Public Pension Oversight Board the
17 list of appeals that were approved, the number of employees
18 involved, and any costs that will be transferred to the executive
19 branch effective July 1, 2022.

20 (e) The employer contributions computed under this section shall be determined
21 using:

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

27 (2) (a) Except as limited by subsection (1)(d)1.d. of this section as it relates to the

1 Kentucky Employees Retirement System, normal cost contribution rates and
2 the actuarially accrued liability contribution shall be determined by the board
3 on the basis of the annual actuarial valuation last preceding the July 1 of a new
4 biennium.

5 (b) The board shall not have the authority to amend contribution rates as of July 1
6 of the second year of the biennium for the Kentucky Employees Retirement
7 System and the State Police Retirement System.

8 (3) The system shall advise each employer prior to July 1 of any change in the employer
9 contribution rate. Based on the employer contribution rate, each employer shall
10 include in the budget sufficient funds to pay the employer contributions as
11 determined by the board under this section.

12 (4) All employers, including the General Assembly, shall pay the full actuarially
13 required contributions, as prescribed by this section, to the Kentucky Employees
14 Retirement System and the State Police Retirement System in fiscal years occurring
15 on or after July 1, 2020.

16 ➔Section 6. KRS 61.590 is amended to read as follows:

17 (1) (a) A member or beneficiary eligible to receive retirement benefits under any of
18 the provisions of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to
19 16.652 shall have on file at the retirement office on the form prescribed by the
20 board, a correctly completed notification of retirement, giving his or her name,
21 address, Social Security number or Kentucky **Public Pensions**
22 **Authority**~~[Retirement Systems]~~ member identification number, last day of
23 employment, and other information the **Authority**~~[system]~~ may require. The
24 form entitled "Notification of Retirement" shall not be filed more than six (6)
25 months before the member's effective retirement date.

26 (b) A member eligible to receive retirement benefits under any of the provisions
27 of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to 16.652 shall certify

1 in writing on the "Notification of Retirement" form or another form prescribed
2 by the board that no prearranged agreement existed prior to the member's
3 retirement between the member and any participating agency in the systems
4 administered by the Kentucky Retirement Systems or any participating
5 agency in the County Employees Retirement System for the member to
6 return to employment with the participating agency. No retirement benefits
7 shall be paid to the member until the member completes the certification
8 required by this paragraph.

9 (2) After receipt of the correctly completed form entitled "Notification of Retirement",
10 the Authority~~[system]~~ shall cause to be prepared an estimate of the amounts the
11 member or beneficiary may expect to receive under the various plans available to
12 the member or beneficiary. This information shall be recorded on a form entitled
13 "Estimated Retirement Allowance" and forwarded to the member or beneficiary.

14 (3) The member or beneficiary shall file at the retirement office the form entitled
15 "Estimated Retirement Allowance" after he or she has checked one (1) payment
16 option of his or her choice, signed the document, and had his or her signature
17 witnessed. A member shall not have the right to select a different payment option on
18 or after the first day of the month in which the member receives his or her first
19 retirement allowance or after the effective date of a deferred retirement option as
20 provided by subsection (6) of this section, except as provided by KRS 61.542(5). A
21 beneficiary shall not have the right to select a different payment option after the
22 effective date of the beneficiary's retirement allowance as provided in subsection (7)
23 of this section.

24 (4) A member or beneficiary choosing a monthly payment option shall have on file at
25 the retirement office his or her birth certificate or other acceptable evidence of date
26 of birth. If a survivorship option is chosen, proof of dates of birth of the beneficiary
27 and member shall be on file at the retirement office.

- 1 (5) (a) The effective date of normal retirement shall be the first month following the
2 month in which employment from all employers participating in any of the
3 systems administered by Kentucky Retirement Systems **and all employers**
4 **participating in the County Employees Retirement System** was terminated.
- 5 (b) The effective date of disability retirement shall be the first month following
6 the month in which the member's last day of paid employment in a regular
7 full-time position occurred, provided the member files the form entitled
8 "Estimated Retirement Allowance" no later than six (6) months following the
9 date the notification of approval for disability retirement benefits is **sent by**
10 **United States first-class mail to the member's last address on file in the**
11 **retirement office, by electronic mail to the member's last electronic mail**
12 **address on file in the retirement office, or by other electronic**
13 **means**~~mailed~~. If the member fails to file the form entitled "Estimated
14 Retirement Allowance" within six (6) months of the date the notification of
15 approval for disability retirement benefits is ~~sent~~~~mailed~~, then the member's
16 form entitled "Notification of Retirement" shall be void. The member shall be
17 required to submit a new form entitled "Notification of Retirement" to apply
18 for disability retirement and reestablish eligibility for disability retirement
19 benefits.
- 20 (c) The effective date of early retirement shall be the first month following the
21 month a correctly completed form entitled "Notification of Retirement" is
22 filed at the retirement office or a future month designated by the member, if
23 employment from all employers participating in any of the systems
24 administered by Kentucky Retirement Systems **and all employers**
25 **participating in the County Employees Retirement System** has been
26 terminated and if the member files the form entitled "Estimated Retirement
27 Allowance" no later than six (6) months following termination. If the member

1 fails to file the form entitled "Estimated Retirement Allowance" within six (6)
2 months following the effective retirement date of the member, then the
3 member's form entitled "Notification of Retirement" shall be void and the
4 member shall be required to submit a new form entitled "Notification of
5 Retirement" to apply for early retirement.

6 (6) The effective date of a deferred retirement option as provided under KRS 16.576(5)
7 shall be the month following age sixty-five (65), or the month following written
8 notification from the member that he or she wishes to begin receiving retirement
9 payments. In the event of the death of a member who has deferred his or her
10 retirement allowance, the effective date of retirement shall be the month following
11 the member's death.

12 (7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a
13 beneficiary's retirement allowance under normal, early, or disability retirement shall
14 be as prescribed in subsection (5) or (6) of this section if the member dies before the
15 first day of the month in which the member would have received his or her first
16 retirement allowance and his or her beneficiary becomes eligible for payments
17 under KRS 16.578 or 61.640.

18 ➔Section 7. KRS 61.610 is amended to read as follows:

19 (1) Once each year following the retirement of a person on a disability retirement
20 allowance, except for persons who become totally and permanently disabled as a
21 direct result of an act in line of duty as defined in KRS 16.505 or become disabled
22 as a result of a duty-related injury as defined in KRS 61.621 in which case shall be
23 once every three (3) years following retirement, or less frequently as determined by
24 the board's medical examiner but not less than once every five (5) years, the system
25 may require the person, prior to his or her normal retirement date, to undergo an
26 employment and medical staff review and, if necessary, be required to file at the
27 retirement office on the review form prescribed by the board current employment

1 information and current medical information for the bodily injury, mental illness, or
2 disease for which he or she receives a disability retirement allowance. The person
3 shall have one hundred eighty (180) days from the day the system ~~sent~~~~mailed~~ the
4 review form **by United States first-class mail** to the person's last address on file in
5 the retirement office, **by electronic mail to the person's last electronic mail address**
6 **on file in the retirement office, or by other electronic means**, to file at the
7 retirement office the review form and the current employment and medical
8 information. The person shall certify to the retirement office that the review form,
9 including current employment and medical information, is ready to be evaluated by
10 the medical examiner in accordance with KRS 61.615.

11 (2) If, after good faith efforts, the person informs the system that he or she has been
12 unable to obtain the employment or medical information, the system shall assist the
13 person in obtaining the records and may use the authority granted pursuant to KRS
14 61.685(1) to obtain the records.

15 (3) If the person fails or refuses to file at the retirement office the review form,
16 including the current employment and medical information, his or her retirement
17 allowance shall be discontinued or reduced on the first day of the month following
18 the expiration of the one hundred eighty (180) days from the day the system
19 ~~sent~~~~mailed~~ the review form **by United States first-class mail** to the person's last
20 address on file in the retirement office, **by electronic mail to the person's last**
21 **electronic mail address on file in the retirement office, or by other electronic**
22 **means**. The ~~Authority~~~~system~~ shall send notice of the discontinuance or reduction
23 of the disability retirement allowance by United States first-class mail to the
24 person's last address on file in the retirement office, **by electronic mail to the**
25 **person's last electronic mail address on file in the retirement office, or by other**
26 **electronic means**. If the person's benefits are discontinued or reduced under this
27 section, his or her rights to further disability retirement allowances shall cease,

1 except as provided by KRS 61.615.

2 (4) The **Kentucky Public Pensions Authority**~~[system]~~ shall hire or contract for the
3 services of **one (1) or more investigators**~~[an investigator]~~ to investigate potential
4 fraud involving disability benefits with the system. The **investigators**~~[investigator]~~
5 shall evaluate potential cases of disability fraud and conduct spot audits for
6 potential fraud as determined by the system in cases involving members who
7 become totally and permanently disabled as a direct result of an act in line of duty
8 as defined in KRS 16.505 or become disabled as a result of a duty-related injury as
9 defined in KRS 61.621.

10 ➔Section 8. KRS 61.615 is amended to read as follows:

11 (1) If the board's medical examiner determines that a recipient of a disability retirement
12 allowance is, prior to his or her normal retirement date, employed in a position with
13 the same or similar duties, or in a position with duties requiring greater residual
14 functional capacity and physical exertion, as the position from which he or she was
15 disabled, except where the recipient has returned to work on a trial basis not to
16 exceed nine (9) months, the system may reduce or discontinue the retirement
17 allowance. Each recipient of a disability retirement allowance who is engaged in
18 gainful employment shall notify the system of any employment; otherwise, the
19 system shall have the right to recover payments of a disability retirement allowance
20 made during the employment.

21 (2) If the board's medical examiner determines that a recipient of a disability retirement
22 allowance is, prior to his or her normal retirement date, no longer incapacitated by
23 the bodily injury, mental illness, or disease for which he or she receives a disability
24 retirement allowance, the board may reduce or discontinue the retirement
25 allowance.

26 (3) The system shall have full power and exclusive authority to reduce or discontinue a
27 disability retirement allowance and the system shall utilize the services of a medical

1 examiner as provided in KRS 61.665, in determining whether to continue, reduce,
2 or discontinue a disability retirement allowance under this section.

3 (a) The system shall select a medical examiner to evaluate the forms and medical
4 information submitted by the person. If there is objective medical evidence of
5 a mental impairment, the medical examiner may request the board's licensed
6 mental health professional to assist in determining the level of the mental
7 impairment.

8 (b) The medical examiners shall be paid a reasonable amount by the retirement
9 system for each case evaluated.

10 (c) The medical examiner shall recommend that disability retirement allowance
11 be continued, reduced, or discontinued.

12 1. If the medical examiner recommends that the disability retirement
13 allowance be continued, the system shall make retirement payments in
14 accordance with the retirement plan selected by the person.

15 2. If the medical examiner recommends that the disability retirement
16 allowance be reduced or discontinued, the system shall send notice of
17 the recommendation by United States first-class mail to the person's last
18 address on file in the retirement office, by electronic mail to the
19 person's last electronic mail address on file in the retirement office, or
20 by other electronic means.

21 a. The person shall have sixty (60) days from the day that the system
22 ~~sent~~^{mailed} the notice to file at the retirement office additional
23 supporting employment or medical information and certify to the
24 retirement office that the forms and additional supporting
25 employment information or medical information are ready to be
26 evaluated by the medical examiner or to appeal the
27 recommendation of the medical examiner to reduce or discontinue

1 the disability retirement allowance by filing at the retirement office
2 a request for a formal hearing.

3 b. If the person fails or refuses to file at the retirement office the
4 forms, the additional supporting employment information, and
5 current medical information or to appeal the recommendation of
6 the medical examiners to reduce or discontinue the disability
7 retirement allowance, his or her retirement allowance shall be
8 discontinued on the first day of the month following the expiration
9 of the period of the sixty (60) days from the day the system
10 ~~sent~~^{mailed} the notice of the recommendation **by United States**
11 **first-class mail** to the person's last address on file in the retirement
12 office, **by electronic mail to the person's last electronic mail**
13 **address on file in the retirement office, or by other electronic**
14 **means.**

15 (d) The medical examiner shall make a recommendation based upon the
16 evaluation of additional supporting medical information submitted in
17 accordance with paragraph (c)2.a. of this subsection.

18 1. If the medical examiner recommends that the disability retirement
19 allowance be continued, the system shall make disability retirement
20 payments in accordance with the retirement plan selected by the person.

21 2. If the medical examiner recommends that the disability retirement
22 allowance be reduced or discontinued based upon the evaluation of
23 additional supporting medical information, the system shall send notice
24 of this recommendation by United States first-class mail to the person's
25 last address on file in the retirement office, **by electronic mail to the**
26 **person's last electronic mail address on file in the retirement office, or**
27 **by other electronic means.**

- 1 a. The person shall have sixty (60) days from the day that the system
2 ~~sent~~~~mailed~~ the notice of the recommendation to appeal the
3 recommendation to reduce or discontinue the disability retirement
4 allowance by filing at the retirement office a request for formal
5 hearing.
- 6 b. If the person fails or refuses to appeal the recommendation of the
7 medical examiners to reduce or discontinue the disability
8 retirement allowance, his or her retirement allowance shall be
9 discontinued on the first day of the month following the expiration
10 of the period of the sixty (60) days from the day the system
11 ~~sent~~~~mailed~~ the notice of the recommendation **by United States**
12 **first-class mail** to the person's last address on file in the retirement
13 office, **by electronic mail to the person's last electronic mail**
14 **address on file in the retirement office, or by other electronic**
15 **means.**
- 16 (e) Any person whose disability benefits have been reduced or discontinued,
17 pursuant to paragraph (c)2. or (d)2. of this subsection, may file at the
18 retirement office a request for formal hearing to be conducted in accordance
19 with KRS Chapter 13B. The right to demand a formal hearing shall be limited
20 to a period of sixty (60) days after the person had notice, as described in
21 paragraph (c) or (d) of this subsection. The request for formal hearing shall be
22 filed with the system, at the retirement office in Frankfort. The request for
23 formal hearing shall include a short and plain statement of the reasons the
24 reduction, discontinuance, or denial of disability retirement is being contested.
- 25 (f) Failure of the person to request a formal hearing within the period of time
26 specified shall preclude the person from proceeding any further with
27 contesting the reduction or discontinuation of disability retirement allowance,

1 except as provided in subsection (6)(d) of this section. This paragraph shall
2 not limit the person's right to appeal to a court.

3 (g) A final order of the board shall be based on substantial evidence appearing in
4 the record as a whole and shall set forth the decision of the board and the facts
5 and law upon which the decision is based. If the board orders that the person's
6 disability retirement allowance be discontinued or reduced, the order shall
7 take effect on the first day of the month following the day the system
8 ~~sent~~~~mailed~~ the order **by United States first-class mail** to the person's last
9 address on file in the retirement office, **by electronic mail to the person's last**
10 **electronic mail address on file in the retirement office, or by other electronic**
11 **means**. Judicial review of the final board order shall not operate as a stay and
12 the system shall discontinue or reduce the person's disability retirement
13 allowance as provided in this section.

14 (h) Notwithstanding any other provisions of this section, the system may require
15 the person to submit to one (1) or more medical or psychological
16 examinations at any time. The system shall be responsible for any costs
17 associated with any examinations of the person requested by the medical
18 examiner or the system for the purpose of providing medical information
19 deemed necessary by the medical examiner or the system. Notice of the time
20 and place of the examination shall be **provided**~~mailed~~ to the person or his or
21 her legal representative. If the person fails or refuses to submit to one (1) or
22 more medical examinations, his or her rights to further disability retirement
23 allowance shall cease.

24 (i) All requests for a hearing pursuant to this section shall be made in writing.

25 (4) The board may establish an appeals committee whose members shall be appointed
26 by the chair and who shall have the authority to act upon the recommendations and
27 reports of the hearing officer pursuant to this section on behalf of the board.

- 1 (5) Any person aggrieved by a final order of the board may seek judicial review after all
2 administrative appeals have been exhausted by filing a petition for judicial review
3 in the Franklin Circuit Court in accordance with KRS Chapter 13B.
- 4 (6) If a disability retirement allowance is reduced or discontinued for a person who
5 began participating in the system prior to January 1, 2014, the person may apply for
6 early retirement benefits as provided under KRS 61.559, subject to the following
7 provisions:
- 8 (a) The person may not change his or her beneficiary or payment option, except
9 as provided by KRS 61.542(5);
- 10 (b) If the person has returned to employment with an employer participating in
11 one (1) of the systems administered by Kentucky Retirement Systems, the
12 service and creditable compensation shall be used in recomputing his or her
13 benefit, except that the person's final compensation shall not be less than the
14 final compensation last used in determining his or her retirement allowance;
- 15 (c) The benefit shall be reduced as provided by KRS 61.595(2);
- 16 (d) The person shall remain eligible for reinstatement of his or her disability
17 allowance upon reevaluation by the medical review board until his or her
18 normal retirement age. The person shall apply for reinstatement of disability
19 benefits in accordance with the provisions of this section. An application for
20 reinstatement of disability benefits shall be administered as an application
21 under KRS 61.600, and only the bodily injuries, mental illnesses, diseases, or
22 conditions for which the person was originally approved for disability benefits
23 shall be considered. Bodily injuries, mental illnesses, diseases, or conditions
24 that came into existence after the person's last day of paid employment shall
25 not be considered as a basis for reinstatement of disability benefits. Bodily
26 injuries, mental illnesses, diseases, or conditions alleged by the person as
27 being incapacitating, but which were not the basis for the award of disability

1 retirement benefits, shall not be considered. If the person establishes that the
2 disability benefits should be reinstated, the retirement system shall pay
3 disability benefits effective from the first day of the month following the
4 month in which the person applied for reinstatement of the disability benefits;
5 and

6 (e) Upon attaining normal retirement age, the person shall receive the higher of
7 either his or her disability retirement allowance or his or her early retirement
8 allowance.

9 (7) **If a disability retirement allowance is reduced or discontinued for a person who**
10 **began participating in the system on or after January 1, 2014, the person shall**
11 **remain eligible for reinstatement of his or her disability allowance as provided**
12 **under subsection (6)(d) of this section.**

13 **(8)** No disability retirement allowance shall be reduced or discontinued by the system
14 after the person's normal retirement date except in case of reemployment as
15 provided for by KRS 61.637. If a disability retirement allowance has been reduced
16 or discontinued, except if the person is reemployed as provided for by KRS 61.637,
17 the retirement allowance shall be reinstated upon attainment of the person's normal
18 retirement date to the retirement allowance prior to adjustment. No reinstated
19 payment shall be less than the person is receiving upon attainment of the person's
20 normal retirement date.

21 ➔Section 9. KRS 61.635 is amended to read as follows:

22 (1) Each member shall have the right to elect to have his **or her** retirement allowance
23 payable under any one (1) of the options set forth in this section in lieu of the
24 retirement allowance otherwise payable to **the member**~~[him]~~ upon retirement under
25 any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to
26 78.852. The amount of any optional retirement allowance shall be actuarially
27 equivalent to the amount of retirement allowance otherwise payable to **the**

- 1 member~~[him]~~.
- 2 (2) Survivorship one hundred percent (100%). The member may elect to receive a
3 decreased retirement allowance during his or her lifetime and have the retirement
4 allowance continued after the member's~~[his]~~ death to his or her beneficiary during
5 the lifetime of the person.
- 6 (3) Survivorship sixty-six and two-thirds percent (66-2/3%). The member may elect to
7 receive a decreased retirement allowance during his or her lifetime and have two-
8 thirds (2/3) of the retirement allowance continue after the member's~~[his]~~ death to
9 his or her beneficiary during the lifetime of the person.
- 10 (4) Survivorship fifty percent (50%). The member may elect to receive a decreased
11 retirement allowance during his or her lifetime and have one-half (1/2) of the
12 retirement allowance continued after the member's~~[his]~~ death to his or her
13 beneficiary during the lifetime of the person.
- 14 (5) Life with ten (10) years certain. The member less than age seventy-six (76) may
15 elect to receive a monthly retirement allowance during his or her lifetime which
16 shall guarantee payments for one hundred twenty (120) months. If the member dies
17 before receiving payments for one hundred twenty (120) months, the member's~~[his]~~
18 beneficiary shall receive the remaining payments monthly, for the duration of the
19 one hundred twenty (120) months' period. However, if the trust is designated as
20 beneficiary, the trustee of the trust may elect to receive a lump-sum payment which
21 shall be the actuarial equivalent to the remaining payments, or the trustee may elect
22 to continue the remaining monthly payments to the trust of the member. If the estate
23 is designated as beneficiary, the estate shall receive a lump-sum payment which
24 shall be the actuarial equivalent to the remaining payments.
- 25 (6) Life with fifteen (15) years certain. The member less than age sixty-eight (68) may
26 elect to receive a monthly retirement allowance during his or her lifetime which
27 shall guarantee payments for one hundred and eighty (180) months. If the member

1 dies before receiving payments for one hundred and eighty (180) months, ***the***
2 ***member's***~~his~~ beneficiary shall receive the remaining payments monthly for the
3 duration of the one hundred and eighty (180) months' period. However, if the trust
4 is designated as beneficiary, the trustee of the trust may elect to receive a lump-sum
5 payment which shall be the actuarial equivalent to the remaining payments, or the
6 trustee may elect to continue the remaining payments to the trust of the member. If
7 the estate is designated as beneficiary, the estate shall receive a lump-sum payment
8 which shall be the actuarial equivalent to the remaining payments.

9 (7) Life with twenty (20) years certain. The member less than age sixty-two (62) may
10 elect to receive a monthly retirement allowance during his ***or her*** lifetime which
11 shall guarantee payments for two hundred and forty (240) months. If the member
12 dies before receiving payments for two hundred and forty (240) months, ***the***
13 ***member's***~~his~~ beneficiary shall receive the remaining payments for the duration of
14 the two hundred and forty (240) months period. However, if the trust is beneficiary,
15 the trustee of the trust may elect to receive a lump-sum payment which shall be the
16 actuarial equivalent to the remaining payments, or the trustee may elect to continue
17 the remaining payments to the trust of the member. If the estate is designated as
18 beneficiary, the estate shall receive a lump-sum payment which shall be the
19 actuarial equivalent to the remaining payments.

20 (8) Social Security adjustment options. These options shall be available to any member
21 who has not attained age sixty-two (62) as follows:

22 (a) No survivor rights. The member may elect to receive an increased retirement
23 allowance from his ***or her*** effective retirement date through the month he ***or***
24 ***she*** attains age sixty-two (62) at which time his retirement allowance shall be
25 decreased for the remainder of his ***or her*** lifetime;

26 (b) Survivor rights. The member may elect to receive an increased retirement
27 allowance from his ***or her*** effective retirement date through the month he

1 attains age sixty-two (62) based on the option payable under subsection (2) of
2 this section, if the retirement allowance shall be decreased in the month
3 following the month he or she attains age sixty-two (62), or the month
4 following the month he or she would have attained age sixty-two (62), in
5 event of the member's~~[his]~~ death, and have the retirement allowance continue
6 after the member's~~[his]~~ death to his or her beneficiary during the lifetime of
7 the person.

8 (9) Beneficiary Social Security adjustment option. This option is available to the
9 beneficiary of a deceased member if the beneficiary, who is a person, has not
10 attained age sixty (60), and is eligible to receive Social Security payments at age
11 sixty (60). The beneficiary may elect to receive during his or her lifetime an
12 increased retirement allowance based on his or her annual benefit payable for life.
13 The payment shall begin on his or her effective retirement date and continue
14 through the month he or she attains age sixty (60) at which time his or her
15 retirement allowance shall be decreased for the remainder of his or her lifetime.

16 (10) Pop-up option. The member may elect to receive a decreased retirement allowance
17 during his or her lifetime and have the retirement allowance continued after the
18 member's~~[his]~~ death to his or her beneficiary during the lifetime of the person. If
19 the beneficiary dies prior to the member, or if the beneficiary is the member's
20 spouse and they divorce, the member's retirement allowance shall increase to the
21 amount that would have been payable as a single life annuity.

22 (11) Actuarial equivalent refund. A member who began participating in the system prior
23 to January 1, 2014, may elect to receive a one (1) time lump-sum payment which
24 shall be the actuarial equivalent of the amount payable for a period of sixty (60)
25 months under KRS 61.595 (1).

26 (12) Partial lump-sum option.

27 (a) No survivor rights. A member retiring on or before January 1, 2009, may elect

1 to receive a one-time lump-sum payment equal to twelve (12), twenty-four
2 (24), or thirty-six (36) monthly retirement allowances payable under the
3 applicable retirement formula for the system and receive a reduced monthly
4 retirement allowance payable for his or her lifetime. The lump-sum payment
5 shall be paid in the month the first monthly retirement allowance is payable.

6 (b) Survivor rights. A member retiring on or before January 1, 2009, may elect to
7 receive a one-time lump-sum payment equal to twelve (12), twenty-four (24),
8 or thirty-six (36) monthly retirement allowances payable under subsection (2)
9 of this section and receive a reduced monthly retirement allowance payable for
10 his or her lifetime. The lump-sum payment shall be paid in the month the first
11 monthly retirement allowance is payable. The reduced retirement allowance
12 shall be continued after the member's death to his or her beneficiary during
13 the lifetime of the person.

14 (13) The other provisions of this section notwithstanding, the beneficiary of a retired
15 member of the General Assembly shall, after the member's death, receive sixty-six
16 and two-thirds percent (66-2/3%) of the member's retirement allowance during his
17 or her lifetime if the member of the General Assembly began participating in the
18 system prior to January 1, 2014, and has elected this option and has made
19 contributions in accordance with subsection (14) of this section and of KRS 61.560.
20 The retirement allowance of the retired member of the General Assembly shall not
21 be actuarially reduced to provide for this survivor benefit.

22 (14) A member of the General Assembly who began participating in the system prior to
23 January 1, 2014, who wishes to obtain the survivorship option specified in
24 subsection (13) of this section shall so notify the Kentucky Public Pensions
25 Authority~~[retirement systems]~~:

26 (a) Within thirty (30) days after first becoming a member of the General
27 Assembly if he or she is not a member of the General Assembly on July 15,

1 1980; or

2 (b) Within thirty (30) days after July 15, 1980, if he or she is a member of the
3 General Assembly on July 15, 1980.

4 (15) The system shall forward to members of the General Assembly a form on which a
5 member who began participating in the system prior to January 1, 2014, may elect
6 the option provided for in subsections (13) and (14) of this section.

7 (16) The options described in subsections (2), (3), (4), (8)(b), (10), (12)(b), and (13) of
8 this section shall be extended to the member only if the designated beneficiary is a
9 person.

10 ➔Section 10. KRS 61.637 is amended to read as follows:

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

20 (2) Employer and employee contributions shall be made as provided in KRS 61.510 to
21 61.705 and 78.510 to 78.852 on the compensation paid during reemployment,
22 except where monthly payments were not suspended as provided in subsection (1)
23 of this section or would not increase the retired member's last monthly retirement
24 allowance by at least one dollar (\$1), and the member shall be credited with
25 additional service credit.

26 (3) In the month following the termination of reemployment, retirement allowance
27 payments shall be reinstated under the plan under which the member was receiving

1 payments prior to reemployment.

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

8 (b) If the retired member is paid suspended payments retroactively in accordance
9 with this section, employee contributions deducted during his or her period of
10 reemployment, if any, shall be refunded to the retired employee, and no
11 service credit shall be earned for the period of reemployment.

12 (c) If the retired member is not eligible to be paid suspended payments for his or
13 her period of reemployment as an employee, his or her retirement allowance
14 shall be recomputed under the plan under which the member was receiving
15 payments prior to reemployment as follows:

16 1. The retired member's final compensation shall be recomputed using
17 creditable compensation for his or her period of reemployment;
18 however, the final compensation resulting from the recalculation shall
19 not be less than that of the member when his or her retirement allowance
20 was last determined;

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

24 3. If the retired member initially retired prior to his or her normal
25 retirement date, his or her retirement allowance shall be recomputed
26 using the formula in KRS 61.595(2), except that the member's age used
27 in computing benefits shall be his or her age at the time of his or her

1 initial retirement increased by the number of months of service credit
2 earned for service performed during reemployment;

3 4. The retirement allowance payments resulting from the recomputation
4 under this subsection shall be payable in the month following the
5 termination of reemployment in lieu of payments under subparagraph 3.
6 of this paragraph. The member shall not receive less in benefits as a
7 result of the recomputation than he or she was receiving prior to
8 reemployment or would receive as determined under KRS 61.691; and

9 5. Any retired member who was reemployed prior to March 26, 1974, shall
10 begin making contributions to the system in accordance with the
11 provisions of this section on the first day of the month following March
12 26, 1974.

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

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

25 (b) A retired member who has been ordered reinstated by the Personnel Board
26 under authority of KRS 18A.095 or by court order or by order of the Human
27 Rights Commission and accepts employment by an agency participating in the

1 Kentucky Employees Retirement System or County Employees Retirement
2 System shall void his or her retirement by reimbursing the system in the full
3 amount of his or her retirement allowance payments received.

4 (7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this
5 section shall no longer apply to a retired member who is reemployed in a
6 position covered by the same retirement system from which the member
7 retired. Reemployed retired members shall be treated as new members upon
8 reemployment. Any retired member whose reemployment date preceded
9 August 1, 1998, who does not elect, within sixty (60) days of notification by
10 the retirement systems, to remain under the provisions of subsections (1) to
11 (4) of this section shall be deemed to have elected to participate under this
12 subsection.

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

25 (8) If a retired member accepts employment or begins serving as a volunteer with an
26 employer participating in the systems administered by Kentucky Retirement
27 Systems or County Employees Retirement System within twelve (12) months of his

1 or her retirement date, the retired member shall notify the Authority and the
2 participating employer shall submit the information required or requested by the
3 Authority to confirm the individual's employment or volunteer status. The retired
4 member shall not be required to notify the Authority regarding any employment or
5 volunteer service with a participating agency that is accepted after twelve (12)
6 months following his or her retirement date.

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

19 (10) If a member is receiving a retirement allowance, or has filed the forms required for
20 a retirement allowance, and is employed within one (1) month of the member's
21 initial retirement date in a position that is required to participate in the same
22 retirement system from which the member retired, the member's retirement shall be
23 voided and the member shall repay to the retirement system all benefits received.
24 The member shall contribute to the member account established for him or her prior
25 to his or her voided retirement. The retirement allowance for which the member
26 shall be eligible upon retirement shall be determined by total service and creditable
27 compensation.

- 1 (11) (a) If a member of the Kentucky Employees Retirement System retires from a
2 department which participates in more than one (1) retirement system and is
3 reemployed within one (1) month of his or her initial retirement date by the
4 same department in a position participating in another retirement system, the
5 retired member's retirement allowance shall be suspended for the first month
6 of his or her retirement, and the member shall repay to the retirement system
7 all benefits received for the month.
- 8 (b) A retired member of the County Employees Retirement System who after
9 initial retirement is hired by the county from which the member retired shall
10 be considered to have been hired by the same employer.
- 11 (12) (a) If a hazardous member who retired prior to age fifty-five (55), or a
12 nonhazardous member who retired prior to age sixty-five (65), is reemployed
13 within six (6) months of the member's termination by the same employer, the
14 member shall obtain from his or her previous and current employers a copy of
15 the job description established by the employers for the position and a
16 statement of the duties performed by the member for the position from which
17 he or she retired and for the position in which he or she has been reemployed.
- 18 (b) The job descriptions and statements of duties shall be filed with the retirement
19 office.
- 20 (13) If the retirement system determines that the retired member has been employed in a
21 position with the same principal duties as the position from which the member
22 retired:
- 23 (a) The member's retirement allowance shall be suspended during the period that
24 begins on the month in which the member is reemployed and ends six (6)
25 months after the member's termination;
- 26 (b) The retired member shall repay to the retirement system all benefits paid from
27 systems administered by Kentucky Retirement Systems or County Employees

1 Retirement System under reciprocity, including medical insurance benefits,
2 that the member received after reemployment began;

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

8 (d) Except as provided in subsection (7) of this section, if the position in which a
9 retired member is employed after initial retirement is a regular full-time
10 position, the retired member shall contribute to a second member account
11 established for him or her in the retirement system. Service credit gained after
12 the member's date of reemployment shall be credited to the second member
13 account; and

14 (e) Upon termination, the retired member shall be entitled to benefits payable
15 from his or her second retirement account.

16 (14) (a) If the retirement system determines that the retired member has not been
17 reemployed in a position with the same principal duties as the position from
18 which he or she retired, the retired member shall continue to receive his or her
19 retirement allowance.

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

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

27 (b) Service credit gained after reemployment shall be credited to the second

1 member account. Upon termination, the retired member shall be entitled to
2 benefits payable from the second member account.

3 (16) A retired member who is reemployed and contributing to a second member account
4 shall not be eligible to purchase service credit under any of the provisions of KRS
5 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he or she was
6 eligible to purchase prior to his or her initial retirement.

7 (17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this
8 section, the following shall apply to retired members who are reemployed by an
9 agency participating in one (1) of the systems administered by Kentucky Retirement
10 Systems or County Employees Retirement System on or after September 1, 2008:

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

27 1. The member shall contribute to a member account established for him or

1 her in one (1) of the systems administered by Kentucky Retirement
2 Systems or County Employees Retirement System, and employer
3 contributions shall be paid on behalf of the member by the participating
4 employer; and

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

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

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

- 1 Authority~~[system]~~ as having a prearranged agreement under the
2 provisions of this subparagraph and shall have his or her retirement
3 voided. If the participating agency fails to complete the certification, the
4 member's retirement shall be voided and the provisions of paragraph (a)
5 of this subsection shall apply to the member and the employer.
6 Employment that is accepted by the retired member after twelve (12)
7 months following the member's retirement date shall not constitute a
8 prearranged agreement under this paragraph;
- 9 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to
10 the contrary, the member shall not contribute to the systems and shall
11 not earn any additional benefits for any work performed during the
12 period of reemployment;
- 13 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
14 except for any retiree employed as a school resource officer as defined
15 by KRS 158.441, the employer shall pay employer contributions as
16 specified by KRS 61.565, 61.702, and 78.635, as applicable, on all
17 creditable compensation earned by the employee during the period of
18 reemployment. The additional contributions paid shall be used to reduce
19 the unfunded actuarial liability of the systems; and
- 20 4. 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 be required to reimburse the
23 systems for the cost of the health insurance premium paid by the systems
24 to provide coverage for the retiree, not to exceed the cost of the single
25 premium. Effective July 1, 2015, local school boards shall not be
26 required to pay the reimbursement required by this subparagraph for
27 retirees employed by the board for eighty (80) days or less during the

1 fiscal year;

2 (c) If a member is receiving a retirement allowance from the State Police
3 Retirement System or from hazardous duty retirement coverage with the
4 Kentucky Employees Retirement System or the County Employees Retirement
5 System, or has filed the forms required to receive a retirement allowance from
6 the State Police Retirement System or from hazardous duty retirement
7 coverage with the Kentucky Employees Retirement System or the County
8 Employees Retirement System, and is employed in a regular full-time position
9 required to participate in the State Police Retirement System or in a hazardous
10 duty position with the Kentucky Employees Retirement System or the County
11 Employees Retirement System within one (1) month following the member's
12 initial retirement date, the member's retirement shall be voided, and the
13 member shall repay to the retirement system all benefits received, including
14 any health insurance benefits. If the member is returning to work in a regular
15 full-time position required to participate in one (1) of the systems
16 administered by Kentucky Retirement Systems or County Employees
17 Retirement System:

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

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

27 (d) If a member is receiving a retirement allowance from the State Police

1 Retirement System or from hazardous duty retirement coverage with the
2 Kentucky Employees Retirement System or the County Employees Retirement
3 System and is employed in a regular full-time position required to participate
4 in the State Police Retirement System or in a hazardous duty position with the
5 Kentucky Employees Retirement System or the County Employees Retirement
6 System after a one (1) month period following the member's initial retirement
7 date, the member may continue to receive his or her retirement allowance
8 during the period of reemployment subject to the following provisions:

9 1. If a member is reemployed by a participating agency within twelve (12)
10 months of the member's retirement date, the participating agency shall
11 certify in writing on a form prescribed by the Authority that no
12 prearranged agreement existed between the employee and agency prior
13 to the employee's retirement for the employee to return to work with the
14 participating agency. If an elected official is reelected to a new term of
15 office in the same position as the elected official held prior to
16 retirement and takes office~~[and has retired from the elected office]~~
17 within twelve (12) months of his or her retirement date~~[prior to taking~~
18 ~~the new term of office]~~, he or she shall be deemed by the Authority as
19 having a prearranged agreement under the provisions of this
20 subparagraph and shall have his or her retirement voided. If the
21 participating agency fails to complete the certification, the member's
22 retirement shall be voided and the provisions of paragraph (c) of this
23 subsection shall apply to the member and the employer. Employment
24 that is accepted by the retired member after twelve (12) months
25 following the member's retirement date shall not constitute a
26 prearranged agreement under this paragraph;

27 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to

1 the contrary, the member shall not contribute to the systems and shall
2 not earn any additional benefits for any work performed during the
3 period of reemployment;

4 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
5 except for any retiree employed as a school resource officer as defined
6 by KRS 158.441, the employer shall pay employer contributions as
7 specified by KRS 61.565, 61.702, and 78.635, as applicable, on all
8 creditable compensation earned by the employee during the period of
9 reemployment. The additional contributions paid shall be used to reduce
10 the unfunded actuarial liability of the systems;

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;

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

24 1. Prior to the retired member's most recent retirement date, he or she did
25 not receive creditable compensation from the participating employer in
26 which the retired member is performing volunteer services;

27 2. Any reimbursement or nominal fee received prior to the retired

1 member's most recent retirement date has not been credited as creditable
2 compensation to the member's account or utilized in the calculation of
3 the retired member's benefits;

- 4 3. The retired member has not purchased or received service credit under
5 any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for
6 service with the participating employer for which the retired member is
7 performing volunteer services; and
- 8 4. Other than the status of volunteer, the retired member does not become
9 an employee, leased employee, or independent contractor of the
10 employer for which he or she is performing volunteer services for a
11 period of at least twelve (12) months following the retired member's
12 most recent retirement date.

13 If a retired member, who provided volunteer services with a participating
14 employer under this paragraph violates any provision of this paragraph, then
15 he or she shall be deemed an employee of the participating employer as of the
16 date he or she began providing volunteer services and both the retired member
17 and the participating employer shall be subject to paragraphs (a) to (d) of this
18 subsection for the period of volunteer service;

19 (f) Notwithstanding any provision of this section, any mayor or member of a city
20 legislative body shall not be required to resign from his or her position as
21 mayor or as a member of the city legislative body in order to begin drawing
22 benefits from the systems administered by Kentucky Retirement Systems or
23 subject to any provision of this section as it relates solely to his or her service
24 as a mayor or member of the city legislative body if the mayor or member of a
25 city legislative body:

- 26 1. Has not participated in the County Employees Retirement System prior
27 to retirement, but is otherwise eligible to retire from the Kentucky

- 1 Employees Retirement System or the State Police Retirement System; or
- 2 2. Has been or is participating in the County Employees Retirement System
- 3 and is at least sixty-two (62) years of age. If a mayor or member of a city
- 4 legislative body who is at least sixty-two (62) years of age retires from
- 5 the systems administered by Kentucky Retirement Systems but remains
- 6 in office after his or her effective retirement date, the mayor or member
- 7 of the city legislative body shall not accrue any further service credit or
- 8 benefits in the systems administered by Kentucky Retirement Systems
- 9 for any employment occurring on or after the effective retirement date;
- 10 (g) If a member is receiving a retirement allowance from any of the retirement
- 11 systems administered by the Kentucky Retirement Systems or County
- 12 Employees Retirement System and enters into a contract or becomes a leased
- 13 employee of an employer under contract with an employer participating in one
- 14 (1) of the systems administered by the Kentucky Retirement Systems or
- 15 County Employees Retirement System:
- 16 1. At any time following retirement, if the Authority determines the
- 17 employment arrangement does qualify as an independent contractor or
- 18 leased employee, the member may continue to receive his or her
- 19 retirement allowance during the period of the contract;
- 20 2. Within three (3) months following the member's initial retirement date,
- 21 if the Authority determines the employment arrangement does not
- 22 qualify as an independent contractor or leased employee, the member's
- 23 retirement shall be voided in accordance with paragraph (a) of this
- 24 subsection;
- 25 3. After three (3) months but within twelve (12) months following the
- 26 member's initial retirement, if the Authority determines the employment
- 27 arrangement does not qualify as an independent contractor or leased

1 employee and that a prearranged agreement existed between the member
2 and the agency for the member to return to work with the agency, the
3 member's retirement shall be voided in accordance with paragraph (a) of
4 this subsection; and

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

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

14 (h) The Authority shall issue a final determination regarding a certification of the
15 absence of a prearranged agreement or the retired member's qualification as an
16 independent contractor or leased employee as required under this section no
17 later than thirty (30) days after the retired member and participating employer
18 provide all required forms and additional information required by the
19 Authority.

20 (18) The Authority shall promulgate administrative regulations to implement the
21 requirements of this section, including incorporating by reference board-prescribed
22 forms that a retired member and participating agency shall provide the systems
23 under subsections (8), (9), and (17) of this section.

24 ➔Section 11. KRS 61.645 is amended to read as follows:

25 (1) The Kentucky Employees Retirement System and State Police Retirement System
26 shall be administered by the board of trustees of the Kentucky Retirement Systems
27 composed of nine (9) members, who shall be selected as follows:

- 1 (a) One (1) trustee, who shall be a member or retired from the State Police
2 Retirement System, elected by the members and retired members of the State
3 Police Retirement System;
- 4 (b) Two (2) trustees, who shall be members or retired from the Kentucky
5 Employees Retirement System, elected by the members and retired members
6 of the Kentucky Employees Retirement System;
- 7 (c) Six (6) trustees, appointed by the Governor of the Commonwealth, subject to
8 Senate confirmation in accordance with KRS 11.160 for each appointment or
9 reappointment. Of the six (6) trustees appointed by the Governor, three (3)
10 trustees shall have investment experience and three (3) trustees shall have
11 retirement experience;
- 12 (d) For purposes of paragraph (c) of this subsection, a trustee with "investment
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 in
15 one (1) of the following areas of expertise:
- 16 1. A portfolio manager acting in a fiduciary capacity;
 - 17 2. A professional securities analyst or investment consultant;
 - 18 3. A current or retired employee or principal of a trust institution,
19 investment or finance organization, or endowment fund acting in an
20 investment-related capacity;
 - 21 4. A chartered financial analyst in good standing as determined by the CFA
22 Institute; or
 - 23 5. A university professor, teaching investment-related studies; and
- 24 (e) For purposes of paragraph (c) of this subsection, a trustee with "retirement
25 experience" means an individual who does not have a conflict of interest, as
26 provided by KRS 61.655, and who has at least ten (10) years of experience in
27 one (1) of the following areas of expertise:

- 1 1. Experience in retirement or pension plan management;
 - 2 2. A certified public accountant with relevant experience in retirement or
 - 3 pension plan accounting;
 - 4 3. An actuary with relevant experience in retirement or pension plan
 - 5 consulting;
 - 6 4. An attorney licensed to practice law in the Commonwealth of Kentucky
 - 7 with relevant experience in retirement or pension plans; or
 - 8 5. A current or former university professor whose primary area of emphasis
 - 9 is economics or finance.
- 10 (2) The board is hereby granted the powers and privileges of a corporation, including
- 11 but not limited to the following powers:
- 12 (a) To sue and be sued in its corporate name;
 - 13 (b) To make bylaws not inconsistent with the law;
 - 14 (c) To conduct the business and promote the purposes for which it was formed;
 - 15 (d) Except as provided in KRS 61.650(6), to contract for investment counseling,
 - 16 auditing, medical, and other professional or technical services as required to
 - 17 carry out the obligations of the board subject to KRS Chapters 45, 45A, 56,
 - 18 and 57. Actuarial consulting services shall be provided by a firm hired by the
 - 19 Kentucky Public Pensions Authority;
 - 20 (e) To purchase fiduciary liability insurance;
 - 21 (f) Except as provided in KRS 61.650(6), to acquire, hold, sell, dispose of,
 - 22 pledge, lease, or mortgage, the goods or property necessary to exercise the
 - 23 board's powers and perform the board's duties subject to KRS Chapters 45,
 - 24 45A, and 56; and
 - 25 (g) The board shall reimburse any trustee, officer, or employee for any legal
 - 26 expense resulting from a civil action arising out of the performance of his or
 - 27 her official duties. The hourly rate of reimbursement for any contract for legal

1 services under this paragraph shall not exceed the maximum hourly rate
2 provided in the Legal Services Duties and Maximum Rate Schedule
3 promulgated by the Government Contract Review Committee established
4 pursuant to KRS 45A.705, unless a higher rate is specifically approved by the
5 secretary of the Finance and Administration Cabinet or his or her designee.

6 (3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee
7 shall serve a term of four (4) years or until his or her successor is duly
8 qualified except as otherwise provided in this section. An elected trustee or a
9 trustee appointed by the Governor under subsection (1)(c) of this section, shall
10 not serve more than three (3) consecutive four (4) year terms. An elected
11 trustee or a trustee appointed by the Governor under subsection (1)(c) of this
12 section, who has served three (3) consecutive terms may be elected or
13 appointed again after an absence of four (4) years from the board.

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

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

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

- 1 (c) Within four (4) months of the nominations made in accordance with
2 paragraphs (a) and (b) of this subsection, the executive director shall cause to
3 be prepared an official ballot. The ballot shall include the name, address, and
4 position title of each individual nominated by the board and by petition.
5 Provisions shall also be made for write-in votes.
- 6 (d) Except as provided by paragraph (j) of this subsection, the ballots shall be
7 distributed to the eligible voters by mail to their last known residence address
8 **on file with the Kentucky Public Pensions Authority. Ballots shall not be**
9 **distributed by mail to member addresses reported as invalid to the Kentucky**
10 **Public Pensions Authority.**
- 11 (e) The ballots shall be addressed to the Kentucky Retirement Systems in care of
12 a predetermined box number at a United States Post Office or submitted
13 electronically as provided by paragraph (j) of this subsection. Access to this
14 post office box shall be limited to the board's contracted firm. The individual
15 receiving a plurality of votes shall be declared elected.
- 16 (f) The eligible voter shall cast his or her ballot by selecting the candidate of his
17 or her choice. He or she shall sign and mail the ballot or submit the electronic
18 ballot at least thirty (30) days prior to the date the term to be filled is due to
19 expire. The latest mailing date, or date of submission in the case of electronic
20 ballots, shall be provided on the ballot.
- 21 (g) The board's contracted firm shall report in writing the outcome to the chair of
22 the board of trustees. Cost of an election shall be payable from the funds of
23 the system for which the trustee is elected.
- 24 (h) For purposes of this subsection, an eligible voter shall be a person who was a
25 member of the retirement system on December 31 of the year preceding the
26 election year.
- 27 (i) Each individual who submits a request to be nominated by the board under

1 paragraph (a) of this subsection and each individual who is nominated by the
2 membership under paragraph (b) of this subsection shall:

- 3 1. Complete an application developed by the retirement systems which
4 shall include but not be limited to a disclosure of any prior felonies and
5 any conflicts of interest that would hinder the individual's ability to
6 serve on the board;
- 7 2. Submit a resume detailing the individual's education and employment
8 history and a cover letter detailing the member's qualifications for
9 serving as trustee to the board; and
- 10 3. Authorize the systems to have a criminal background check performed.
11 The criminal background check shall be performed by the Department of
12 Kentucky State Police.

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

18 (5) (a) Any vacancy which may occur in an appointed position during a term of office
19 shall be filled in the same manner which provides for the selection of the
20 particular trustee, and any vacancy which may occur in an elected position
21 during a term of office shall be filled by appointment by a majority vote of the
22 remaining elected trustees with a person selected from the system in which the
23 vacancy occurs; however, any vacancy shall be filled only for the duration of
24 the unexpired term. In the event of a vacancy of an elected trustee during a
25 term of office, Kentucky Retirement Systems shall notify members of the
26 system in which the vacancy occurs of the vacancy and the opportunity to be
27 considered for the vacant position. Any vacancy during a term of office shall

- 1 be filled within ninety (90) days of the position becoming vacant.
- 2 (b) Any appointments or reappointments to an appointed position on the board
3 shall be made no later than thirty (30) days prior to an appointed member's
4 term of office ending.
- 5 (6) (a) Membership on the board of trustees shall not be incompatible with any other
6 office unless a constitutional incompatibility exists. No trustee shall serve in
7 more than one (1) position as trustee on the board; and if a trustee holds more
8 than one (1) position as trustee on the board, he or she shall resign a position.
- 9 (b) A trustee shall be removed from office upon conviction of a felony or for a
10 finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court
11 of competent jurisdiction.
- 12 (c) A current or former employee of Kentucky Retirement Systems, County
13 Employees Retirement System, or the Kentucky Public Pensions Authority
14 shall not be eligible to serve as a member of the board.
- 15 (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive
16 a per diem of eighty dollars (\$80) for each day they are in session or on official
17 duty, and they shall be reimbursed for their actual and necessary expenses in
18 accordance with state administrative regulations and standards.
- 19 (8) (a) The board shall meet at least once in each quarter of the year and may meet in
20 special session upon the call of the chair or the chief executive officer.
- 21 (b) The board shall elect a chair and a vice chair. The chair shall not serve more
22 than four (4) consecutive years as chair or vice-chair of the board. The vice-
23 chair shall not serve more than four (4) consecutive years as chair or vice-
24 chair of the board. A trustee who has served four (4) consecutive years as
25 chair or vice-chair of the board may be elected chair or vice-chair of the board
26 after an absence of two (2) years from the positions.
- 27 (c) A majority of the trustees shall constitute a quorum and all actions taken by

- 1 the board shall be by affirmative vote of a majority of the trustees present.
- 2 (9) (a) The board of trustees shall appoint or contract for the services of a chief
3 executive officer and general counsel and fix the compensation and other
4 terms of employment for these positions without limitation of the provisions
5 of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer
6 shall serve as the legislative and executive adviser to the board. The general
7 counsel shall serve as legal adviser to the board. The chief executive officer
8 and general counsel shall work with the executive director of the Kentucky
9 Public Pensions Authority to carry out the provisions of KRS 16.505 to
10 16.652 and 61.510 to 61.705. The executive director of the Kentucky Public
11 Pensions Authority shall be the chief administrative officer of the board.
- 12 (b) Prior to April 1, 2021, the board of trustees shall authorize the executive
13 director to appoint the employees deemed necessary to transact the business of
14 the system. Effective April 1, 2021, the responsibility of appointing
15 employees and managing personnel needs shall be transferred to the Kentucky
16 Public Pensions Authority established by KRS 61.505.
- 17 (c) The board shall require the chief executive officer and may require the general
18 counsel to execute bonds for the faithful performance of his or her duties
19 notwithstanding the limitations of KRS Chapter 62.
- 20 (d) The board shall have a system of accounting established by the Kentucky
21 Public Pensions Authority.
- 22 (e) The board shall do all things, take all actions, and promulgate all
23 administrative regulations, not inconsistent with the provisions of KRS 16.505
24 to 16.652 and 61.510 to 61.705, necessary or proper in order to carry out the
25 provisions of KRS 16.505 to 16.652 and 61.510 to 61.705. Notwithstanding
26 any other evidence of legislative intent, it is hereby declared to be the
27 controlling legislative intent that the provisions of KRS 16.505 to 16.652 and

1 61.510 to 61.705 conform with federal statute or regulation and meet the
2 qualification requirements under 26 U.S.C. sec. 401(a), applicable federal
3 regulations, and other published guidance. Provisions of KRS 16.505 to
4 16.652 and 61.510 to 61.705 which conflict with federal statute or regulation
5 or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations,
6 and other published guidance shall not be available. The board shall have the
7 authority to promulgate administrative regulations to conform with federal
8 statute and regulation and to meet the qualification requirements under 26
9 U.S.C. sec. 401(a), including an administrative regulation to comply with 26
10 U.S.C. sec. 401(a)(9).

11 (f) Notwithstanding any other provision of statute to the contrary, including but
12 not limited to any provision of KRS Chapter 12, the Governor shall have no
13 authority to change any provision of KRS 16.505 to 16.652 and 61.510 to
14 61.705 by executive order or action, including but not limited to reorganizing,
15 replacing, amending, or abolishing the membership of the Kentucky
16 Retirement Systems board of trustees.

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

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

24 (12) (a) The *Kentucky Public Pensions Authority*~~[system]~~ shall publish an annual
25 financial report showing all receipts, disbursements, assets, and liabilities *for*
26 *the systems*. The annual report shall include a copy of an audit conducted in
27 accordance with generally accepted auditing standards. Except as provided by

1 paragraph (b) of this subsection, the board may select ~~the~~^{an} independent
2 certified public accountant *hired by the Kentucky Public Pensions Authority*
3 or the Auditor of Public Accounts to perform the audit. If the audit is
4 performed by an independent certified public accountant, the Auditor of
5 Public Accounts shall not be required to perform an audit pursuant to KRS
6 43.050(2)(a), but may perform an audit at his or her discretion. All
7 proceedings and records of the board shall be open for inspection by the
8 public. The *Kentucky Public Pensions Authority*~~system~~ shall make copies
9 of the audit required by this subsection available for examination by any
10 member, retiree, or beneficiary in the offices of the Kentucky Public Pensions
11 Authority and in other places as necessary to make the audit available to all
12 members, retirees, and beneficiaries. A copy of the annual audit shall be sent
13 to the Legislative Research Commission no later than ten (10) days after
14 receipt by the board.

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

20 (13) All expenses incurred by or on behalf of the system and the board in the
21 administration of the system during a fiscal year shall be paid from the retirement
22 allowance account, including any administrative expenses for the Kentucky Public
23 Pensions Authority that are assigned to the Kentucky Retirement Systems by KRS
24 61.505. The board shall submit any administrative expenses that are specific to the
25 Kentucky Retirement Systems that are not otherwise covered by KRS
26 61.505(11)(a).

27 (14) Any person adversely affected by a decision of the board, except as provided under

1 subsection (16) of this section or KRS 61.665, involving KRS 16.505 to 16.652 and
2 61.510 to 61.705, may appeal the decision of the board to the Franklin Circuit Court
3 within sixty (60) days of the board action.

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

- 6 1. In good faith;
- 7 2. On an informed basis; and
- 8 3. In a manner he or she honestly believes to be in the best interest of the
9 Kentucky Retirement Systems.

10 (b) A trustee discharges his or her duties on an informed basis if, when he or she
11 makes an inquiry into the business and affairs of the Kentucky Retirement
12 Systems or into a particular action to be taken or decision to be made, he or
13 she exercises the care an ordinary prudent person in a like position would
14 exercise under similar circumstances.

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

- 18 1. One (1) or more officers or employees of the Kentucky Retirement
19 Systems whom the trustee honestly believes to be reliable and competent
20 in the matters presented;
- 21 2. Legal counsel, public accountants, actuaries, or other persons as to
22 matters the trustee honestly believes are within the person's professional
23 or expert competence; or
- 24 3. A committee of the board of trustees of which he or she is not a member
25 if the trustee honestly believes the committee merits confidence.

26 (d) A trustee shall not be considered as acting in good faith if he or she has
27 knowledge concerning the matter in question that makes reliance otherwise

1 permitted by paragraph (c) of this subsection unwarranted.

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

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

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

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

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

16 (h) In discharging his or her administrative duties under this section, a trustee
17 shall strive to administer the retirement system in an efficient and cost-
18 effective manner for the taxpayers of the Commonwealth of Kentucky and
19 shall take all actions available under the law to contain costs for the trusts,
20 including costs for participating employers, members, and retirees.

21 (16) When an order by the system substantially impairs the benefits or rights of a
22 member, retired member, or recipient, except action which relates to entitlement to
23 disability benefits, or when an employer disagrees with an order of the system as
24 provided by KRS 61.598, the affected member, retired member, recipient, or
25 employer may request a hearing to be held in accordance with KRS Chapter 13B.
26 The board may establish an appeals committee whose members shall be appointed
27 by the chair and who shall have authority to act upon the recommendations and

1 reports of the hearing officer on behalf of the board. The member, retired member,
2 recipient, or employer aggrieved by a final order of the board following the hearing
3 may appeal the decision to the Franklin Circuit Court, in accordance with KRS
4 Chapter 13B. The board may establish a joint administrative appeals committee
5 with the County Employees Retirement System and may also establish a joint
6 disability appeals committee with the County Employees Retirement System.

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

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

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

- 13 1. Benefits and benefits administration;
- 14 2. Investment concepts, policies, and current composition and
15 administration of retirement systems investments;
- 16 3. Laws, bylaws, and administrative regulations pertaining to the
17 retirement systems and to fiduciaries; and
- 18 4. Actuarial and financial concepts pertaining to the retirement systems.

19 If a trustee fails to complete the orientation program within one (1) year from
20 the beginning of his or her first term on the board, the retirement systems shall
21 withhold payment of the per diem and travel expenses due to the board
22 member under this section and KRS 16.640 until the trustee has completed the
23 orientation program;

24 (b) Annual required training for board members on the administration, benefits,
25 financing, and investing of the retirement systems. If a trustee fails to
26 complete the annual required training during the calendar or fiscal year, the
27 retirement systems shall withhold payment of the per diem and travel

1 expenses due to the board member under this section and KRS 16.640 until
2 the board member has met the annual training requirements; and

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

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

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

14 (b) The Comprehensive Annual Financial Report with the information as follows:
15 1. A general overview and update on the retirement systems by the
16 executive director;
17 2. A listing of the board of trustees;
18 3. A listing of key staff;
19 4. An organizational chart;
20 5. Financial information, including a statement of plan net assets, a
21 statement of changes in plan net assets, an actuarial value of assets, a
22 schedule of investments, a statement of funded status and funding
23 progress, and other supporting data;
24 6. Investment information, including a general overview, a list of the
25 retirement system's professional consultants, a total net of fees return on
26 retirement systems investments over a historical period, an investment
27 summary, contracted investment management expenses, transaction

- 1 commissions, and a schedule of investments;
- 2 7. The annual actuarial valuation report on the pension benefit and the
- 3 medical insurance benefit; and
- 4 8. A general statistical section, including information on contributions,
- 5 benefit payouts, and retirement systems' demographic data;
- 6 (c) All external audits;
- 7 (d) All board minutes or other materials that require adoption or ratification by
- 8 the board of trustees. The items listed in this paragraph shall be posted within
- 9 seventy-two (72) hours of adoption or ratification of the board;
- 10 (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;
- 11 (f) The retirement systems' summary plan description;
- 12 (g) A document containing an unofficial copy of the statutes governing the
- 13 systems administered by Kentucky Retirement Systems;
- 14 (h) A listing of the members of the board of trustees and membership on each
- 15 committee established by the board, including any investment committees;
- 16 (i) All investment holdings in aggregate, fees, and commissions for each fund
- 17 administered by the board, which shall be updated on a quarterly basis for
- 18 fiscal years beginning on or after July 1, 2017. The systems shall request from
- 19 all managers, partnerships, and any other available sources all information
- 20 regarding fees and commissions and shall, based on the requested information
- 21 received:
- 22 1. Disclose the dollar value of fees and commissions paid to each
- 23 individual manager or partnership;
- 24 2. Disclose the dollar value of any profit sharing, carried interest, or any
- 25 other partnership incentive arrangements, partnership agreements, or any
- 26 other partnership expenses received by or paid to each manager or
- 27 partnership; and

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

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

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

12 (k) A searchable database of the systems' expenditures and a listing of each
13 individual employed by the systems along with the employee's salary or
14 wages. In lieu of posting the information required by this paragraph to the
15 Kentucky Public Pensions Authority's Web site, the systems may provide the
16 information through a Web site established by the executive branch to inform
17 the public about executive branch agency expenditures and public employee
18 salaries and wages;

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

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

23 (20) Notwithstanding the requirements of subsection (19) of this section, the retirement
24 systems shall not be required to furnish information that is protected under KRS
25 61.661, exempt under KRS 61.878, or that, if disclosed, would compromise the
26 retirement systems' ability to competitively invest in real estate or other asset
27 classes, except that no provision of this section or KRS 61.878 shall exclude

1 disclosure and review of all contracts, including investment contracts, by the board,
 2 the Auditor of Public Accounts, and the Government Contract Review Committee
 3 established pursuant to KRS 45A.705 or the disclosure of investment fees and
 4 commissions as provided by this section. If any public record contains material
 5 which is not excepted under this section, the systems shall separate the excepted
 6 material by removal, segregation, or redaction, and make the nonexcepted material
 7 available for examination.

8 (21) Notwithstanding any other provision of KRS 16.505 to 16.652 and 61.510 to 61.705
 9 to the contrary, no funds of the systems administered by Kentucky Retirement
 10 Systems, including fees and commissions paid to an investment manager, private
 11 fund, or company issuing securities, who manages systems assets, shall be used to
 12 pay fees and commissions to placement agents. For purposes of this subsection,
 13 "placement agent" means a third-party individual, who is not an employee, or firm,
 14 wholly or partially owned by the entity being hired, who solicits investments on
 15 behalf of an investment manager, private fund, or company issuing securities.

16 ➔Section 12. KRS 61.661 is amended to read as follows:

- 17 (1) (a) Each current, former, or retired member's account shall be administered in a
 18 confidential manner, and specific data regarding a current, former, or retired
 19 member shall not be released for publication, except that:
- 20 1. The member or recipient may authorize the release of his or her account
 21 information;
 - 22 2. *The Kentucky Public Pensions Authority*~~[Kentucky Retirement~~
 23 ~~Systems]~~ may release account information to the employer or to other
 24 state and federal agencies as it deems necessary or in response to a
 25 lawful subpoena or order issued by a court of law; or
 - 26 3. a. Upon request by any person, the systems shall release the
 27 following information from the accounts of any member or retired

1 member of the Kentucky Employees Retirement System, the
2 County Employees Retirement System, or the State Police
3 Retirement System, if the member or retired member is a current
4 or former officeholder in the Kentucky General Assembly:

- 5 i. The first and last name of the member or retired member;
- 6 ii. The system or systems in which the member has an account
7 or from which the retired member is receiving a monthly
8 retirement allowance;
- 9 iii. The status of the member or retired member, including but
10 not limited to whether he or she is a contributing member, a
11 member who is not currently contributing to the systems but
12 has not retired, a retired member, or a retired member who
13 has returned to work following retirement with an agency
14 participating in the systems;
- 15 iv. If the individual is a retired member, the monthly retirement
16 allowance that he or she was receiving at the end of the most
17 recently completed fiscal year;
- 18 v. If the individual is a member who has not yet retired, the
19 estimated monthly retirement allowance that he or she is
20 eligible to receive at his or her normal retirement date based
21 upon his or her service credit, final compensation, and
22 accumulated account balance at the end of the most recently
23 completed fiscal year; and
- 24 vi. The current employer or last participating employer of the
25 member or retired member, if applicable.

26 b. No information shall be disclosed under this subparagraph from an
27 account that is paying benefits to a beneficiary due to the death of

1 a member or retired member.

2 (b) A current, former, or retired member's account shall be exempt from the
3 provisions of KRS 171.410 to 171.990.

4 (c) The release of information under paragraph (a)3. of this subsection shall not
5 constitute a violation of the Open Records Act, KRS 61.870 to 61.884.

6 (2) (a) When a subpoena is served upon any employee of the Kentucky Retirement
7 Systems, *the County Employees Retirement System, or the Kentucky Public*
8 *Pensions Authority*, requiring production of any specific data regarding a
9 current, former, or retired member, it is sufficient if the employee of the
10 Kentucky *Public Pensions Authority*~~Retirement Systems~~ charged with the
11 responsibility of being custodian of the original delivers within five (5)
12 working days, by certified mail or by personal delivery, legible and durable
13 copies of records, certified by the employee, or an affidavit stating the
14 information required by the subpoena to the person specified in the subpoena.
15 The production of documents or an affidavit shall be in lieu of any personal
16 testimony of any employee of the Kentucky Retirement Systems, *the County*
17 *Employees Retirement System, or the Kentucky Public Pensions Authority*,
18 unless, after the production of documents or affidavit, a separate subpoena is
19 served upon the systems *or the Authority* specifically directing the testimony
20 of an employee of the systems *or of the Authority*. When a subpoena is served
21 on any employee of the systems *or of the Authority* requiring the employee to
22 give deposition for any purpose, in the absence of a court order requiring the
23 deposition of a specific employee, the systems *or the Authority* may designate
24 an employee to be deposed upon the matter referred to in the subpoena.

25 (b) The certification required by this subsection shall be signed before a notary
26 public by the employee and shall include the full name of the member or
27 recipient, the member's or recipient's Social Security number, and a legend

1 substantially to the following effect: "The records are true and complete
2 reproductions of the original or microfiched records which are housed in the
3 retirement systems office. This certification is given in lieu of his or her
4 personal appearance."

5 (c) When an affidavit or copies of records are personally delivered, a receipt shall
6 be presented to the person receiving the records for his or her signature and
7 shall be immediately signed and returned to the person delivering the records.
8 When an affidavit or copies of records are sent via certified mail, the receipt
9 used by the postal authorities shall be sufficient to prove delivery and receipt
10 of the affidavit or copies of records.

11 (d) When the affidavit or copies of records are delivered to a party for use in
12 deposition, they shall, after termination of the deposition, be delivered
13 personally or by certified mail to the clerk of the court or other body before
14 which the action or proceeding is pending. It shall be the responsibility of the
15 party or attorney to transmit the receipt obtained to the employee of the
16 Kentucky Public Pensions Authority~~[Retirement Systems]~~ charged with
17 responsibility of being custodian of the original. Upon issuance of a final
18 order terminating the case and after the normal retention period for court
19 records expires, the affidavit or copies of records shall be permanently
20 disposed of by the clerk in a manner that protects the confidentiality of the
21 information contained therein.

22 (e) Records of the Kentucky Public Pensions Authority~~[Retirement Systems]~~
23 that are susceptible to photostatic reproduction may be proved as to
24 foundation, identity, and authenticity without any preliminary testimony, by
25 use of legible and durable copies, certified in accordance with the provisions
26 of this subsection.

27 ➔Section 13. KRS 61.665 is amended to read as follows:

1 (1) The Authority shall employ or contract for the services of at least three (3)
2 physicians, licensed in the state and not members of the system, upon terms and
3 conditions it prescribes to serve as medical examiners, whose duty it shall be to pass
4 upon all medical examinations required under KRS 61.510 to 61.705, 16.505 to
5 16.652, and 78.510 to 78.852, to investigate all health or medical statements and
6 certificates made by or in behalf of any person in connection with the payment of
7 money to the person under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to
8 78.852, and who shall report in writing to the system the conclusions and
9 recommendations upon all matters referred to them. The Authority may employ or
10 contract for the services of one (1) or more licensed mental health professionals in
11 making recommendations regarding mental impairments.

12 (2) (a) Each person requesting disability retirement shall file at the retirement office
13 an application for disability retirement and supporting medical information to
14 report the person's physical and mental condition. The person shall also file at
15 the retirement office a complete description of the job and duties from which
16 he or she received his or her last pay as well as information regarding
17 whether~~[evidence that]~~ the person has made a request for reasonable
18 accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part
19 1630 or reasonable accommodation as provided for in 42 U.S.C. sec.
20 12111(9) and 29 C.F.R. Part 1630 has been offered to the person. The
21 person shall certify to the retirement office that the application for disability
22 retirement and supporting medical information are ready to be evaluated by
23 the medical examiners in accordance with paragraph (d) of this subsection. If,
24 after good faith efforts, the person informs the Authority that he or she has
25 been unable to obtain the employment or medical information, the Authority
26 shall assist the person in obtaining the records and may use the authority
27 granted pursuant to KRS 61.685(1) to obtain the records. If the person fails to

1 file, at the retirement office within one hundred eighty (180) days of the date
2 the person filed his or her notification of retirement, any of the forms,
3 certifications, or information required by this subsection, the person's
4 application for disability retirement shall be void. Any subsequent filing of an
5 application for disability retirement or supporting medical information shall
6 not be evaluated, except as provided in paragraph (f) of this subsection or
7 KRS 61.600(2), 78.5522, or 78.5524.

8 (b) The employer shall file at the retirement office a complete description of the
9 job and duties for which the person was last paid and shall submit a detailed
10 description of any reasonable accommodations attempted.

11 (c) The cost of medical examinations and the filing of the medical information,
12 reports, or data with the retirement office shall be paid by the person applying
13 for disability retirement.

14 (d) The Authority shall select three (3) medical examiners to evaluate the medical
15 evidence submitted by the person. The medical examiners shall recommend
16 that disability retirement be approved, or that disability retirement be denied.
17 If there is evidence of a mental impairment, the medical examiners may
18 request the Authority's licensed mental health professional to assist in
19 determining the level of the mental impairment.

20 (e) If two (2) or more of the three (3) medical examiners recommend that the
21 person be approved for disability retirement, the system shall make retirement
22 payments in accordance with the retirement plan selected by the person.

23 (f) If two (2) or more of the three (3) medical examiners recommend that the
24 person be denied disability retirement, the Authority shall send notice of this
25 recommendation by United States first-class mail to the person's last address
26 on file in the retirement office, by electronic mail to the person's last
27 electronic mail address on file in the retirement office, or by other electronic

1 **means**. The person shall have one hundred eighty (180) days from the day that
2 the Authority ~~sent~~~~mailed~~ the notice to file at the retirement office additional
3 supporting medical information and certify to the retirement office that the
4 application for disability retirement and supporting medical information are
5 ready to be evaluated by the medical examiners or to appeal his or her denial
6 of disability retirement by filing at the retirement office a request for a formal
7 hearing. Any subsequent filing of an application for disability retirement or
8 supporting medical information shall not be evaluated, except as provided in
9 KRS 61.600(2), 78.5522, or 78.5524.

10 (g) If two (2) or more of the three (3) medical examiners recommend that the
11 person be approved for disability retirement based upon the evaluation of
12 additional supporting medical information in accordance with paragraph (f) of
13 this subsection, the system shall make retirement payments in accordance with
14 the retirement plan selected by the person.

15 (h) If two (2) or more of the three (3) medical examiners recommend that the
16 person be denied disability retirement based upon the evaluation of additional
17 supporting medical information in accordance with paragraph (f) of this
18 subsection, the Authority shall send notice of this recommendation by United
19 States first-class mail to the person's last address on file in the retirement
20 office, **by electronic mail to the person's last electronic mail address on file**
21 **in the retirement office, or by other electronic means**. The person shall have
22 one hundred eighty (180) days from the day that the Authority ~~sent~~~~mailed~~
23 the notice to appeal his or her denial of disability retirement by filing at the
24 retirement office a request for a formal hearing.

25 (i) The medical examiners shall be paid a reasonable amount by the retirement
26 system for each case evaluated.

27 (j) Notwithstanding the foregoing provisions of this section, the Authority may

1 pay for one (1) or more medical examinations of the person requested by the
2 medical examiners for the purpose of providing medical information deemed
3 necessary by the medical examiners. The system may require the person to
4 submit to one (1) or more medical examinations.

5 (3) (a) Any person whose disability benefits have been reduced, discontinued, or
6 denied pursuant to subsection (2)(f) or (2)(h) of this section may file at the
7 retirement office a request for a formal hearing to be conducted in accordance
8 with KRS Chapter 13B. The right to demand a formal hearing shall be limited
9 to a period of one hundred eighty (180) days after the person had notice of the
10 system's determination, as described in subsection (2)(f) or (2)(h) of this
11 section. The request for a formal hearing shall be filed with the executive
12 director, at the retirement office in Frankfort. The request for a formal hearing
13 shall include a short and plain statement of the reasons the denial of disability
14 retirement is being contested.

15 (b) Failure of the person to request a formal hearing within the period of time
16 specified shall preclude the person from proceeding any further with the
17 application for disability retirement, except as provided in KRS 61.600(2),
18 78.5522, or 78.5524. This paragraph shall not limit the person's right to appeal
19 to a court.

20 (c) The system may require the person requesting the formal hearing to submit to
21 one (1) or more medical or psychological examinations. Notice of the time
22 and place of the examination shall be provided~~mailed~~ to the person or his or
23 her legal representative. The system shall be responsible for the cost of the
24 examination.

25 (d) A final order of the board shall be based on substantial evidence appearing in
26 the record as a whole and shall set forth the decision of the board and the facts
27 and law upon which the decision is based.

1 (e) All requests for a hearing pursuant to this section shall be made in writing.

2 (4) The~~[-board]~~ **boards of the Kentucky Retirement Systems and the County**
 3 **Employees Retirement Systems** may **each** establish an appeals committee whose
 4 members shall be appointed by the chair and **that**~~[who]~~ shall have the authority to
 5 act upon the recommendations and reports of the hearing officer pursuant to this
 6 section on behalf of **each respective**~~[the]~~ board. The **boards**~~[Authority may, upon~~
 7 ~~the joint approval of the board]~~ of the Kentucky Retirement Systems and the County
 8 Employees Retirement System **may**~~[,]~~ establish **a joint**~~[an]~~ appeals committee **that**
 9 **shall be authorized to select a chair from among its committee members**
 10 **and**~~[whose members shall be appointed by the chair of the Authority and who have~~
 11 ~~the authorization]~~ to act upon the recommendations and reports of the hearing
 12 officer pursuant to this section on behalf of both boards.

13 (5) Any person aggrieved by a final order of the board may seek judicial review after all
 14 administrative appeals have been exhausted by filing a petition for judicial review
 15 in the Franklin Circuit Court in accordance with KRS Chapter 13B.

16 ~~[(6) The system, pursuant to regulations, may refer an employee determined by it to be~~
 17 ~~disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if~~
 18 ~~appropriate, retraining.~~

19 ~~(a) The cost of the evaluation and retraining shall be paid by the system in~~
 20 ~~accordance with the regulations established by the board.~~

21 ~~(b) The member shall perform all acts that are necessary to enroll in and satisfy~~
 22 ~~the requirements of Vocational Rehabilitation as prescribed by the board. This~~
 23 ~~shall include the exchange of confidential information between Kentucky~~
 24 ~~Retirement Systems and the Kentucky Office of Vocational Rehabilitation as~~
 25 ~~necessary to conduct the rehabilitation process. Failure of the member to~~
 26 ~~cooperate with the system or Vocational Rehabilitation may result in his or~~
 27 ~~her disability allowance being discontinued, reduced, or denied until the~~

1 ~~member complies with the agency requests. If the refusal continues for one (1)~~
2 ~~year, all his or her rights to any further disability allowance shall cease.]~~

3 ➔Section 14. KRS 61.702 is amended to read as follows:

- 4 (1) For purposes of this section:
- 5 (a) "Hospital and medical insurance plan" may include, at the board's discretion,
6 any one (1) or more of the following:
- 7 1. Any hospital and medical expense policy or certificate, provider-
8 sponsored integrated health delivery network, self-insured medical plan,
9 health maintenance organization contract, or other health benefit plan;
- 10 2. Any health savings account as permitted by 26 U.S.C. sec. 223 or health
11 reimbursement arrangement or a similar account as may be permitted by
12 26 U.S.C. sec. 105 or 106. Such arrangement or account, at the board's
13 discretion, may reimburse any medical expense permissible under 26
14 U.S.C. sec. 213; or
- 15 3. A medical insurance reimbursement program established by the board
16 through the promulgation of administrative regulation under which
17 members purchase individual health insurance coverage through a health
18 insurance exchange established under 42 U.S.C. sec. 18031 or 18041;
- 19 (b) "Monthly contribution rate" is the amount determined by the board based
20 upon the requirements of subsection (4)(a) to (c) of this section, except that
21 for members who began participating in the system on or after July 1, 2003,
22 the term shall mean the amount determined in subsection (4)(d) of this
23 section; and
- 24 (c) "Months of service" means the total months of combined service used to
25 determine benefits under the system, except service added to determine
26 disability benefits or service otherwise prohibited from being used to
27 determine retiree health benefits under KRS 16.505 to 16.652 or 61.510 to

1 61.705 shall not be counted as "months of service." For current and former
2 employees of the Council on Postsecondary Education who were employed
3 prior to January 1, 1993, and who earn at least fifteen (15) years of service
4 credit in the Kentucky Employees Retirement System, "months of service"
5 shall also include vested service in another retirement system other than the
6 Kentucky Teachers' Retirement System sponsored by the Council on
7 Postsecondary Education.

8 (2) (a) 1. The board of trustees of the system shall arrange by appropriate contract
9 or on a self-insured basis to provide a group hospital and medical
10 insurance plan coverage for:

11 a. Present and future recipients of a retirement allowance from the
12 Kentucky Employees Retirement System and the State Police
13 Retirement System; and

14 b. The spouse and each qualified dependent of a recipient who is a
15 former member or the beneficiary, provided the spouse and
16 dependent meet the requirements to participate in the hospital and
17 medical insurance plans established, contracted, or authorized by
18 the system.

19 2. Any recipient who chooses coverage under a hospital and medical
20 insurance plan shall pay, by payroll deduction from the retirement
21 allowance, electronic funds transfer, or by another method, the
22 difference between the premium cost of the hospital and medical
23 insurance plan coverage selected and the monthly contribution rate to
24 which he or she would be entitled under this section.

25 (b) 1. For present and future recipients of a retirement allowance from the
26 system who are not eligible for Medicare, the board may authorize these
27 participants to be included in the Kentucky Employees Health Plan as

1 provided by KRS 18A.225 to 18A.2287 and shall provide benefits for
2 recipients in the plan equal to those provided to state employees having
3 the same Medicare hospital and medical insurance eligibility status.
4 Notwithstanding the provisions of any other statute, system recipients
5 shall be included in the same class as current state employees for
6 purposes of determining medical insurance policies and premiums in the
7 Kentucky Employees Health Plan as provided by KRS 18A.225 to
8 18A.2287.

9 2. Regardless of age, if a recipient or the spouse or dependent child of a
10 recipient who elects coverage becomes eligible for Medicare, he or she
11 shall participate in the plans offered by the systems for Medicare eligible
12 recipients. Individuals participating in the Medicare eligible plans may
13 be required to obtain and pay for Medicare Part A and Part B coverage,
14 in order to participate in the Medicare eligible plans offered by the
15 system.

16 3. The system shall continue to provide the same hospital and medical
17 insurance plan coverage for recipients and qualifying dependents after
18 the age of sixty-five (65) as before the age of sixty-five (65), if:

19 a. The recipient is not eligible for Medicare coverage; or

20 b. *The recipient would otherwise be eligible for Medicare coverage*
21 *but is subject to the Medicare Secondary Payer Act under 42*
22 *U.S.C. sec. 1395y(b) and has been reemployed by a participating*
23 *agency which offers the recipient a hospital and medical*
24 *insurance benefit or by a participating agency which is prevented*
25 *from offering a hospital and medical benefit to the recipient as a*
26 *condition of reemployment under KRS 70.293, 95.022, or*
27 *164.952.*

- 1 (c) For recipients of a retirement allowance who are not eligible for the same
2 level of hospital and medical benefits as recipients living in Kentucky having
3 the same Medicare hospital and medical insurance eligibility status, the board
4 shall provide a medical insurance reimbursement plan as described in
5 subsection (6) of this section.
- 6 (d) Notwithstanding anything in KRS Chapter 16 or 61 to the contrary, the board
7 of trustees, in its discretion, may take necessary steps to ensure compliance
8 with 42 U.S.C. secs. 300bb-1 et seq.
- 9 (3) (a) Each employer participating in the Kentucky Employees Retirement System
10 or the State Police Retirement System as provided in KRS 16.505 to 16.652 or
11 61.510 to 61.705 shall contribute to the insurance trust fund established under
12 KRS 61.701 the amount necessary to provide the monthly contribution rate as
13 provided for under this section. Such employer contribution rate shall be
14 developed by appropriate actuarial method as a part of the determination of
15 each respective employer contribution rate determined under KRS 61.565.
- 16 (b) 1. Each employer described in paragraph (a) of this subsection shall deduct
17 from the creditable compensation of each member whose membership
18 date begins on or after September 1, 2008, an amount equal to one
19 percent (1%) of the member's creditable compensation. The deducted
20 amounts shall, at the discretion of the board, be credited to accounts
21 established pursuant to 26 U.S.C. sec. 401(h), within the funds
22 established in KRS 16.510 and 61.515, or the insurance trust fund
23 established under KRS 61.701. Notwithstanding the provisions of this
24 paragraph, a transfer of assets between the accounts established pursuant
25 to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510
26 and 61.515, and the insurance trust fund established under KRS 61.701
27 shall not be allowed.

- 1 2. The employer shall file the contributions as provided by subparagraph 1.
2 of this paragraph at the retirement office in accordance with KRS
3 61.675. Any interest or penalties paid on any delinquent contributions
4 shall be credited to accounts established pursuant to 26 U.S.C. sec.
5 401(h), within the funds established in KRS 16.510 and 61.515, or the
6 insurance trust fund established under KRS 61.701. Notwithstanding any
7 minimum compensation requirements provided by law, the deductions
8 provided by this paragraph shall be made, and the compensation of the
9 member shall be reduced accordingly.
- 10 3. Each employer shall submit payroll reports, contributions lists, and other
11 data as may be required by administrative regulation promulgated by the
12 board of trustees pursuant to KRS Chapter 13A.
- 13 4. Every member shall be deemed to consent and agree to the deductions
14 made pursuant to this paragraph, and the payment of salary or
15 compensation less the deductions shall be a full and complete discharge
16 of all claims for services rendered by the person during the period
17 covered by the payment, except as to any benefits provided by KRS
18 16.505 to 16.652 or 61.510 to 61.705. No member may elect whether to
19 participate in, or choose the contribution amount to accounts established
20 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS
21 16.510 and 61.515, or the insurance trust fund established under KRS
22 61.701. The member shall have no option to receive the contribution
23 required by this paragraph directly instead of having the contribution
24 paid to accounts established pursuant to 26 U.S.C. sec. 401(h) within the
25 funds established in KRS 16.510 and 61.515, or the insurance trust fund
26 established under KRS 61.701. No member may receive a rebate or
27 refund of contributions. If a member establishes a membership date prior

1 to September 1, 2008, pursuant to KRS 61.552(2) or (3), then this
2 paragraph shall not apply to the member and all contributions previously
3 deducted in accordance with this paragraph shall be refunded to the
4 member without interest. The contribution made pursuant to this
5 paragraph shall not act as a reduction or offset to any other contribution
6 required of a member or recipient under KRS 16.505 to 16.652 or
7 61.510 to 61.705.

8 5. The board of trustees, at its discretion, may direct that the contributions
9 required by this paragraph be accounted for within accounts established
10 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS
11 16.510 and 61.515, or the insurance trust fund established under KRS
12 61.701, through the use of separate accounts.

13 (4) (a) The premium required to provide hospital and medical insurance plan
14 coverage under this section shall be paid wholly or partly from funds
15 contributed by:

- 16 1. The recipient of a retirement allowance, by payroll deduction from his or
17 her retirement allowance, or by other method;
- 18 2. The insurance trust fund established under KRS 61.701 or accounts
19 established pursuant to 26 U.S.C. sec. 401(h) within the funds
20 established in KRS 16.510 and 61.515;
- 21 3. Another state-administered retirement system, including the County
22 Employees Retirement System, under a reciprocal arrangement, except
23 that any portion of the premium paid from the funds specified by
24 subparagraph 2. of this paragraph under a reciprocal agreement shall not
25 exceed the amount that would be payable under this section if all the
26 member's service were in the systems administered by the Kentucky
27 Retirement Systems. If the board provides for cross-referencing of

1 insurance premiums, the employer's contribution for the working
 2 member or spouse shall be applied toward the premium, and the
 3 insurance trust fund established under KRS 61.701 or accounts
 4 established pursuant to 26 U.S.C. sec. 401(h) within the funds
 5 established in KRS 16.510 and 61.515 shall pay the balance; or

- 6 4. A combination of the fund sources described by subparagraphs 1. to 3.
 7 of this paragraph.

8 Group rates under the hospital and medical insurance plan shall be made
 9 available to the spouse, each dependent child, and each disabled child,
 10 regardless of the disabled child's age, of a recipient who is a former member
 11 or the beneficiary, if the premium for the hospital and medical insurance for
 12 the spouse, each dependent child, and each disabled child, or beneficiary is
 13 paid by payroll deduction from the retirement allowance, electronic funds
 14 transfer, or by another method. For purposes of this subsection only, a child
 15 shall be considered disabled if he or she has been determined to be eligible for
 16 federal Social Security disability benefits or meets the dependent disability
 17 standard established by the Department of Employee Insurance in the
 18 Personnel Cabinet.

- 19 (b) For a member who began participating in the system prior to July 1, 2003, the
 20 monthly contribution rate shall be paid by the system from the funds specified
 21 under paragraph (a)2. of this subsection and shall be equal to a percentage of
 22 the single premium to cover the retired member as follows:

- 23 1. One hundred percent (100%) of the monthly premium for single
 24 coverage shall be paid for a retired member who had two hundred forty
 25 (240) months of service or more upon retirement or for a retired member
 26 who when he or she was an employee became disabled as a direct result
 27 of an act in line of duty as defined in KRS 16.505 or as a result of a

- 1 duty-related injury as defined in KRS 61.621;
- 2 2. Seventy-five percent (75%) of the monthly premium for single coverage
3 shall be paid for a retired member who had less than two hundred forty
4 (240) months of service but at least one hundred eighty (180) months of
5 service upon retirement, provided such retired member agrees to pay the
6 remaining twenty-five percent (25%) by payroll deduction from his or
7 her retirement allowance, electronic funds transfer, or by another
8 method;
- 9 3. Fifty percent (50%) of the monthly premium for single coverage shall be
10 paid for a retired member who had less than one hundred eighty (180)
11 months of service but had at least one hundred twenty (120) months of
12 service upon retirement, provided such retired member agrees to pay the
13 remaining fifty percent (50%) by payroll deduction from his or her
14 retirement allowance, electronic funds transfer, or by another method; or
- 15 4. Twenty-five percent (25%) of the monthly premium for single coverage
16 shall be paid for a retired member who had less than one hundred twenty
17 (120) months of service but had at least forty-eight (48) months of
18 service upon retirement, provided such retired member agrees to pay the
19 remaining seventy-five percent (75%) by payroll deduction from his or
20 her retirement allowance, electronic funds transfer, or by another
21 method.

22 Notwithstanding the foregoing provisions of this paragraph, an employee
23 participating in the system prior to July 1, 2003, who is killed as a direct result
24 of an act in line of duty as defined in KRS 16.505 or as a result of a duty-
25 related injury as defined in KRS 61.621, shall have the monthly premium paid
26 for the beneficiary, if the beneficiary is the member's spouse, and for each
27 dependent child as defined by KRS 16.505, so long as they individually

1 remain eligible for a monthly retirement benefit.

2 (c) 1. For a member who began participating in the system prior to July 1,
3 2003, who was determined to be in a hazardous position in the Kentucky
4 Employees Retirement System or in a position in the State Police
5 Retirement System, the funds specified under paragraph (a)2. of this
6 subsection shall also pay a percentage of the monthly contribution rate
7 sufficient to fund the premium costs for hospital and medical insurance
8 coverage for the spouse and for each dependent child of a recipient.

9 2. The percentage of the monthly contribution rate paid for the spouse and
10 each dependent child of a recipient who was in a hazardous position in
11 accordance with subparagraph 1. of this paragraph shall be based solely
12 on the member's service in a hazardous position using the formula in
13 paragraph (b) of this subsection.

14 (d) For members who begin participating in the system on or after July 1, 2003:

15 1. Participation in the insurance benefits provided under this section shall
16 not be allowed until the member has earned at least one hundred twenty
17 (120) months of service in the state-administered retirement systems,
18 except that for members who begin participating in the system on or
19 after September 1, 2008, participation in the insurance benefits provided
20 under this section shall not be allowed until the member has earned at
21 least one hundred eighty (180) months of service credited under KRS
22 16.543(1) or 61.543(1), or another state-administered retirement system.

23 2. A member who meets the minimum service requirements as provided by
24 subparagraph 1. of this paragraph shall upon retirement be eligible for
25 the following monthly contribution rate to be paid on his or her behalf
26 from the funds specified under paragraph (a)2. of this subsection:

27 a. For members with service in a nonhazardous position, a monthly

- 1 insurance contribution of ten dollars (\$10) for each year of service
2 as a participating employee in a nonhazardous position; and
- 3 b. For members with service in a hazardous position or who
4 participate in the State Police Retirement System, a monthly
5 insurance contribution of fifteen dollars (\$15) for each year of
6 service as a participating employee in a hazardous position or the
7 State Police Retirement System. Upon the death of the retired
8 member, the beneficiary, if the beneficiary is the member's spouse,
9 shall be entitled to a monthly insurance contribution of ten dollars
10 (\$10) for each year of service the member attained as a
11 participating employee in a hazardous position.
- 12 3. The minimum service requirement to participate in benefits as provided
13 by subparagraph 1. of this paragraph shall be waived for a member who
14 becomes disabled as a direct result of an act in line of duty as defined in
15 KRS 16.505 or who dies as a result of a duty-related injury as defined in
16 KRS 61.621, and the member shall be entitled to the benefits payable
17 under this subsection as though the member had twenty (20) years of
18 service in the position for which the disabling condition occurred.
- 19 4. Notwithstanding the provisions of this paragraph, the minimum service
20 requirement to participate in benefits as provided by subparagraph 1. of
21 this paragraph shall be waived for a for a member who dies as a direct
22 result of an act in line of duty as defined in KRS 16.505 or who dies as a
23 result of a duty-related injury as defined in KRS 61.621, and the
24 premium for the member's spouse and for each dependent child as
25 defined in KRS 16.505 shall be paid in full by the systems so long as
26 they individually remain eligible for a monthly retirement benefit.
- 27 5. Except as provided by subparagraph 4. of this paragraph, the monthly

1 insurance contribution amount shall be increased July 1 of each year by
2 one and one-half percent (1.5%). The increase shall be cumulative and
3 shall continue to accrue after the member's retirement for as long as a
4 monthly insurance contribution is payable to the retired member or
5 beneficiary.

6 6. The benefits of this paragraph provided to a member whose participation
7 begins on or after July 1, 2003, shall not be considered as benefits
8 protected by the inviolable contract provisions of KRS 16.652 or 61.692.
9 The General Assembly reserves the right to suspend or reduce the
10 benefits conferred in this paragraph if in its judgment the welfare of the
11 Commonwealth so demands.

12 7. An employee whose membership date is on or after September 1, 2008,
13 who retires and is reemployed in a regular full-time position required to
14 participate in the system or the County Employees Retirement System
15 shall not be eligible for health insurance coverage or benefits provided
16 by this section and shall take coverage with his or her employing agency
17 during the period of reemployment in a regular full-time position.

18 (e) For members with service in another state-administered retirement system
19 who select hospital and medical insurance plan coverage through the system:

20 1. The system shall compute the member's combined service, including
21 service credit in another state-administered retirement system, and
22 calculate the portion of the member's premium monthly contribution rate
23 to be paid by the funds specified under paragraph (a)2. of this subsection
24 according to the criteria established in paragraphs (a) to (d) of this
25 subsection. Each state-administered retirement system shall pay annually
26 to the insurance trust fund established under KRS 61.701 the portion of
27 the system's cost of the retiree's monthly contribution for single coverage

1 for hospital and medical insurance plan which shall be equal to the
2 percentage of the member's number of months of service in the other
3 state-administered retirement plan divided by his or her total combined
4 service and in conjunction with the reciprocal agreement established
5 between the system and the other state-administered retirement systems.
6 The amounts paid by the other state-administered retirement plans and
7 by the Kentucky Retirement Systems from funds specified under
8 paragraph (a)2. of this subsection shall not be more than one hundred
9 percent (100%) of the monthly contribution adopted by the respective
10 boards of trustees;

11 2. A member may not elect coverage for hospital and medical benefits
12 through more than one (1) of the state-administered retirement systems;
13 and

14 3. A state-administered retirement system shall not pay any portion of a
15 member's monthly contribution for medical insurance unless the member
16 is a recipient or annuitant of the plan.

17 (5) Premiums paid for hospital and medical insurance coverage procured under
18 authority of this section shall be exempt from any premium tax which might
19 otherwise be required under KRS Chapter 136. The payment of premiums by the
20 funds described by subsection (4)(a)2. of this section shall not constitute taxable
21 income to an insured recipient. No commission shall be paid for hospital and
22 medical insurance procured under authority of this section.

23 (6) The board shall promulgate an administrative regulation to establish a medical
24 insurance reimbursement plan to provide reimbursement for hospital and medical
25 insurance plan premiums of recipients of a retirement allowance who are not
26 eligible for the same level of hospital and medical benefits as recipients living in
27 Kentucky and having the same Medicare hospital and medical insurance eligibility

1 status. An eligible recipient shall file proof of payment for hospital and medical
2 insurance plan coverage with the retirement office. Reimbursement to eligible
3 recipients shall be made on a quarterly basis. The recipient shall be eligible for
4 reimbursement of substantiated medical insurance premiums for an amount not to
5 exceed the total monthly contribution rate determined under subsection (4) of this
6 section. The plan shall not be made available if all recipients are eligible for the
7 same coverage as recipients living in Kentucky.

8 ➔Section 15. KRS 61.703 is amended to read as follows:

- 9 (1) Upon the death of a member, retiree, or recipient who has an existing account or
10 other benefit in a retirement system administered by the Kentucky Retirement
11 Systems that totals no more than one thousand dollars (\$1,000), the surviving
12 spouse, or if none, a surviving child, or if none, a surviving parent, or if none, a
13 surviving brother or sister, may without formal administration of the estate collect
14 the account subject to the provisions of this section.
- 15 (2) The surviving spouse, child, parent, or brother or sister who makes demand for the
16 deceased member, retiree, or recipient account shall file with the retirement office
17 an affidavit stating that he or she is entitled to payment of the account. The affidavit
18 shall conform to the requirements of the administrative regulation promulgated by
19 the board.
- 20 (3) After having paid the account to the surviving spouse, child, parent, or brother or
21 sister, the retirement system shall be discharged and held harmless to the same
22 extent as if conducting business with a personal representative. The retirement
23 system shall not be required to inquire into the truth or veracity of any statement
24 made in the affidavit. In the event any person or entity establishes a superior right to
25 the account, the surviving spouse, child, parent, or brother or sister, and not the
26 retirement system or the Kentucky Public Pensions Authority [Kentucky
27 Retirement Systems], shall be answerable and accountable to any appointed

1 personal representative for the estate.

2 ➔Section 16. KRS 78.510 is amended to read as follows:

3 As used in KRS 78.510 to 78.852, unless the context otherwise requires:

- 4 (1) "System" means the County Employees Retirement System;
- 5 (2) "Board" means the board of trustees of the system as provided in KRS 78.782;
- 6 (3) "County" means any county, or nonprofit organization created and governed by a
7 county, counties, or elected county officers, sheriff and his or her employees, county
8 clerk and his or her employees, circuit clerk and his or her deputies, former circuit
9 clerks or former circuit clerk deputies, or political subdivision or instrumentality,
10 including school boards, cities, charter county governments, urban-county
11 governments, consolidated local governments, or unified local governments
12 participating in the system by order appropriate to its governmental structure, as
13 provided in KRS 78.530, and if the board is willing to accept the agency,
14 organization, or corporation, the board being hereby granted the authority to
15 determine the eligibility of the agency to participate;
- 16 (4) "School board" means any board of education participating in the system by order
17 appropriate to its governmental structure, as provided in KRS 78.530, and if the
18 board is willing to accept the agency or corporation, the board being hereby granted
19 the authority to determine the eligibility of the agency to participate;
- 20 (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- 21 (6) "Employee" means every regular full-time appointed or elective officer or employee
22 of a participating county and the coroner of a participating county, whether or not he
23 or she qualifies as a regular full-time officer. The term shall not include persons
24 engaged as independent contractors, seasonal, emergency, temporary, and part-time
25 workers. In case of any doubt, the board shall determine if a person is an employee
26 within the meaning of KRS 78.510 to 78.852;
- 27 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected

1 officials of a county, or any authority of the county having the power to appoint or
2 elect an employee to office or employment in the county;

3 (8) "Member" means any employee who is included in the membership of the system or
4 any former employee whose membership has not ceased under KRS 78.535;

5 (9) "Service" means the total of current service and prior service as defined in this
6 section;

7 (10) "Current service" means the number of years and months of employment as an
8 employee, on and after July 1, 1958, for which creditable compensation is paid and
9 employee contributions deducted, except as otherwise provided;

10 (11) "Prior service" means the number of years and completed months, expressed as a
11 fraction of a year, of employment as an employee, prior to July 1, 1958, for which
12 creditable compensation was paid. An employee shall be credited with one (1)
13 month of prior service only in those months he received compensation for at least
14 one hundred (100) hours of work. Twelve (12) months of current service in the
15 system shall be required to validate prior service;

16 (12) "Accumulated contributions" means the sum of all amounts deducted from the
17 compensation of a member and credited to his individual account in the members'
18 account, including employee contributions picked up after August 1, 1982, pursuant
19 to KRS 78.610(4), together with interest credited, on the amounts, and any other
20 amounts the member shall have contributed thereto, including interest credited
21 thereon. "Accumulated contributions" shall not include employee contributions that
22 are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the
23 fund established in KRS 78.520, as prescribed by KRS 78.5536(3)(b);

24 (13) "Creditable compensation":

25 (a) Except as limited by paragraph (c) of this subsection, means all salary, wages,
26 and fees, including payments for compensatory time, paid to the employee as
27 a result of services performed for the employer or for time during which the

1 member is on paid leave, which are includable on the member's federal form
2 W-2 wage and tax statement under the heading "wages, tips, other
3 compensation", including employee contributions picked up after August 1,
4 1982, pursuant to KRS 78.610(4). The creditable compensation of fee officers
5 who receive salary, fees, maintenance, or other perquisites as a result of their
6 official duties is the gross amount received decreased by the cost of salary
7 paid deputies and clerks and the cost of office supplies and other official
8 expenses;

9 (b) Includes:

- 10 1. Lump-sum bonuses, severance pay, or employer-provided payments for
11 purchase of service credit, which shall be averaged over the employee's
12 service with the system in which it is recorded if it is equal to or greater
13 than one thousand dollars (\$1,000);
- 14 2. Cases where compensation includes maintenance and other perquisites,
15 but the board shall fix the value of that part of the compensation not paid
16 in money;
- 17 3. Lump-sum payments for creditable compensation paid as a result of an
18 order of a court of competent jurisdiction, the Personnel Board, or the
19 Commission on Human Rights, or for any creditable compensation paid
20 in anticipation of settlement of an action before a court of competent
21 jurisdiction, the Personnel Board, or the Commission on Human Rights,
22 including notices of violations of state or federal wage and hour statutes
23 or violations of state or federal discrimination statutes, which shall be
24 credited to the fiscal year during which the wages were earned or should
25 have been paid by the employer. This subparagraph shall also include
26 lump-sum payments for reinstated wages pursuant to KRS 61.569,
27 which shall be credited to the period during which the wages were

- 1 earned or should have been paid by the employer;
- 2 4. Amounts which are not includable in the member's gross income by
- 3 virtue of the member having taken a voluntary salary reduction provided
- 4 for under applicable provisions of the Internal Revenue Code; and
- 5 5. Elective amounts for qualified transportation fringes paid or made
- 6 available on or after January 1, 2001, for calendar years on or after
- 7 January 1, 2001, that are not includable in the gross income of the
- 8 employee by reason of 26 U.S.C. sec. 132(f)(4); and

9 (c) Excludes:

- 10 1. Living allowances, expense reimbursements, lump-sum payments for
- 11 accrued vacation leave, sick leave except as provided in KRS 78.616(5),
- 12 and other items determined by the board;
- 13 2. For employees who begin participating on or after September 1, 2008,
- 14 lump-sum payments for compensatory time;
- 15 3. Training incentive payments for city officers paid as set out in KRS
- 16 64.5277 to 64.5279;
- 17 4. For employees who begin participating on or after August 1, 2016,
- 18 nominal fees paid for services as a volunteer; and
- 19 5. Any salary or wages paid to an employee for services as a Kentucky
- 20 State Police school resource officer as defined by KRS 158.441;

21 (14) "Final compensation" means:

- 22 (a) For a member who begins participating before September 1, 2008, who is
- 23 employed in a nonhazardous position, the creditable compensation of the
- 24 member during the five (5) fiscal years he or she was paid at the highest
- 25 average monthly rate divided by the number of months of service credit during
- 26 that five (5) year period multiplied by twelve (12). The five (5) years may be
- 27 fractional and need not be consecutive. If the number of months of service

1 credit during the five (5) year period is less than forty-eight (48), one (1) or
2 more additional fiscal years shall be used;

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

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

23 (d) For a member who begins participating on or after September 1, 2008, but
24 prior to January 1, 2014, who is employed in a nonhazardous position, the
25 creditable compensation of the member during the five (5) complete fiscal
26 years immediately preceding retirement divided by five (5). Each fiscal year
27 used to determine final compensation must contain twelve (12) months of

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

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

17 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
18 calculated during the twelve (12) month period immediately preceding the
19 member's effective retirement date, and shall include employee contributions picked
20 up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to
21 the system by the employer and the following equivalents shall be used to convert
22 the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
23 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half
24 (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve
25 (12) months, one (1) year;

26 (16) "Retirement allowance" means the retirement payments to which a member is
27 entitled;

- 1 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
2 basis of the actuarial tables adopted by the board. In cases of disability retirement,
3 the options authorized by KRS 61.635 shall be computed by adding ten (10) years
4 to the age of the member, unless the member has chosen the Social Security
5 adjustment option as provided for in KRS 61.635(8), in which case the member's
6 actual age shall be used. For members who begin participating in the system prior to
7 January 1, 2014, no disability retirement option shall be less than the same option
8 computed under early retirement;
- 9 (18) "Normal retirement date", unless otherwise provided in KRS 78.510 to 78.852,
10 means:
- 11 (a) For a member with service in a nonhazardous position, the sixty-fifth birthday
12 of a member;
- 13 (b) For a member with service in a hazardous position who begins participating
14 before September 1, 2008, the first day of the month following a member's
15 fifty-fifth birthday; or
- 16 (c) For a member with service in a hazardous position who begins participating
17 on or after September 1, 2008, the first day of the month following a member's
18 sixtieth birthday;
- 19 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
20 following June 30, which shall also be the plan year. The "fiscal year" shall be the
21 limitation year used to determine contribution and benefits limits as set out in 26
22 U.S.C. sec. 415;
- 23 (20) "Agency reporting official" means the person designated by the participating
24 employer who shall be responsible for forwarding all employer and employee
25 contributions and a record of the contributions to the system and for performing
26 other administrative duties pursuant to the provisions of KRS 78.510 to 78.852;
- 27 (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean

1 all positions that average one hundred (100) or more hours per month, determined
2 by using the number of hours actually worked in a calendar or fiscal year, or eighty
3 (80) or more hours per month in the case of noncertified employees of school
4 boards, determined by using the number of hours actually worked in a calendar or
5 school year, unless otherwise specified, except:

6 (a) Seasonal positions, which although temporary in duration, are positions which
7 coincide in duration with a particular season or seasons of the year and that
8 may recur regularly from year to year, in which case the period of time shall
9 not exceed nine (9) months, except for employees of school boards, in which
10 case the period of time shall not exceed six (6) months;

11 (b) Emergency positions that are positions that do not exceed thirty (30) working
12 days and are nonrenewable;

13 (c) Temporary positions that are positions of employment with a participating
14 agency for a period of time not to exceed twelve (12) months and not
15 renewable;

16 (d) Probationary positions which are positions of employment with a participating
17 employer that do not exceed twelve (12) months and that are used uniformly
18 by the participating agency on new employees who would otherwise be
19 eligible for participation in the system. Probationary positions shall not be
20 renewable by the participating employer for the same employee, unless the
21 employee has not been employed with the participating employer for a period
22 of at least twelve (12) months; or

23 (e) Part-time positions that are positions that may be permanent in duration, but
24 that require less than a calendar or fiscal year average of one hundred (100)
25 hours of work per month, determined by using the number of months actually
26 worked within a calendar or fiscal year, in the performance of duty, except in
27 case of noncertified employees of school boards, the school term average shall

- 1 be eighty (80) hours of work per month, determined by using the number of
2 months actually worked in a calendar or school year, in the performance of
3 duty;
- 4 (22) "Alternate participation plan" means a method of participation in the system as
5 provided for by KRS 78.530(3);
- 6 (23) "Retired member" means any former member receiving a retirement allowance or
7 any former member who has on file at the retirement office the necessary
8 documents for retirement benefits and is no longer contributing to the system;
- 9 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
10 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
11 pay. The rate shall be certified by the employer;
- 12 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the
13 member in accordance with KRS 61.542 or 61.705 to receive any available benefits
14 in the event of the member's death. As used in KRS 78.5536, beneficiary shall not
15 mean an estate, trust, or trustee;
- 16 (26) "Recipient" means the retired member, the person or persons designated as
17 beneficiary by the member and drawing a retirement allowance as a result of the
18 member's death, or a dependent child drawing a retirement allowance. An alternate
19 payee of a qualified domestic relations order shall not be considered a recipient,
20 except for purposes of KRS 61.623;
- 21 (27) "Person" means a natural person;
- 22 (28) "School term or year" means the twelve (12) months from July 1 through the
23 following June 30;
- 24 (29) "Retirement office" means the Kentucky Public Pensions Authority office building
25 in Frankfort, unless otherwise designated by the Kentucky Public Pensions
26 Authority;
- 27 (30) "Vested" for purposes of determining eligibility for purchasing service credit under

- 1 KRS 61.552 means the employee has at least forty-eight (48) months of service if
2 age sixty-five (65) or older or at least sixty (60) months of service if under the age
3 of sixty-five (65). For purposes of this subsection, "service" means service in the
4 systems administered by the Kentucky Retirement Systems and County Employees
5 Retirement System;
- 6 (31) "Participating" means an employee is currently earning service credit in the system
7 as provided in KRS 78.615;
- 8 (32) "Month" means a calendar month;
- 9 (33) "Membership date" means the date upon which the member began participating in
10 the system as provided in KRS 78.615;
- 11 (34) "Participant" means a member, as defined by subsection (8) of this section, or a
12 retired member, as defined by subsection (23) of this section;
- 13 (35) "Qualified domestic relations order" means any judgment, decree, or order,
14 including approval of a property settlement agreement, that:
- 15 (a) Is issued by a court or administrative agency; and
- 16 (b) Relates to the provision of child support, alimony payments, or marital
17 property rights to an alternate payee;
- 18 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
19 participant, who is designated to be paid retirement benefits in a qualified domestic
20 relations order;
- 21 (37) "Accumulated employer credit" means the employer pay credit deposited to the
22 member's account and interest credited on such amounts as provided by KRS
23 78.5512 and 78.5516;
- 24 (38) "Accumulated account balance" means:
- 25 (a) For members who began participating in the system prior to January 1, 2014,
26 the member's accumulated contributions; or
- 27 (b) For members who began participating in the system on or after January 1,

1 2014, in the hybrid cash balance plan as provided by KRS 78.5512 and
2 78.5516, the combined sum of the member's accumulated contributions and
3 the member's accumulated employer credit;

4 (39) "Volunteer" means an individual who:

5 (a) Freely and without pressure or coercion performs hours of service for an
6 employer participating in one (1) of the systems administered by Kentucky
7 Retirement Systems or the County Employees Retirement System without
8 receipt of compensation for services rendered, except for reimbursement of
9 actual expenses, payment of a nominal fee to offset the costs of performing
10 the voluntary services, or both; and

11 (b) If a retired member, does not become an employee, leased employee, or
12 independent contractor of the employer for which he or she is performing
13 volunteer services for a period of at least twelve (12) months following the
14 retired member's most recent retirement date;

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

20 (41) "Nonhazardous position" means a position that does not meet the requirements of
21 KRS 78.5520 or has not been approved by the board as a hazardous position;

22 (42) "Hazardous position" means a position that meets the requirements of KRS 78.5520
23 and has been approved by the board as hazardous;

24 (43) "Level-percentage-of-payroll amortization method" means a method of determining
25 the annual amortization payment on the unfunded actuarial accrued liability as
26 expressed as a percentage of payroll over a set period of years. Under this method,
27 the percentage of payroll shall be projected to remain constant for all years

1 remaining in the set period and the unfunded actuarially accrued liability shall be
2 projected to be fully amortized at the conclusion of the set period;

3 (44) "Increment" means twelve (12) months of service credit which are purchased. The
4 twelve (12) months need not be consecutive. The final increment may be less than
5 twelve (12) months;

6 (45) "Last day of paid employment" means the last date employer and employee
7 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
8 78.615 to the retirement office in order for the employee to receive current service
9 credit for the month. Last day of paid employment does not mean a date the
10 employee receives payment for accrued leave, whether by lump sum or otherwise, if
11 that date occurs twenty-four (24) or more months after previous contributions;

12 (46) "Objective medical evidence" means reports of examinations or treatments; medical
13 signs which are anatomical, physiological, or psychological abnormalities that can
14 be observed; psychiatric signs which are medically demonstrable phenomena
15 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
16 or contact with reality; or laboratory findings which are anatomical, physiological,
17 or psychological phenomena that can be shown by medically acceptable laboratory
18 diagnostic techniques, including but not limited to chemical tests,
19 electrocardiograms, electroencephalograms, X-rays, and psychological tests. **The**
20 **testimonial evidence of the person applying for disability retirement shall not**
21 **constitute or be deemed the equivalent of objective medical evidence;**

22 (47) "Hazardous disability" as used in KRS 78.510 to 78.852 means a disability which
23 results in an employee's total incapacity to continue as an employee in a hazardous
24 position, but the employee is not necessarily deemed to be totally and permanently
25 disabled to engage in other occupations for remuneration or profit;

26 (48) "Act in line of duty" means, **for employees in hazardous positions under KRS**
27 **78.5520;** ~~for purposes of members serving in a hazardous position;~~

1 (a) A single~~an~~ act occurring which was required in the performance of the
 2 principal duties of the hazardous position as defined by the job description; or

3 (b) A single act of violence committed against the employee that is found to be
 4 related to his or her job duties, whether or not it occurs at his or her job site;

5 (49) "Dependent child" means a child in the womb and a natural or legally adopted child
 6 of the member who has neither attained age eighteen (18) nor married or who is an
 7 unmarried full-time student who has not attained age twenty-two (22). Solely in the
 8 case of a member who dies as a direct result of an act in line of duty as defined in
 9 this section, ~~or who~~ dies as a result of a duty-related injury as defined in KRS
 10 61.621, becomes totally and permanently disabled as a direct result of an act in
 11 the line of duty as defined in this section, or becomes disabled as a result of a
 12 duty-related injury as defined in KRS 61.621 and is eligible for the benefits
 13 provided by KRS 61.621(5)(a), "dependent child" also means a naturally or legally
 14 adopted disabled child of the member, regardless of the child's age, if the child has
 15 been determined to be eligible for federal Social Security disability benefits or is
 16 being claimed as a qualifying child for tax purposes due to the child's total and
 17 permanent disability;

18 (50) "Normal retirement age" means the age at which the member meets the
 19 requirements for his or her normal retirement date as provided by subsection (18) of
 20 this section;

21 (51) "Disability retirement date" means the first day of the month following the last day
 22 of paid employment;

23 (52) "Monthly average pay" means:

24 (a) In the case of a member who dies as a direct result of an act in line of duty as
 25 defined in KRS 16.505 or who dies as a result of a duty-related injury as
 26 defined in KRS 61.621, the higher of the member's monthly final rate of pay
 27 or the average monthly creditable compensation earned by the deceased

1 member during his or her last twelve (12) months of employment; or

2 (b) In the case where a member becomes totally and permanently disabled as a
3 direct result of an act in line of duty as defined in KRS 16.505 or becomes
4 disabled as a result of a duty-related injury as defined in KRS 61.621 and is
5 eligible for the benefits provided by KRS 61.621(5)(a), the higher of the
6 member's monthly final rate of pay or the average monthly creditable
7 compensation earned by the disabled member during his or her last twelve
8 (12) months of employment prior to the date the act in line of duty or duty-
9 related injury occurred;

10 (53) "Authority" means the Kentucky Public Pensions Authority as provided by KRS
11 61.505; and

12 (54) "Executive director" means the executive director of the Kentucky Public Pensions
13 Authority.

14 ➔Section 17. KRS 78.5524 is amended to read as follows:

15 The disability retirement provisions contained in this section shall apply to a person
16 whose last date of paid employment was in a hazardous position.

17 (1) (a) For purposes of this section:

18 1. "Total and permanent disability" means a disability which results in the
19 member's incapacity to engage in any occupation for remuneration or
20 profit. Loss by severance of both hands at or above the wrists, or both
21 feet at or above the ankles, or one (1) hand above the wrist and one (1)
22 foot above the ankle, or the complete, irrevocable loss of the sight of
23 both eyes shall be considered as total and permanent; and

24 2. "Hazardous disability" means a disability which results in an employee's
25 total incapacity to continue as an employee in a hazardous position, but
26 the employee is not necessarily deemed to be totally and permanently
27 disabled to engage in other occupations for remuneration or profit.

- 1 (b) In determining whether the disability meets the requirement of this section,
2 any reasonable accommodation provided by the employer as provided in 42
3 U.S.C. sec. 12111(9) and 29 C.F.R. pt. 1630 shall be considered.
- 4 (c) If the board determines that the total and permanent disability of a member
5 receiving a retirement allowance under this section has ceased, then the board
6 shall determine if the member has a hazardous disability as defined by KRS
7 78.510.
- 8 (2) Any person may qualify to retire on disability, subject to the following:
- 9 (a) The person shall have sixty (60) months of service, twelve (12) of which shall
10 be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The
11 service requirement shall be waived if the disability is a total and permanent
12 disability or a hazardous disability and is a direct result of an act in line of
13 duty;
- 14 (b) For a person whose membership date is prior to August 1, 2004, the person
15 shall not be eligible for an unreduced retirement allowance;
- 16 (c) The person's application shall be on file in the retirement office no later than
17 twenty-four (24) months after the person's last day of paid employment, as
18 defined in KRS 78.510, in a regular full-time position that has been approved
19 as a hazardous position in accordance with KRS 78.5520;
- 20 (d) The person shall receive a satisfactory determination pursuant to KRS 61.665;
21 and
- 22 (e) A person's disability application based on the same claim of incapacity shall
23 be accepted and reconsidered for disability if accompanied by new objective
24 medical evidence. The application shall be on file in the retirement office no
25 later than twenty-four (24) months after the person's last day of paid
26 employment in a regular full-time hazardous position.
- 27 (3) Upon the examination of the objective medical evidence by licensed physicians

1 pursuant to KRS 61.665, it shall be determined that:

2 (a) The incapacity results from bodily injury, mental illness, or disease. For
3 purposes of this section, "injury" means any physical harm or damage to the
4 human organism other than disease or mental illness;

5 (b) The incapacity is deemed to be permanent; and

6 (c) The incapacity does not result directly or indirectly from:

7 1. Injury intentionally self-inflicted while sane or insane; or

8 2. Bodily injury, mental illness, disease, or condition which pre-existed
9 membership in the system or reemployment, whichever is most recent,
10 unless:

11 a. The disability results from bodily injury, mental illness, disease, or
12 a condition which has been substantially aggravated by an injury or
13 accident arising out of or in the course of employment; or

14 b. The person has at least sixteen (16) years' current or prior service
15 for employment with employers participating in the County
16 Employees Retirement System or the Kentucky Retirement
17 Systems.

18 For purposes of this subparagraph, "reemployment" shall not mean a
19 change of employment between employers participating in the County
20 Employees Retirement System or the Kentucky Retirement Systems
21 with no loss of service credit.

22 (4) (a) 1. An incapacity shall be deemed to be permanent for the purpose of
23 hazardous disability if it is expected to result in death or can be
24 expected to last for a continuous period of not less than twelve (12)
25 months from the person's last day of paid employment in a hazardous
26 position.

27 2. The determination of a permanent incapacity for the purpose of

1 **hazardous disability** shall be based on the medical evidence contained
2 in the member's file and the member's residual functional capacity and
3 physical exertion requirements.

4 **3. The determination of a total and permanent incapacity shall be based**
5 **on the medical evidence contained in the member's file and the**
6 **member's residual functional capacity.**

7 (b) The person's residual functional capacity shall be the person's capacity for
8 work activity on a regular and continuing basis. The person's physical ability
9 shall be assessed in light of the severity of the person's physical, mental, and
10 other impairments. The person's ability to walk, stand, carry, push, pull, reach,
11 handle, and other physical functions shall be considered with regard to
12 physical impairments. The person's ability to understand, remember, and carry
13 out instructions and respond appropriately to supervision, coworkers, and
14 work pressures in a work setting shall be considered with regard to mental
15 impairments. Other impairments, including skin impairments, epilepsy, visual
16 sensory impairments, postural and manipulative limitations, and
17 environmental restrictions, shall be considered in conjunction with the
18 person's physical and mental impairments to determine residual functional
19 capacity.

20 (c) The person's physical exertion requirements shall be determined based on the
21 following standards:

22 1. Sedentary work shall be work that involves lifting no more than ten (10)
23 pounds at a time and occasionally lifting or carrying articles such as
24 large files, ledgers, and small tools. Although a sedentary job primarily
25 involves sitting, occasional walking and standing may also be required
26 in the performance of duties.

27 2. Light work shall be work that involves lifting no more than twenty (20)

1 pounds at a time with frequent lifting or carrying of objects weighing up
2 to ten (10) pounds. A job shall be in this category if lifting is
3 infrequently required but walking and standing are frequently required,
4 or if the job primarily requires sitting with pushing and pulling of arm or
5 leg controls. If the person has the ability to perform substantially all of
6 these activities, the person shall be deemed capable of light work. A
7 person deemed capable of light work shall be deemed capable of
8 sedentary work unless the person has additional limitations such as the
9 loss of fine dexterity or inability to sit for long periods.

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

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

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

24 (5) Upon disability retirement, an employee may receive a disability retirement
25 allowance payable during his or her lifetime which shall be:

26 (a) For a member who began participating in the system prior to August 1, 2004,
27 an annual retirement allowance payable monthly and determined in the same

1 manner as for retirement at his or her normal retirement date with years of
2 service and final compensation being determined as of the date of his or her
3 disability, except that service shall be added beginning with his or her last date
4 of paid employment and continuing to his or her fifty-fifth birthday. The
5 maximum service credit added shall not exceed the total service the member
6 had on his or her last day of paid employment, and the maximum service
7 credit for calculating his or her retirement allowance, including his or her total
8 service and service added under this section, shall not exceed twenty (20)
9 years;

10 (b) For a member who begins participating on or after August 1, 2004, but prior
11 to January 1, 2014, the higher of twenty-five percent (25%) of the member's
12 monthly final rate of pay or the retirement allowance determined in the same
13 manner as for retirement at his or her normal retirement date with years of
14 service and final compensation being determined as of the date of his or her
15 disability; or

16 (c) For a member who begins participating on or after January 1, 2014, in the
17 hybrid cash balance plan as provided by KRS 78.5516, the disability
18 retirement allowance shall be the higher of twenty-five percent (25%) of the
19 member's monthly final rate of pay or the retirement allowance determined in
20 the same manner as for retirement at his or her normal retirement date under
21 KRS 78.5516.

22 (6) If the member receives a satisfactory determination of ~~total and permanent~~
23 ~~disability or~~ hazardous disability pursuant to KRS 61.665 and the disability is the
24 direct result of an act in line of duty **as defined in KRS 78.510**, the member's
25 retirement allowance shall be calculated as follows:

26 (a) For the disabled member, benefits as provided in subsection (5) of this section
27 except that the monthly retirement allowance payable shall not be less than

1 twenty-five percent (25%) of the member's monthly final rate of pay; and

2 (b) For each dependent child of the member on his or her disability retirement
3 date, who is alive at the time any particular payment is due, a monthly
4 payment equal to ten percent (10%) of the disabled member's monthly final
5 rate of pay; however, total maximum dependent children's benefit shall not
6 exceed forty percent (40%) of the member's monthly final rate of pay. The
7 payments shall be payable to each dependent child, or to a legally appointed
8 guardian or as directed by the system.

9 (7) *If the member receives a satisfactory determination of total and permanent*
10 *disability pursuant to KRS 61.665 and the disability is the direct result of an act*
11 *in line of duty as defined in KRS 78.510, the member's retirement allowance shall*
12 *be calculated as follows:*

13 (a) *For the disabled member, the benefits as provided in subsection (5) of this*
14 *section, except that the monthly retirement allowance payable shall not be*
15 *less than seventy-five percent (75%) of the member's monthly average pay;*
16 *and*

17 (b) *For each dependent child of the member on his or her disability retirement*
18 *date, who is alive at the time any particular payment is due, a monthly*
19 *payment equal to ten percent (10%) of the disabled member's monthly*
20 *average pay, except that:*

21 *1. Member and dependent children payments under this subsection shall*
22 *not exceed one hundred percent (100%) of the member's monthly*
23 *average pay; and*

24 *2. Total maximum dependent children's benefits shall not exceed twenty-*
25 *five percent (25%) of the member's monthly average pay while the*
26 *member is living and forty percent (40%) of the member's monthly*
27 *average pay after the member's death. The payments shall be payable*

1 to each dependent child, or to a legally appointed guardian or as
 2 directed by the system, and shall be divided equally among all
 3 dependent children.

4 **(8)** No benefit provided in this section shall be reduced as a result of any change in the
 5 extent of disability of any retired member who is normal retirement age or older.

6 ~~(9)~~ If a regular full-time member in a hazardous position has been approved for
 7 benefits under a hazardous disability, the board shall, upon request of the member,
 8 permit the member to receive the hazardous disability allowance while accruing
 9 benefits in a nonhazardous position, subject to proper medical review of the
 10 nonhazardous position's job description by the Authority's medical examiner.

11 ➔Section 18. KRS 78.5526 is amended to read as follows:

12 (1) Once each year following the retirement of a person on a disability retirement
 13 allowance, except for persons who become totally and permanently disabled as a
 14 direct result of an act in line of duty as defined in KRS 78.510 or become disabled
 15 as a result of a duty-related injury as defined in KRS 61.621 in which case shall
 16 be once every three (3) years following retirement, or less frequently as determined
 17 by the Authority's medical examiner but not less than once every five (5) years, the
 18 system may require the person, prior to his or her normal retirement date, to
 19 undergo an employment and medical staff review and, if necessary, be required to
 20 file at the retirement office on the review form prescribed by the Authority current
 21 employment information and current medical information for the bodily injury,
 22 mental illness, or disease for which he or she receives a disability retirement
 23 allowance. The person shall have one hundred eighty (180) days from the day the
 24 Authority ~~sent~~mailed the review form by United States first-class mail to the
 25 person's last address on file in the retirement office, by electronic mail to the
 26 person's last electronic mail address on file in the retirement office, or by other
 27 electronic means to file at the retirement office the review form and the current

1 employment and medical information. The person shall certify to the Authority that
2 the review form, including current employment and medical information, is ready to
3 be evaluated by the medical examiner in accordance with KRS 78.5528.

4 (2) If, after good faith efforts, the person informs the Authority that he or she has been
5 unable to obtain the employment or medical information, the Authority shall assist
6 the person in obtaining the records and may use the powers granted pursuant to
7 KRS 61.685(1) to obtain the records.

8 (3) If the person fails or refuses to file at the retirement office the review form,
9 including the current employment and medical information, his or her retirement
10 allowance shall be discontinued or reduced on the first day of the month following
11 the expiration of the one hundred eighty (180) days from the day the Authority
12 ~~sent~~~~mailed~~ the review form by United States first-class mail to the person's last
13 address on file in the retirement office, by electronic mail to the person's last
14 electronic mail address on file in the retirement office, or by other electronic
15 means. The Authority shall send notice of the discontinuance or reduction of the
16 disability retirement allowance by United States first-class mail to the person's last
17 address on file in the retirement office, by electronic mail to the person's last
18 electronic mail address on file in the retirement office, or by other electronic
19 means. If the person's benefits are discontinued or reduced under this section, his or
20 her rights to further disability retirement allowances shall cease, except as provided
21 by KRS 78.5528.

22 (4) The Kentucky Public Pensions Authority shall hire or contract for the services of
23 one (1) or more investigators to investigate potential fraud involving disability
24 benefits with the system. The investigators shall evaluate potential cases of
25 disability fraud and conduct spot audits for potential fraud as determined by the
26 system in cases involving members who become totally and permanently disabled
27 as a direct result of an act in line of duty as defined in KRS 78.510 or become

1 **disabled as a result of a duty-related injury as defined in KRS 61.621.**

2 ➔Section 19. KRS 78.5530 is amended to read as follows:

3 Notwithstanding any other provisions of KRS 78.510 to 78.852, a maximum disability
4 benefit is hereby established which shall apply, upon disability retirement, to any disabled
5 employee's account to which service credit is added to determine disability benefits or in
6 any case where disability benefits are determined by computing a percentage of the
7 disabled employee's final monthly rate of pay **or monthly average pay**. The maximum
8 disability benefit shall be determined by the following formula:

9 (1) Add the monthly benefit payable to the disabled employee from the County
10 Employees Retirement System and the Kentucky Retirement Systems, using the
11 monthly disability retirement allowance without any reduction due to the selection
12 of an optional payment plan under KRS 61.635 but excluding dependent children's
13 allowances, if any, to his or her monthly benefit, if any, from Social Security, even
14 though these payments may not begin for a period of time as required for
15 qualification under the federal Social Security law, excluding spouse or dependent
16 benefits, and his or her monthly benefit, if any, from workers' compensation, even
17 though these payments may not have begun as of the date the disabled member
18 applies for disability retirement benefits, excluding spouse or dependent children's
19 allowances, from workers' compensation, to arrive at a projected combined monthly
20 benefit.

21 (2) If the projected combined monthly benefit exceeds one hundred percent (100%) of
22 the disabled employee's final rate of pay or his or her final compensation, whichever
23 is greater, his or her disability retirement allowance from the County Employees
24 Retirement System and the Kentucky Retirement Systems shall be reduced to an
25 amount which would cause his or her projected combined monthly benefit to equal
26 one hundred percent (100%) of his or her final rate of pay or his or her final
27 compensation, whichever is greater; however, the disability retirement allowance

1 shall not be reduced below an amount which would result from a computation of his
2 or her disability retirement allowance from the County Employees Retirement
3 System and the Kentucky Retirement Systems using the disabled employee's actual
4 total service.

5 (3) The system may pay estimated benefits to a disabled employee, upon qualification
6 for disability retirement, based on an estimate of his or her Social Security and
7 workers' compensation benefits until the amounts are actually determined, at which
8 time a final calculation of the member's actual benefits shall be determined and his
9 or her account corrected retroactive to his or her effective retirement date.

10 (4) Any increase in Social Security benefits or workers' compensation benefits which
11 becomes law, regardless of their effective date, subsequent to the disabled
12 employee's effective retirement date, shall not be considered in determination of the
13 maximum benefit payable, as the maximum benefit payable is based on the amount
14 of combined benefits under these programs as of the disabled employee's effective
15 retirement date.

16 (5) Any disabled recipient whose potential payments from the system were reduced as
17 provided for in this section shall advise the Authority if his or her payments under
18 the federal Social Security Act or Workers' Compensation Act cease at any time
19 subsequent to his or her effective retirement date. Upon investigation, if the system
20 determines that the disabled recipient continues to be eligible for disability benefits,
21 the system may increase his or her retirement allowance by adding to his or her
22 payment an amount equal to the reduction applied upon the effective retirement date
23 in accordance with subsection (2) of this section.

24 (6) The amount of combined disability benefit payments made to an individual on or
25 after April 1 2021, from the Kentucky Retirement Systems and the County
26 Employees Retirement System shall not be increased as a result of the passage of
27 2021 Ky. Acts ch. 102.

1 (7) Subsequent to his or her effective retirement date, each disability recipient who is
 2 still eligible to receive disability payments based upon a total and permanent
 3 disability that occurred as a direct result of an act in line of duty as defined in
 4 KRS 78.510 or a disablement that occurred as a result of a duty-related injury as
 5 defined in KRS 61.621 shall annually file, on a form or via an electronic method
 6 established by the Authority, information on whether payments to the recipient
 7 have ceased or begun under the federal Social Security Act or Workers'
 8 Compensation Act and the Authority shall make any necessary adjustments as
 9 provided by this section.

10 ➔Section 20. KRS 78.5536 is amended to read as follows:

11 (1) For purposes of this section:

12 (a) "Hospital and medical insurance plan" may include, at the board's discretion,
 13 any one (1) or more of the following:

- 14 1. Any hospital and medical expense policy or certificate, provider-
 15 sponsored integrated health delivery network, self-insured medical plan,
 16 health maintenance organization contract, or other health benefit plan;
- 17 2. Any health savings account as permitted by 26 U.S.C. sec. 223 or health
 18 reimbursement arrangement or a similar account as may be permitted by
 19 26 U.S.C. sec. 105 or 106. Such arrangement or account, at the board's
 20 discretion, may reimburse any medical expense permissible under 26
 21 U.S.C. sec. 213; or
- 22 3. A medical insurance reimbursement program established by the board
 23 through the promulgation of administrative regulation under which
 24 members purchase individual health insurance coverage through a health
 25 insurance exchange established under 42 U.S.C. sec. 18031 or 18041;

26 (b) "Monthly contribution rate" shall be the amount determined by the board
 27 based upon the requirements of subsection (4)(a) to (c) of this section, except

1 that for members who began participating in the system on or after July 1,
2 2003, the term shall mean the amount determined in subsection (4)(d) of this
3 section; and

4 (c) "Months of service" shall mean the total months of combined service used to
5 determine benefits under the system, except service added to determine
6 disability benefits or service otherwise prohibited from being used to
7 determine retiree health benefits under KRS 78.510 to 78.852 shall not be
8 counted as "months of service."

9 (2) (a) 1. The board of trustees of the system shall arrange by appropriate contract
10 or on a self-insured basis to provide a group hospital and medical
11 insurance plan coverage for:

12 a. Present and future recipients of a retirement allowance from the
13 County Employees Retirement System; and

14 b. The spouse and each qualified dependent of a recipient who is a
15 former member or the beneficiary, provided the spouse and
16 dependent meet the requirements to participate in the hospital and
17 medical insurance plans established, contracted, or authorized by
18 the system.

19 2. Any recipient who chooses coverage under a hospital and medical
20 insurance plan shall pay, by payroll deduction from the retirement
21 allowance, electronic funds transfer, or by another method, the
22 difference between the premium cost of the hospital and medical
23 insurance plan coverage selected and the monthly contribution rate to
24 which he or she would be entitled under this section.

25 (b) 1. For present and future recipients of a retirement allowance from the
26 system who are not eligible for Medicare, the board may authorize these
27 participants to be included in the Kentucky Employees Health Plan as

1 provided by KRS 18A.225 to 18A.2287 and shall provide benefits for
2 recipients in the plan equal to those provided to state employees having
3 the same Medicare hospital and medical insurance eligibility status.
4 Notwithstanding the provisions of any other statute, system recipients
5 shall be included in the same class as current state employees for
6 purposes of determining medical insurance policies and premiums in the
7 Kentucky Employees Health Plan as provided by KRS 18A.225 to
8 18A.2287.

9 2. Regardless of age, if a recipient or the spouse or dependent child of a
10 recipient who elects coverage becomes eligible for Medicare, he or she
11 shall participate in the plans offered by the systems for Medicare eligible
12 recipients. Individuals participating in the Medicare eligible plans may
13 be required to obtain and pay for Medicare Part A and Part B coverage
14 in order to participate in the Medicare eligible plans offered by the
15 system.

16 3. The system shall continue to provide the same hospital and medical
17 insurance plan coverage for recipients and qualifying dependents after
18 the age of sixty-five (65) as before the age of sixty-five (65), if:

19 a. The recipient is not eligible for Medicare coverage; or

20 b. *The recipient would otherwise be eligible for Medicare coverage*
21 *but is subject to the Medicare Secondary Payer Act under 42*
22 *U.S.C. sec. 1395y(b) and has been reemployed by a participating*
23 *agency which offers the recipient a hospital and medical*
24 *insurance benefit or by a participating agency which is prevented*
25 *from offering a hospital and medical benefit to the recipient as a*
26 *condition of reemployment under KRS 70.293, 95.022, or*
27 *164.952.*

1 (c) For recipients of a retirement allowance who are not eligible for the same
2 level of hospital and medical benefits as recipients living in Kentucky having
3 the same Medicare hospital and medical insurance eligibility status, the board
4 shall provide a medical insurance reimbursement plan as described in
5 subsection (6) of this section.

6 (d) Notwithstanding anything in KRS Chapter 78 to the contrary, the board of
7 trustees, in its discretion, may take necessary steps to ensure compliance with
8 42 U.S.C. secs. 300bb-1 et seq.

9 (3) (a) Each employer participating in the County Employees Retirement System as
10 provided in KRS 78.510 to 78.852 shall contribute to the insurance trust fund
11 established by KRS 61.701 the amount necessary to provide the monthly
12 contribution rate as provided for under this section. Such employer
13 contribution rate shall be developed by appropriate actuarial method as a part
14 of the determination of each respective employer contribution rate determined
15 under KRS 78.635.

16 (b) 1. Each employer described in paragraph (a) of this subsection shall deduct
17 from the creditable compensation of each member whose membership
18 date begins on or after September 1, 2008, an amount equal to one
19 percent (1%) of the member's creditable compensation. The deducted
20 amounts shall, at the discretion of the board, be credited to accounts
21 established pursuant to 26 U.S.C. sec. 401(h), within the funds
22 established in KRS 78.520, or the insurance trust fund established under
23 KRS 61.701. Notwithstanding the provisions of this paragraph, a
24 transfer of assets between the accounts established pursuant to 26 U.S.C.
25 sec. 401(h), within the funds established in KRS 78.520, and the
26 insurance trust fund established under KRS 61.701 shall not be allowed.

27 2. The employer shall file the contributions as provided by subparagraph 1.

- 1 of this paragraph at the retirement office in accordance with KRS
2 78.625. Any interest or penalties paid on any delinquent contributions
3 shall be credited to accounts established pursuant to 26 U.S.C. sec.
4 401(h), within the funds established in KRS 78.520, or the insurance
5 trust fund established under KRS 61.701. Notwithstanding any
6 minimum compensation requirements provided by law, the deductions
7 provided by this paragraph shall be made, and the compensation of the
8 member shall be reduced accordingly.
- 9 3. Each employer shall submit payroll reports, contributions lists, and other
10 data as may be required by administrative regulation promulgated by the
11 board of trustees pursuant to KRS Chapter 13A.
- 12 4. Every member shall be deemed to consent and agree to the deductions
13 made pursuant to this paragraph, and the payment of salary or
14 compensation less the deductions shall be a full and complete discharge
15 of all claims for services rendered by the person during the period
16 covered by the payment, except as to any benefits provided by KRS
17 78.510 to 78.852. No member may elect whether to participate in, or
18 choose the contribution amount to accounts established pursuant to 26
19 U.S.C. sec. 401(h) within the funds established in KRS 78.520, or the
20 insurance trust fund established under KRS 61.701. The member shall
21 have no option to receive the contribution required by this paragraph
22 directly instead of having the contribution paid to accounts established
23 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS
24 78.520, or the insurance trust fund established under KRS 61.701. No
25 member may receive a rebate or refund of contributions. If a member
26 establishes a membership date prior to September 1, 2008, pursuant to
27 KRS 61.552(2) or (3), then this paragraph shall not apply to the member

1 and all contributions previously deducted in accordance with this
2 paragraph shall be refunded to the member without interest. The
3 contribution made pursuant to this paragraph shall not act as a reduction
4 or offset to any other contribution required of a member or recipient
5 under KRS 78.510 to 78.852.

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

11 (4) (a) The premium required to provide hospital and medical insurance plan
12 coverage under this section shall be paid wholly or partly from funds
13 contributed by:

14 1. The recipient of a retirement allowance, by payroll deduction from his or
15 her retirement allowance, electronic funds transfer, or by other method;

16 2. The insurance trust fund established by KRS 61.701 or accounts
17 established pursuant to 26 U.S.C. sec. 401(h) within the funds
18 established in KRS 78.520;

19 3. Another state-administered retirement system, including the systems
20 administered by Kentucky Retirement Systems, under a reciprocal
21 arrangement, except that any portion of the premium paid from the funds
22 specified by subparagraph 2. of this paragraph under a reciprocal
23 agreement shall not exceed the amount that would be payable under this
24 section if all the member's service were in the County Employees
25 Retirement System. If the board provides for cross-referencing of
26 insurance premiums, the employer's contribution for the working
27 member or spouse shall be applied toward the premium, and the

1 insurance trust fund established under KRS 61.701 or accounts
2 established pursuant to 26 U.S.C. sec. 401(h) within the funds
3 established in KRS 78.520, shall pay the balance; or

4 4. A combination of the fund sources described by subparagraph 1. to 3. of
5 this paragraph.

6 Group rates under the hospital and medical insurance plan shall be made
7 available to the spouse, each dependent child, and each disabled child,
8 regardless of the disabled child's age, of a recipient who is a former member
9 or the beneficiary, if the premium for the hospital and medical insurance for
10 the spouse, each dependent child, and each disabled child, or beneficiary is
11 paid by payroll deduction from the retirement allowance, electronic funds
12 transfer, or by another method. For purposes of this subsection only, a child
13 shall be considered disabled if he or she has been determined to be eligible for
14 federal Social Security disability benefits or meets the dependent disability
15 standard established by the Department of Employee Insurance in the
16 Personnel Cabinet.

17 (b) For a member who began participating in the system prior to July 1, 2003, the
18 monthly contribution rate shall be paid by the system from the funds specified
19 under paragraph (a)2. of this subsection and shall be equal to a percentage of
20 the single premium to cover the retired member as follows:

21 1. One hundred percent (100%) of the monthly premium for single
22 coverage shall be paid for a retired member who had two hundred forty
23 (240) months of service or more upon retirement or for a retired member
24 who when he or she was an employee was disabled as a direct result of
25 an act in line of duty as defined in KRS 78.510(48) or as a result of a
26 duty-related injury as defined in KRS 61.621;

27 2. Seventy-five percent (75%) of the monthly premium for single coverage

1 shall be paid for a retired member who had less than two hundred forty
2 (240) months of service but at least one hundred eighty (180) months of
3 service upon retirement, provided such retired member agrees to pay the
4 remaining twenty-five percent (25%) by payroll deduction from his or
5 her retirement allowance, electronic funds transfer, or by another
6 method;

7 3. Fifty percent (50%) of the monthly premium for single coverage shall be
8 paid for a retired member who had less than one hundred eighty (180)
9 months of service but had at least one hundred twenty (120) months of
10 service upon retirement, provided such retired member agrees to pay the
11 remaining fifty percent (50%) by payroll deduction from his or her
12 retirement allowance, electronic funds transfer, or by another method; or

13 4. Twenty-five percent (25%) of the monthly premium for single coverage
14 shall be paid for a retired member who had less than one hundred twenty
15 (120) months of service but had at least forty-eight (48) months of
16 service upon retirement, provided such retired member agrees to pay the
17 remaining seventy-five percent (75%) by payroll deduction from his or
18 her retirement allowance, electronic funds transfer, or by another
19 method.

20 Notwithstanding the foregoing provisions of this paragraph, an employee
21 participating in the system prior to July 1, 2003, who is killed as a direct result
22 of an act in line of duty as defined in KRS 78.510(48) or as a result of a duty-
23 related injury as defined in KRS 61.621, shall have the monthly premium paid
24 for the beneficiary, if the beneficiary is the member's spouse, and for each
25 dependent child, so long as they individually remain eligible for a monthly
26 retirement benefit.

27 (c) 1. For a member who began participating in the system prior to July 1,

1 2003, who was determined to be in a hazardous position in the County
2 Employees Retirement System, the funds specified under paragraph (a)2.
3 of this subsection shall also pay a percentage of the monthly contribution
4 rate sufficient to fund the premium costs for hospital and medical
5 insurance coverage for the spouse and for each dependent child of a
6 recipient.

7 2. The percentage of the monthly contribution rate paid for the spouse and
8 each dependent child of a recipient who was in a hazardous position in
9 accordance with subparagraph 1. of this paragraph shall be based solely
10 on the member's service in a hazardous position using the formula in
11 paragraph (b) of this subsection, except that for any recipient of a
12 retirement allowance from the County Employees Retirement System
13 who was contributing to the system on January 1, 1998, for service in a
14 hazardous position, the percentage of the monthly contribution shall be
15 based on the total of hazardous service and any nonhazardous service as
16 a police or firefighter with the same agency, if that agency was
17 participating in the County Employees Retirement System but did not
18 offer hazardous duty coverage for its police and firefighters at the time
19 of initial participation.

20 (d) For members who begin participating in the system on or after July 1, 2003:

21 1. Participation in the insurance benefits provided under this section shall
22 not be allowed until the member has earned at least one hundred twenty
23 (120) months of service in the state-administered retirement systems,
24 except that for members who begin participating in the system on or
25 after September 1, 2008, participation in the insurance benefits provided
26 under this section shall not be allowed until the member has earned at
27 least one hundred eighty (180) months of service credited under KRS

- 1 78.615(1) or another state-administered retirement system.
- 2 2. A member who meets the minimum service requirements as provided by
- 3 subparagraph 1. of this paragraph shall upon retirement be eligible for
- 4 the following monthly contribution rate to be paid on his or her behalf
- 5 from the funds specified under paragraph (a)2. of this subsection:
- 6 a. For members with service in a nonhazardous position, a monthly
- 7 insurance contribution of ten dollars (\$10) for each year of service
- 8 as a participating employee in a nonhazardous position; and
- 9 b. For members with service in a hazardous position, a monthly
- 10 insurance contribution of fifteen dollars (\$15) for each year of
- 11 service as a participating employee in a hazardous position. Upon
- 12 the death of the retired member, the beneficiary, if the beneficiary
- 13 is the member's spouse, shall be entitled to a monthly insurance
- 14 contribution of ten dollars (\$10) for each year of service the
- 15 member attained as a participating employee in a hazardous
- 16 position.
- 17 3. The minimum service requirement to participate in benefits as provided
- 18 by subparagraph 1. of this paragraph shall be waived for a member who
- 19 is disabled as a result of an act in line of duty as defined in KRS
- 20 78.510(48) or as a result of a duty-related injury as defined by KRS
- 21 61.621 and the member shall be entitled to the benefits payable under
- 22 this subsection as though the member had twenty (20) years of service in
- 23 the position for which the disabling condition occurred.
- 24 4. Notwithstanding the provisions of this paragraph, the minimum service
- 25 requirement to participate in benefits as provided by subparagraph 1. of
- 26 this paragraph shall be waived for a for a member who dies a as a result
- 27 of an act in line of duty as defined in KRS 78.510(48) or as a result of a

1 duty-related injury as defined in KRS 61.621, and the premium for the
2 member's spouse and for each dependent child as defined in KRS 78.510
3 shall be paid in full by the systems so long as they individually remain
4 eligible for a monthly retirement benefit.

5 5. Except as provided by subparagraph 4. of this paragraph, the monthly
6 insurance contribution amount shall be increased July 1 of each year by
7 one and one-half percent (1.5%). The increase shall be cumulative and
8 shall continue to accrue after the member's retirement for as long as a
9 monthly insurance contribution is payable to the retired member or
10 beneficiary.

11 6. The benefits of this paragraph provided to a member whose participation
12 begins on or after July 1, 2003, shall not be considered as benefits
13 protected by the inviolable contract provisions of KRS 78.852. The
14 General Assembly reserves the right to suspend or reduce the benefits
15 conferred in this paragraph if in its judgment the welfare of the
16 Commonwealth so demands.

17 7. An employee whose membership date is on or after September 1, 2008,
18 who retires and is reemployed in a regular full-time position required to
19 participate in the system or the Kentucky Retirement Systems shall not
20 be eligible for health insurance coverage or benefits provided by this
21 section and shall take coverage with his or her employing agency during
22 the period of reemployment in a regular full-time position.

23 (e) For members with service in another state-administered retirement system
24 who select hospital and medical insurance plan coverage through the system:

25 1. The system shall compute the member's combined service, including
26 service credit in another state-administered retirement system, and
27 calculate the portion of the member's premium monthly contribution rate

1 to be paid by the funds specified under paragraph (a)2. of this subsection
2 according to the criteria established in paragraphs (a) to (d) of this
3 subsection. Each state-administered retirement system shall pay annually
4 to the insurance trust fund established under KRS 61.701 the portion of
5 the system's cost of the retiree's monthly contribution for single coverage
6 for hospital and medical insurance plan which shall be equal to the
7 percentage of the member's number of months of service in the other
8 state-administered retirement plan divided by his or her total combined
9 service and in conjunction with the reciprocal agreement established
10 between the system and the other state-administered retirement systems.
11 The amounts paid by the other state-administered retirement plans and
12 by the County Employees Retirement System from funds specified under
13 paragraph (a)2. of this subsection shall not be more than one hundred
14 percent (100%) of the monthly contribution adopted by the respective
15 boards of trustees;

16 2. A member may not elect coverage for hospital and medical benefits
17 through more than one (1) of the state-administered retirement systems;
18 and

19 3. A state-administered retirement system 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) Premiums paid for hospital and medical insurance coverage procured under
23 authority of this section shall be exempt from any premium tax which might
24 otherwise be required under KRS Chapter 136. The payment of premiums by the
25 funds described by subsection (4)(a)2. of this section shall not constitute taxable
26 income to an insured recipient. No commission shall be paid for hospital and
27 medical insurance procured under authority of this section.

1 (6) The board shall promulgate an administrative regulation to establish a medical
2 insurance reimbursement plan to provide reimbursement for hospital and medical
3 insurance plan premiums of recipients of a retirement allowance who are not
4 eligible for the same level of hospital and medical benefits as recipients living in
5 Kentucky and having the same Medicare hospital and medical insurance eligibility
6 status. An eligible recipient shall file proof of payment for hospital and medical
7 insurance plan coverage with the retirement office. Reimbursement to eligible
8 recipients shall be made on a quarterly basis. The recipient shall be eligible for
9 reimbursement of substantiated medical insurance premiums for an amount not to
10 exceed the total monthly contribution rate determined under subsection (4) of this
11 section. The plan shall not be made available if all recipients are eligible for the
12 same coverage as recipients living in Kentucky.

13 ➔Section 21. KRS 78.5540 is amended to read as follows:

14 (1) A retired member whose disability retirement was discontinued pursuant to KRS
15 78.5528 and who is reemployed by an employer participating in the system or the
16 Kentucky Retirement Systems prior to his or her normal retirement date shall have
17 his or her accounts combined upon termination for determining eligibility for
18 benefits. If the member is eligible for retirement, the member's service and
19 creditable compensation earned as a result of his or her reemployment shall be used
20 in the calculation of benefits, except that the member's final compensation shall not
21 be less than the final compensation last used in determining his or her retirement
22 allowance. The member shall not change beneficiary or payment option
23 designations.

24 (2) (a) If a retired member accepts employment or begins serving as a volunteer with
25 an employer participating in the systems administered by Kentucky
26 Retirement Systems or the County Employees Retirement System within
27 twelve (12) months of his or her retirement date, the retired member shall

1 notify the Authority and the participating employer shall submit the
2 information required or requested by the Authority to confirm the individual's
3 employment or volunteer status. The retired member shall not be required to
4 notify the Authority regarding any employment or volunteer service with a
5 participating agency that is accepted after twelve (12) months following his or
6 her retirement date.

7 (b) If the retired member is under a contract to provide services as an independent
8 contractor or leased employee to an employer participating in the systems
9 administered by Kentucky Retirement Systems or the County Employees
10 Retirement System within twelve (12) months of his or her retirement date,
11 the member shall submit a copy of that contract to the Authority, and the
12 Authority shall determine if the member is an independent contractor or leased
13 employee for purposes of retirement benefits. The retired member and the
14 participating employer shall submit the information required or requested by
15 the Authority to confirm the individual's status as an independent contractor or
16 leased employee. The retired member shall not be required to notify the
17 Authority regarding any services entered into as an independent contractor or
18 leased employee with a participating agency that the employee enters into
19 after twelve (12) months following his or her retirement date.

20 (3) Retired members of the County Employees Retirement System who returned to
21 work with an employer that participates in the County Employees Retirement
22 System or Kentucky Retirement Systems prior to September 1, 2008, shall be
23 governed by the provisions of KRS 61.637(1) to (16).

24 (4) The following shall apply to retired members of the County Employees Retirement
25 System who are reemployed on or after September 1, 2008, by an agency
26 participating in the systems administered by the County Employees Retirement
27 System or the Kentucky Retirement Systems:

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

- 14 1. The member shall contribute to a member account established for him or
15 her in the County Employees Retirement System or the Kentucky
16 Retirement Systems, and employer contributions shall be paid on behalf
17 of the member by the participating employer to the system; and
- 18 2. Upon subsequent retirement, the member shall be eligible for a
19 retirement allowance based upon total service and creditable
20 compensation, including any additional service or creditable
21 compensation earned after his or her initial retirement was voided;

22 (b) Except as provided by paragraphs (c) and (d) of this subsection, if a retired
23 member is receiving a retirement allowance from the County Employees
24 Retirement System and is employed in a regular full-time position required to
25 participate in the County Employees Retirement System or the Kentucky
26 Retirement Systems after a three (3) month period following the member's
27 initial retirement date, the member may continue to receive his or her

1 retirement allowance during the period of reemployment subject to the
2 following provisions:

3 1. If a member is reemployed by a participating employer within twelve
4 (12) months of the member's retirement date, the participating employer
5 shall certify in writing on a form prescribed by the Authority that no
6 prearranged agreement existed between the employee and employer
7 prior to the employee's retirement for the employee to return to work
8 with the participating employer. If the participating employer fails to
9 complete the certification or the Authority determines a prearranged
10 agreement exists, the member's retirement shall be voided and the
11 provisions of paragraph (a) of this subsection shall apply to the member
12 and the employer. For purposes of this paragraph:

13 a. If an elected official is reelected to a new term of office in the
14 same position **as the elected official held prior to retirement and**
15 **takes office**~~and has retired from the elected office~~ within twelve
16 (12) months **of his or her retirement date**~~prior to taking the new~~
17 ~~term of office~~, he or she shall be deemed by the Authority as
18 having a prearranged agreement; and

19 b. Employment that is accepted by the retired member after twelve
20 (12) months following the member's retirement date shall not
21 constitute a prearranged agreement under this paragraph;

22 2. Notwithstanding any other provision of KRS Chapter 78 to the contrary,
23 the member shall not contribute to the system and shall not earn any
24 additional benefits for any work performed during the period of
25 reemployment;

26 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
27 except for any retiree employed as a school resource officer as defined

1 by KRS 158.441, the employer shall pay employer contributions as
2 specified by KRS 78.5536 and 78.635 on all creditable compensation
3 earned by the employee during the period of reemployment. The
4 additional contributions paid shall be used to reduce the unfunded
5 actuarial liability of the system; and

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

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

26 1. The member shall contribute to a member account established for him or
27 her in the County Employees Retirement System or the Kentucky

1 Retirement Systems, and employer contributions shall be paid on behalf
2 of the member by the participating employer; and

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

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

14 1. If a member is reemployed by a participating employer within twelve
15 (12) months of the member's retirement date, the participating employer
16 shall certify in writing on a form prescribed by the Authority that no
17 prearranged agreement existed between the employee and employer
18 prior to the employee's retirement for the employee to return to work
19 with the participating employer. If the participating employer fails to
20 complete the certification or the Authority determines a prearranged
21 agreement exists, the member's retirement shall be voided and the
22 provisions of paragraph (c) of this subsection shall apply to the member
23 and the employer. For purposes of this paragraph:

24 a. If an elected official is reelected to a new term of office in the
25 same position **as the elected official held prior to retirement and**
26 **takes office**~~and has retired from the elected office~~ within twelve
27 (12) months **of his or her retirement date**~~prior to taking the new~~

- 1 ~~term of office~~], he or she shall be deemed by the
2 Authority~~[system]~~ as having a prearranged agreement; and
- 3 b. Employment that is accepted by the retired member after twelve
4 (12) months following the member's retirement date shall not
5 constitute a prearranged agreement under this paragraph;
- 6 2. Notwithstanding any other provision of KRS Chapter 78 to the contrary,
7 the member shall not contribute to the system or the Kentucky
8 Retirement Systems and shall not earn any additional benefits for any
9 work performed during the period of reemployment;
- 10 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
11 except for any retiree employed as a school resource officer as defined
12 by KRS 158.441, the employer shall pay employer contributions as
13 specified by KRS 78.5536 and 78.635 on all creditable compensation
14 earned by the employee during the period of reemployment. The
15 additional contributions paid shall be used to reduce the unfunded
16 actuarial liability of the system; and
- 17 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
18 except for any retiree employed as a school resource officer as defined
19 by KRS 158.441, the employer shall be required to reimburse the system
20 for the cost of the health insurance premium paid by the system to
21 provide coverage for the retiree, not to exceed the cost of the single
22 premium;
- 23 (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member
24 who qualifies as a volunteer for an employer participating in the County
25 Employees Retirement System or the Kentucky Retirement Systems and who
26 is receiving reimbursement of actual expenses, a nominal fee for his or her
27 volunteer services, or both, shall not be considered an employee of the

1 participating employer and shall not be subject to paragraphs (a) to (d) of this
2 subsection if:

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

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

25 (f) Notwithstanding any provision of this section, any mayor or member of a city
26 legislative body shall not be required to resign from his or her position as
27 mayor or as a member of the city legislative body in order to begin drawing

1 benefits from the systems administered by the Kentucky Retirement Systems
2 or the County Employees Retirement System or subject to any provision of
3 this section as it relates solely to his or her service as a mayor or member of
4 the city legislative body, if the mayor or member of a city legislative body:

- 5 1. Has not participated in the County Employees Retirement System prior
6 to retirement, but is otherwise eligible to retire from the Kentucky
7 Employees Retirement System or the State Police Retirement System; or
- 8 2. Has been or is participating in the County Employees Retirement System
9 and is at least sixty-two (62) years of age. If a mayor or member of a city
10 legislative body who is at least sixty-two (62) years of age retires from
11 the systems administered by Kentucky Retirement Systems or the
12 County Employees Retirement System but remains in office after his or
13 her effective retirement date, the mayor or member of the city legislative
14 body shall not accrue any further service credit or benefits in the systems
15 administered by Kentucky Retirement Systems or the County Employees
16 Retirement System for any employment occurring on or after the
17 effective retirement date;

18 (g) If a member is receiving a retirement allowance from the County Employees
19 Retirement System and enters into a contract or becomes a leased employee of
20 an employer under contract with an employer participating in the County
21 Employees Retirement System or the Kentucky Retirement Systems:

- 22 1. At any time following retirement, if the Authority determines the
23 employment arrangement does qualify as an independent contractor or
24 leased employee, the member may continue to receive his or her
25 retirement allowance during the period of the contract;
- 26 2. Within three (3) months following the member's initial retirement date,
27 if the Authority determines the employment arrangement does not

1 qualify as an independent contractor or leased employee, the member's
2 retirement shall be voided in accordance with paragraph (a) of this
3 subsection;

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

11 4. After a twelve (12) month period following the member's initial
12 retirement, the member may continue to receive his or her retirement
13 allowance during the period of the contract and the member shall not be
14 required to notify the Authority or submit any documentation for
15 purposes of this section to the Authority. The initiation of a contract or
16 the initial date of the leased employment of a retired member by a
17 participating agency that occurs after twelve (12) months or more
18 following the retired member's retirement date shall not constitute a
19 prearranged agreement under this subsection;

20 (h) The Authority shall issue a final determination regarding a certification of the
21 absence of a prearranged agreement or the retired member's qualification as an
22 independent contractor or leased employee as required under this section no
23 later than thirty (30) days after the retired member and participating employer
24 provide all required forms and additional information required by the
25 Authority; and

26 (i) Retired members of one (1) of the systems administered by Kentucky
27 Retirement Systems who are reemployed by an employer in the County

1 Employees Retirement System on or after September 1, 2008, shall not be
2 eligible to earn a second retirement account in the County Employees
3 Retirement System for his or her service to the employer.

4 (5) The Authority shall promulgate administrative regulations to implement the
5 requirements of this section, including incorporating by reference Authority-
6 prescribed forms that a retired member and participating agency shall provide the
7 systems under subsections (1) and (4) of this section.

8 (6) "Reemployment" or "reinstatement" as used in this section shall not include a
9 retired member who has been ordered reinstated by the Personnel Board under
10 authority of KRS 18A.095. A retired member who has been ordered reinstated by
11 the Personnel Board under authority of KRS 18A.095 or by court order or by order
12 of the Human Rights Commission and accepts employment by an agency
13 participating in the Kentucky Employees Retirement System or County Employees
14 Retirement System shall void his or her retirement by reimbursing the system in the
15 full amount of his or her retirement allowance payments received.

16 ➔Section 22. KRS 78.782 is amended to read as follows:

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

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

22 1. Two (2) shall have a majority of his or her service credit earned in the
23 County Employees Retirement System in a nonhazardous position; 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 in
27 accordance with KRS 11.160 for each appointment or reappointment. Of the

- 1 six (6) trustees appointed by the Governor:
- 2 1. One (1) trustee with retirement experience shall be appointed from a list
 - 3 of three (3) applicants submitted by the Kentucky League of Cities;
 - 4 2. One (1) trustee with investment experience shall be appointed from a list
 - 5 of three (3) applicants submitted by the Kentucky League of Cities;
 - 6 3. One (1) trustee with retirement experience shall be appointed from a list
 - 7 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 list
 - 10 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 list
 - 13 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 list
 - 16 of three (3) applicants submitted by the Kentucky School Boards
 - 17 Association.

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

- 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 in
3 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 CFA
10 Institute; or
- 11 5. A university professor, teaching investment-related studies; and

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 in
15 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 Kentucky
22 with relevant experience in retirement or pension plans; or
- 23 5. A current or former university professor whose primary area of emphasis
24 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 KRS 78.790(6), to contract for investment counseling,
4 auditing, medical, and other professional or technical services as required to
5 carry out the obligations of the board subject to the provisions of KRS
6 Chapters 45, 45A, 56, and 57. Actuarial consulting services shall be provided
7 by a firm hired by the Kentucky Public Pensions Authority;
- 8 (e) To purchase fiduciary liability insurance;
- 9 (f) Except as provided in KRS 78.790(6), to acquire, hold, sell, dispose of,
10 pledge, lease, or mortgage, the goods or property necessary to exercise the
11 board's powers and perform the board's duties subject to KRS Chapters 45,
12 45A, and 56; and
- 13 (g) The board shall reimburse any trustee, officer, or employee for any legal
14 expense resulting from a civil action arising out of the performance of his or
15 her official duties. The hourly rate of reimbursement for any contract for legal
16 services under this paragraph shall not exceed the maximum hourly rate
17 provided in the Legal Services Duties and Maximum Rate Schedule
18 promulgated by the Government Contract Review Committee established
19 pursuant to KRS 45A.705, unless a higher rate is specifically approved by the
20 secretary of the Finance and Administration Cabinet or his or her 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 as
23 otherwise provided in this section. An elected or appointed trustee shall not serve
24 more than three (3) consecutive four (4) year terms. An elected or appointed trustee
25 who has served three (3) consecutive terms may be elected or appointed again after
26 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 (4) digits of the
7 Social Security number, and signature of no less than one-tenth (1/10) of the
8 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 to
11 be prepared an official ballot. The ballot shall carry the name, address, and
12 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 address
16 **on file with the Kentucky Public Pensions Authority. Ballots shall not be**
17 **distributed by mail to member addresses reported as invalid to the Kentucky**
18 **Public Pensions Authority.**

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

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

1 ballots, shall be provided on the ballot.

2 (g) The board's contracted firm shall report in writing the outcome to the chair of
3 the board of trustees. Costs of an election shall be payable from the funds of
4 the system.

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

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

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

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

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

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

25 (5) (a) Any vacancy which may occur in an appointed position during a term of office
26 shall be filled in the same manner which provides for the selection of the
27 particular trustee, and any vacancy which may occur in an elected position

1 during a term of office shall be filled by appointment by a majority vote of the
2 remaining elected trustees; however, any vacancy shall be filled only for the
3 duration of the unexpired term. In the event of a vacancy of an elected trustee
4 during a term of office, the system shall notify members of the vacancy and
5 the opportunity to be considered for the vacant position. Any vacancy shall be
6 filled within ninety (90) days of the position becoming vacant.

7 (b) Any appointments or reappointments to an appointed position on the board
8 shall be made at least thirty (30) days prior to an appointed member's term of
9 office ending. The Governor's Office shall, with each appointment or
10 reappointment, request lists to be submitted and base selections on those lists
11 solely under the procedures and requirements provided by subsection (1)(b) of
12 this section.

13 (6) (a) Membership on the board of trustees shall not be incompatible with any other
14 office unless a constitutional incompatibility exists. No trustee shall serve in
15 more than one (1) position as trustee on the board and, if a trustee holds more
16 than one (1) position as trustee on the board, he or she shall resign a position.

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

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

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

27 (8) (a) The board shall meet at least once in each quarter of the year and may meet in

- 1 special session upon the call of the chair or the chief executive officer.
- 2 (b) The board shall elect a chair and a vice chair. The chair shall not serve more
3 than four (4) consecutive years as chair or vice chair of the board. The vice
4 chair shall not serve more than four (4) consecutive years as chair or vice chair
5 of the board. A trustee who has served four (4) consecutive years as chair or
6 vice chair of the board may be elected chair or vice chair of the board after an
7 absence of two (2) years from the positions.
- 8 (c) A majority of the trustees shall constitute a quorum, and all actions taken by
9 the board shall be by affirmative vote of a majority of the trustees present.
- 10 (9) (a) The board of trustees shall appoint or contract for the services of a chief
11 executive officer and general counsel and fix the compensation and other
12 terms of employment for these positions without limitation of the provisions
13 of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer
14 shall serve as the legislative and executive adviser to the board. The general
15 counsel shall serve as legal adviser to the board. The chief executive officer
16 and general counsel shall work with the executive director of the Kentucky
17 Public Pensions Authority to carry out the provisions of KRS 78.510 to
18 78.852. The executive director of the Kentucky Public Pensions Authority
19 shall be the chief administrative officer of the board.
- 20 (b) The board shall require the chief executive officer and may require the general
21 counsel to execute bonds for the faithful performance of his or her duties
22 notwithstanding the limitations of KRS Chapter 62.
- 23 (c) The board shall have a system of accounting established by the Kentucky
24 Public Pensions Authority.
- 25 (d) The board shall do all things, take all actions, and promulgate all
26 administrative regulations, not inconsistent with the provisions of KRS 78.510
27 to 78.852, necessary or proper in order to carry out the provisions of KRS

1 78.510 to 78.852. Notwithstanding any other evidence of legislative intent, it
2 is hereby declared to be the controlling legislative intent that the provisions of
3 KRS 78.510 to 78.852 conform with federal statute or regulation and meet the
4 qualification requirements under 26 U.S.C. sec. 401(a), applicable federal
5 regulations, and other published guidance. Provisions of KRS 78.510 to
6 78.852 which conflict with federal statute or regulation or qualification under
7 26 U.S.C. sec. 401(a), applicable federal regulations, and other published
8 guidance shall not be available. The board shall have the authority to
9 promulgate administrative regulations to conform with federal statute and
10 regulation and to meet the qualification requirements under 26 U.S.C. sec.
11 401(a), including an administrative regulation to comply with 26 U.S.C. sec.
12 401(a)(9).

13 (e) Notwithstanding any other provision of statute to the contrary, including but
14 not limited to any provision of KRS Chapter 12, the Governor shall have no
15 authority to change any provision of KRS 78.510 to 78.852 by executive order
16 or action, including but not limited to reorganizing, replacing, amending, or
17 abolishing the membership of the County Employees Retirement System
18 board of trustees.

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

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

27 (12) (a) The *Kentucky Public Pensions Authority*~~[system]~~ shall publish an annual

1 financial report showing all receipts, disbursements, assets, and liabilities for
2 the systems. The annual report shall include a copy of an audit conducted in
3 accordance with generally accepted auditing standards. Except as provided by
4 paragraph (b) of this subsection, the board may select ~~the~~^{an} independent
5 certified public accountant hired by the Kentucky Public Pensions Authority
6 or the Auditor of Public Accounts to perform the audit. If the audit is
7 performed by an independent certified public accountant, the Auditor of
8 Public Accounts shall not be required to perform an audit pursuant to KRS
9 43.050(2)(a), but may perform an audit at his or her discretion. All
10 proceedings and records of the board shall be open for inspection by the
11 public. The Kentucky Public Pensions Authority~~system~~ shall make copies
12 of the audit required by this subsection available for examination by any
13 member, retiree, or beneficiary in the offices of the County Employees
14 Retirement System and in other places as necessary to make the audit
15 available to all members, retirees, and beneficiaries. A copy of the annual
16 audit shall be sent electronically to the Legislative Research Commission no
17 later than ten (10) days after receipt by the board.

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

23 (13) All expenses incurred by or on behalf of the system and the board in the
24 administration of the system during a fiscal year shall be paid from the retirement
25 allowance account, including any administrative expenses for the Kentucky Public
26 Pensions Authority that are assigned to the County Employees Retirement System
27 by KRS 61.505. The board shall submit any administrative expenses that are

1 specific to the County Employees Retirement System that are not otherwise covered
2 by KRS 61.505(11)(a).

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

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

- 9 1. In good faith;
- 10 2. On an informed basis; and
- 11 3. In a manner he or she honestly believes to be in the best interest of the
12 County Employees Retirement System.

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

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

- 21 1. One (1) or more officers or employees of the system or
22 Authority~~[authority]~~ whom the trustee honestly believes to be reliable
23 and competent in the matters presented;
- 24 2. Legal counsel, public accountants, actuaries, or other persons as to
25 matters the trustee honestly believes are within the person's professional
26 or expert competence; or
- 27 3. A committee of the board of trustees of which he or she is not a member

- 1 if the trustee honestly believes the committee merits confidence.
- 2 (d) A trustee shall not be considered as acting in good faith if he or she has
3 knowledge concerning the matter in question that makes reliance otherwise
4 permitted by paragraph (c) of this subsection unwarranted.
- 5 (e) Any action taken as a trustee, or any failure to take any action as a trustee,
6 shall not be the basis for monetary damages or injunctive relief unless:
- 7 1. The trustee has breached or failed to perform the duties of the trustee's
8 office in compliance with this section; and
- 9 2. In the case of an action for monetary damages, the breach or failure to
10 perform constitutes willful misconduct or wanton or reckless disregard
11 for human rights, safety, or property.
- 12 (f) A person bringing an action for monetary damages under this section shall
13 have the burden of proving by clear and convincing evidence the provisions of
14 paragraph (e)1. and 2. of this subsection, and the burden of proving that the
15 breach or failure to perform was the legal cause of damages suffered by the
16 system.
- 17 (g) In discharging his or her administrative duties under this section, a trustee
18 shall strive to administer the system in an efficient and cost-effective manner
19 for the taxpayers of the Commonwealth of Kentucky and shall take all actions
20 available under the law to contain costs for the trusts, including costs for
21 participating employers, members, and retirees.
- 22 (16) When an order by the system substantially impairs the benefits or rights of a
23 member, retired member, or recipient, except action which relates to entitlement to
24 disability benefits, **or when an employer disagrees with an order of the system as**
25 **provided by KRS 61.598,** the affected member, retired member,~~or~~ recipient, **or**
26 **employer** may request a hearing to be held in accordance with KRS Chapter 13B.
27 The board may establish an appeals committee whose members shall be appointed

1 by the chair and who shall have authority to act upon the recommendations and
2 reports of the hearing officer on behalf of the board. The member, retired member,
3 recipient, or employer aggrieved by a final order of the board following the hearing
4 may appeal the decision to the Franklin Circuit Court, in accordance with KRS
5 Chapter 13B. The board may establish a joint administrative appeals committee
6 with the Kentucky Retirement Systems and may also establish a joint disability
7 appeals committee with the Kentucky Retirement Systems.

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

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

- 12 1. Benefits and benefits administration;
- 13 2. Investment concepts, policies, and current composition and
14 administration of system investments;
- 15 3. Laws, bylaws, and administrative regulations pertaining to the system
16 and to fiduciaries; and
- 17 4. Actuarial and financial concepts pertaining to the system.

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

22 (b) Annual required training for board members on the administration, benefits,
23 financing, and investing of the system. If a trustee fails to complete the annual
24 required training during the calendar or fiscal year, the retirement system shall
25 withhold payment of the per diem and travel expenses due to the board
26 member under this section until the board member has met the annual training
27 requirements; and

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

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

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

12 (b) The Comprehensive Annual Financial Report with the information as follows:
13 1. A general overview and update on the system by the executive director;
14 2. A listing of the board of trustees;
15 3. A listing of key staff;
16 4. An organizational chart;
17 5. Financial information, including a statement of plan net assets, a
18 statement of changes in plan net assets, an actuarial value of assets, a
19 schedule of investments, a statement of funded status and funding
20 progress, and other supporting data;
21 6. Investment information, including a general overview, a list of the
22 system's professional consultants, a total net of fees return on system
23 investments over a historical period, an investment summary, contracted
24 investment management expenses, transaction commissions, and a
25 schedule of investments;
26 7. The annual actuarial valuation report on the pension benefit and the
27 medical insurance benefit; and

- 1 8. A general statistical section, including information on contributions,
2 benefit payouts, and retirement system demographic data;
- 3 (c) All external audits;
- 4 (d) All board minutes or other materials that require adoption or ratification by
5 the board of trustees. The items listed in this paragraph shall be posted within
6 seventy-two (72) hours of adoption or ratification of the board;
- 7 (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;
- 8 (f) The system's summary plan description;
- 9 (g) A document containing an unofficial copy of the statutes governing the
10 system;
- 11 (h) A listing of the members of the board of trustees and membership on each
12 committee established by the board, including any investment committees;
- 13 (i) All investment holdings in aggregate, fees, and commissions for each fund
14 administered by the board, which shall be updated on a quarterly basis for
15 fiscal years beginning on or after July 1, 2021. The system shall request from
16 all managers, partnerships, and any other available sources all information
17 regarding fees and commissions and shall, based on the requested information
18 received:
- 19 1. Disclose the dollar value of fees and commissions paid to each
20 individual manager or partnership;
- 21 2. Disclose the dollar value of any profit sharing, carried interest, or any
22 other partnership incentive arrangements, partnership agreements, or any
23 other partnership expenses received by or paid to each manager or
24 partnership; and
- 25 3. As applicable, report each fee or commission by manager or partnership
26 consistent with standards established by the Institutional Limited
27 Partners Association (ILPA).

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

4 (j) An update of net of fees investment returns, asset allocations, and the
5 performance of the funds against benchmarks adopted by the board for each
6 fund, for each asset class administered by the board, and for each manager.
7 The update shall be posted on a quarterly basis for fiscal years beginning on or
8 after July 1, 2021;

9 (k) A searchable database of the system's expenditures and a listing of each
10 individual employed by the system along with the employee's salary or wages.
11 In lieu of posting the information required by this paragraph to the Kentucky
12 Public Pensions Authority's Web site, the system may provide the information
13 through a Web site established by the executive branch to inform the public
14 about public employee salaries and wages;

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

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

20 (19) Notwithstanding the requirements of subsection (18) of this section, the system
21 shall not be required to furnish information that is protected under KRS 61.661,
22 exempt under KRS 61.878, or that, if disclosed, would compromise the system's
23 ability to competitively invest in real estate or other asset classes, except that no
24 provision of this section or KRS 61.878 shall exclude disclosure and review of all
25 contracts, including investment contracts, by the board, the Auditor of Public
26 Accounts, and the Government Contract Review Committee established pursuant to
27 KRS 45A.705 or the disclosure of investment fees and commissions as provided by

1 this section. If any public record contains material which is not excepted under this
2 section, the system shall separate the excepted material by removal, segregation, or
3 redaction, and make the nonexcepted material available for examination.

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

12 ➔Section 23. Whereas the prompt administration of retirement benefits by the
13 Kentucky Public Pensions Authority is a matter of the utmost importance to state and
14 local employees and retirees and the Commonwealth, an emergency is declared to exist,
15 and this Act takes effect upon its passage and approval by the Governor or upon its
16 otherwise becoming law.