

1 AN ACT relating to eliminating retirement benefits for state officers and their
2 political appointments taking office on or after December 1, 2019.

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

4 ➔Section 1. KRS 61.510 is amended to read as follows:

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

6 (1) "System" means the Kentucky Employees Retirement System created by KRS
7 61.510 to 61.705;

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

9 (3) "Department" means any state department or board or agency participating in the
10 system in accordance with appropriate executive order, as provided in KRS 61.520.

11 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the
12 General Assembly and any other body, entity, or instrumentality designated by
13 executive order by the Governor, shall be deemed to be a department,
14 notwithstanding whether said body, entity, or instrumentality is an integral part of
15 state government;

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

17 (5) "Employee" means the members, officers, and employees of the General Assembly
18 and every regular full-time~~[-, appointed or elective officer or]~~ employee of a
19 participating department, including the Department of Military Affairs. The term
20 **"employee"** does not include:

21 **(a) Elective or appointed officers who, in accordance with Section 3 of this Act,**
22 **are ineligible to participate in the system; or**

23 **(b)** Persons engaged as independent contractors, **or** seasonal, emergency,
24 temporary, interim, **or**~~and~~ part-time workers.

25 In case of any doubt, the board shall determine if a person is an employee within the
26 meaning of KRS 61.510 to 61.705;

27 (6) "Employer" means a department or any authority of a department having the power

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

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

10 (13) "Creditable compensation" means all salary, wages, tips to the extent the tips are
11 reported for income tax purposes, and fees, including payments for compensatory
12 time, paid to the employee as a result of services performed for the employer or for
13 time during which the member is on paid leave, which are includable on the
14 member's federal form W-2 wage and tax statement under the heading "wages, tips,
15 other compensation," including employee contributions picked up after August 1,
16 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall
17 mean all amounts which are includable on the member's federal form W-2 wage and
18 tax statement under the heading "wages, tips, other compensation," including
19 employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4)
20 or 61.560(4). A lump-sum bonus, severance pay, or employer-provided payment for
21 purchase of service credit shall be included as creditable compensation but shall be
22 averaged over the employee's total service with the system in which it is recorded if
23 it is equal to or greater than one thousand dollars (\$1,000). In cases where
24 compensation includes maintenance and other perquisites, the board shall fix the
25 value of that part of the compensation not paid in money. Living allowances,
26 expense reimbursements, lump-sum payments for accrued vacation leave, and other
27 items determined by the board shall be excluded. Creditable compensation shall

1 also include amounts which are not includable in the member's gross income by
2 virtue of the member having taken a voluntary salary reduction provided for under
3 applicable provisions of the Internal Revenue Code. Creditable compensation shall
4 also include elective amounts for qualified transportation fringes paid or made
5 available on or after January 1, 2001, for calendar years on or after January 1, 2001,
6 that are not includable in the gross income of the employee by reason of 26 U.S.C.
7 sec. 132(f)(4). For employees who begin participating on or after September 1,
8 2008, creditable compensation shall not include payments for compensatory time.
9 For employees who begin participating on or after August 1, 2016, creditable
10 compensation shall exclude nominal fees paid for services as a volunteer;

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

12 (a) For a member who begins participating before September 1, 2008, who is not
13 employed in a hazardous position, as provided in KRS 61.592, the creditable
14 compensation of the member during the five (5) fiscal years he was paid at the
15 highest average monthly rate divided by the number of months of service
16 credit during that five (5) year period multiplied by twelve (12). The five (5)
17 years may be fractional and need not be consecutive. If the number of months
18 of service credit during the five (5) year period is less than forty-eight (48),
19 one (1) or more additional fiscal years shall be used;

20 (b) For a member who is not employed in a hazardous position, as provided in
21 KRS 61.592, whose effective retirement date is between August 1, 2001, and
22 January 1, 2009, and whose total service credit is at least twenty-seven (27)
23 years and whose age and years of service total at least seventy-five (75), final
24 compensation means the creditable compensation of the member during the
25 three (3) fiscal years the member was paid at the highest average monthly rate
26 divided by the number of months of service credit during that three (3) years
27 period multiplied by twelve (12). The three (3) years may be fractional and

1 need not be consecutive. If the number of months of service credit during the
2 three (3) year period is less than twenty-four (24), one (1) or more additional
3 fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the
4 funding for this paragraph shall be provided from existing funds of the
5 retirement allowance;

6 (c) For a member who begins participating before September 1, 2008, who is
7 employed in a hazardous position, as provided in KRS 61.592, the creditable
8 compensation of the member during the three (3) fiscal years he was paid at
9 the highest average monthly rate divided by the number of months of service
10 credit during that three (3) year period multiplied by twelve (12). The three (3)
11 years may be fractional and need not be consecutive. If the number of months
12 of service credit during the three (3) year period is less than twenty-four (24),
13 one (1) or more additional fiscal years shall be used;

14 (d) For a member who begins participating on or after September 1, 2008, but
15 prior to January 1, 2014, who is not employed in a hazardous position, as
16 provided in KRS 61.592, the creditable compensation of the member during
17 the five (5) complete fiscal years immediately preceding retirement divided by
18 five (5). Each fiscal year used to determine final compensation must contain
19 twelve (12) months of service credit. If the member does not have five (5)
20 complete fiscal years that each contain twelve (12) months of service credit,
21 then one (1) or more additional fiscal years shall be used; or

22 (e) For a member who begins participating on or after September 1, 2008, but
23 prior to January 1, 2014, who is employed in a hazardous position, as
24 provided in KRS 61.592, the creditable compensation of the member during
25 the three (3) complete fiscal years he was paid at the highest average monthly
26 rate divided by three (3). Each fiscal year used to determine final
27 compensation must contain twelve (12) months of service credit;

- 1 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
2 calculated during the twelve (12) month period immediately preceding the
3 member's effective retirement date, including employee contributions picked up
4 after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the
5 system by the employer and the following equivalents shall be used to convert the
6 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
7 workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour
8 workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months,
9 one (1) year;
- 10 (16) "Retirement allowance" means the retirement payments to which a member is
11 entitled;
- 12 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
13 basis of the actuarial tables that are adopted by the board. In cases of disability
14 retirement, the options authorized by KRS 61.635 shall be computed by adding ten
15 (10) years to the age of the member, unless the member has chosen the Social
16 Security adjustment option as provided for in KRS 61.635(8), in which case the
17 member's actual age shall be used. For members who began participating in the
18 system prior to January 1, 2014, no disability retirement option shall be less than the
19 same option computed under early retirement;
- 20 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless
21 otherwise provided in KRS 61.510 to 61.705;
- 22 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
23 following June 30, which shall also be the plan year. The "fiscal year" shall be the
24 limitation year used to determine contribution and benefit limits as established by
25 26 U.S.C. sec. 415;
- 26 (20) "Officers and employees of the General Assembly" means the occupants of those
27 positions enumerated in KRS 6.150. The term shall also apply to assistants who

1 were employed by the General Assembly for at least one (1) regular legislative
2 session prior to July 13, 2004, who elect to participate in the retirement system, and
3 who serve for at least six (6) regular legislative sessions. Assistants hired after July
4 13, 2004, shall be designated as interim employees;

5 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean
6 all positions that average one hundred (100) or more hours per month determined by
7 using the number of months actually worked within a calendar or fiscal year,
8 including all positions except:

9 (a) Seasonal positions, which although temporary in duration, are positions which
10 coincide in duration with a particular season or seasons of the year and which
11 may recur regularly from year to year, the period of time shall not exceed nine
12 (9) months;

13 (b) Emergency positions which are positions which do not exceed thirty (30)
14 working days and are nonrenewable;

15 (c) Temporary positions which are positions of employment with a participating
16 department for a period of time not to exceed nine (9) months;

17 (d) Part-time positions which are positions which may be permanent in duration,
18 but which require less than a calendar or fiscal year average of one hundred
19 (100) hours of work per month, determined by using the number of months
20 actually worked within a calendar or fiscal year, in the performance of duty;
21 and

22 (e) Interim positions which are positions established for a one-time or recurring
23 need not to exceed nine (9) months;

24 (22) "Delayed contribution payment" means an amount paid by an employee for
25 purchase of current service. The amount shall be determined using the same formula
26 in KRS 61.5525, and the payment shall not be picked up by the employer. A
27 delayed contribution payment shall be deposited to the member's account and

- 1 considered as accumulated contributions of the individual member. In determining
2 payments under this subsection, the formula found in this subsection shall prevail
3 over the one found in KRS 212.434;
- 4 (23) "Parted employer" means a department, portion of a department, board, or agency,
5 such as Outwood Hospital and School, which previously participated in the system,
6 but due to lease or other contractual arrangement is now operated by a publicly held
7 corporation or other similar organization, and therefore is no longer participating in
8 the system. The term "parted employer" shall not include a department, board, or
9 agency that ceased participation in the system pursuant to KRS 61.522;
- 10 (24) "Retired member" means any former member receiving a retirement allowance or
11 any former member who has filed the necessary documents for retirement benefits
12 and is no longer contributing to the retirement system;
- 13 (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
14 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
15 pay. The rate shall be certified by the employer;
- 16 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by
17 the member in accordance with KRS 61.542 or 61.705 to receive any available
18 benefits in the event of the member's death. As used in KRS 61.702, "beneficiary"
19 does not mean an estate, trust, or trustee;
- 20 (27) "Recipient" means the retired member or the person or persons designated as
21 beneficiary by the member and drawing a retirement allowance as a result of the
22 member's death or a dependent child drawing a retirement allowance. An alternate
23 payee of a qualified domestic relations order shall not be considered a recipient,
24 except for purposes of KRS 61.623;
- 25 (28) "Level-percentage-of-payroll amortization method" means a method of determining
26 the annual amortization payment on the unfunded actuarial accrued liability as
27 expressed as a percentage of payroll over a set period of years. Under this method,

- 1 the percentage of payroll shall be projected to remain constant for all years
2 remaining in the set period and the unfunded actuarially accrued liability shall be
3 projected to be fully amortized at the conclusion of the set period;
- 4 (29) "Increment" means twelve (12) months of service credit which are purchased. The
5 twelve (12) months need not be consecutive. The final increment may be less than
6 twelve (12) months;
- 7 (30) "Person" means a natural person;
- 8 (31) "Retirement office" means the Kentucky Retirement Systems office building in
9 Frankfort;
- 10 (32) "Last day of paid employment" means the last date employer and employee
11 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
12 78.615 to the retirement office in order for the employee to receive current service
13 credit for the month. Last day of paid employment does not mean a date the
14 employee receives payment for accrued leave, whether by lump sum or otherwise, if
15 that date occurs twenty-four (24) or more months after previous contributions;
- 16 (33) "Objective medical evidence" means reports of examinations or treatments; medical
17 signs which are anatomical, physiological, or psychological abnormalities that can
18 be observed; psychiatric signs which are medically demonstrable phenomena
19 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
20 or contact with reality; or laboratory findings which are anatomical, physiological,
21 or psychological phenomena that can be shown by medically acceptable laboratory
22 diagnostic techniques, including but not limited to chemical tests,
23 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 24 (34) "Participating" means an employee is currently earning service credit in the system
25 as provided in KRS 61.543;
- 26 (35) "Month" means a calendar month;
- 27 (36) "Membership date" means:

- 1 (a) The date upon which the member began participating in the system as
2 provided in KRS 61.543; or
- 3 (b) For a member electing to participate in the system pursuant to KRS
4 196.167(4) who has not previously participated in the system or the Kentucky
5 Teachers' Retirement System, the date the member began participating in a
6 defined contribution plan that meets the requirements of 26 U.S.C. sec.
7 403(b);
- 8 (37) "Participant" means a member, as defined by subsection (8) of this section, or a
9 retired member, as defined by subsection (24) of this section;
- 10 (38) "Qualified domestic relations order" means any judgment, decree, or order,
11 including approval of a property settlement agreement, that:
- 12 (a) Is issued by a court or administrative agency; and
- 13 (b) Relates to the provision of child support, alimony payments, or marital
14 property rights to an alternate payee;
- 15 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
16 participant, who is designated to be paid retirement benefits in a qualified domestic
17 relations order;
- 18 (40) "Accumulated employer credit" mean the employer pay credit deposited to the
19 member's account and interest credited on such amounts as provided by KRS
20 16.583 and 61.597;
- 21 (41) "Accumulated account balance" means:
- 22 (a) For members who began participating in the system prior to January 1, 2014,
23 the member's accumulated contributions; or
- 24 (b) For members who began participating in the system on or after January 1,
25 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,
26 the combined sum of the member's accumulated contributions and the
27 member's accumulated employer credit;

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

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

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

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

16 ➔Section 2. KRS 61.520 is amended to read as follows:

17 (1) Each department determined by the board to be eligible and qualified for
18 participation shall participate in the system when the Governor by appropriate
19 executive order, the authority to issue such executive order being granted, directs
20 such department to participate in the system. The effective date of such participation
21 shall be determined by the board and fixed by the Governor in his executive order.

22 (2) (a) Notwithstanding the provisions of subsection (1) of this section the Governor
23 is authorized to permit any state college or university, which he directs by
24 appropriate executive order to participate in the system after January 1, 1972,
25 to include its noninstructional employees in the membership of the system
26 while excluding the instructional employees of the state college or university
27 from membership.

1 (b) All employees of an agency participating under authority of subsection (2)(a)
2 of this section shall be considered noninstructional employees except the
3 members of the instructional staff of the state college or university who are
4 responsible for teaching and the administrative positions which are included
5 in the Teachers' Insurance and Annuity Association (TIAA) or the Kentucky
6 Teachers' Retirement System.

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

13 (4) Except as provided by KRS 61.522 and Section 3 of this Act:

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

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

18 ➔Section 3. KRS 61.525 is amended to read as follows:

19 Membership in the system shall consist of the following:

20 (1) All persons who become employees of a participating department after the date such
21 department first participates in the system, except a person who did not elect
22 membership pursuant to KRS 61.545(3);

23 (2) (a) All persons who are employees of a department on the date the department
24 first participates in the system, either in service or on authorized leave from
25 service, and who elect within thirty (30) days following the department's
26 participation, or in the case of persons on authorized leave, within thirty (30)
27 days of their return to active service, to become members and thereby agree to

- 1 make contributions as provided in KRS 61.515 to 61.705;
- 2 (b) All persons who are employees of a department who did not elect to
3 participate within thirty (30) days of the date the department first participated
4 in the system or within thirty (30) days of their return to active service and
5 who subsequently elect to participate the first day of a month after the
6 department's date of participation;
- 7 (3) All persons who are employees of any credit union whose membership was initially
8 limited to employees of state government and their families and which subsequently
9 may have been extended to local government employees and their families;
- 10 (4) All persons who were professional staff employees of the Council on Postsecondary
11 Education or the Higher Education Assistance Authority and were contributing to
12 the system on the effective date of Executive Order 74-762 or 75-964, respectively,
13 and file a written election of their desire to continue in the system and all
14 administrative and professional staff employees of the Higher Education Assistance
15 Authority who, on or after January 1, 1993, are not participating in another
16 retirement plan sponsored by the Higher Education Assistance Authority;
- 17 (5) All persons who were professional staff employees of the Kentucky Authority for
18 Educational Television on and after July 1, 1974;
- 19 (6) All persons who are employees of the Teachers' Retirement System except
20 employees who are required to participate under the Teachers' Retirement System
21 under KRS 161.220(4)(d);
- 22 (7) Membership in the system shall not include persons who are not eligible to
23 participate in the system as provided by KRS 61.522 and subsection (9) of this
24 section or those employees who are simultaneously participating in another state-
25 administered defined benefit plan within Kentucky other than those administered by
26 the Kentucky Retirement Systems, except for employees who have ceased to
27 contribute to one (1) of the state-administered retirement plans as provided in KRS

1 21.360;~~and~~

2 (8) Effective January 1, 1998, employees of the Kentucky Community and Technical
3 College System who were previously contributing members and are not required to
4 participate in the Teachers' Retirement System as a member; employees who were
5 previously contributing members transferred from the former Cabinet for
6 Workforce Development as provided in KRS 164.5805(1)(a) and who have not
7 exercised the option to participate in the new Kentucky Community and Technical
8 College personnel system as provided in KRS 164.5805(1)(e); and new employees
9 as of July 1, 1997, who are not eligible under the Teachers' Retirement System or
10 who are not contributing to an optional retirement plan established by the board of
11 regents for the Kentucky Community and Technical College System; and

12 (9) Notwithstanding any other provision of 61.510 to 61.705 to the contrary, the
13 elective and appointed officers enumerated in KRS 18A.115(1)(b) to (e) and (g) to
14 (i), and any successor positions to those listed for any and all agencies, boards,
15 and commissions enumerated under KRS 12.020 shall not participate in the
16 Kentucky Employees Retirement System for his or her service to the
17 Commonwealth on and after December 1, 2019. During the term of office for
18 persons appointed to the positions identified in this subsection, no contributions
19 shall be deposited to or accumulate in any pre-existing member account the
20 person may have in the system.