

1 AN ACT relating to the final compensation calculation for state and county  
2 employees entering the retirement systems on or after September 1, 2008.

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

4 ➔Section 1. KRS 16.505 is amended to read as follows:

5 As used in KRS 16.505 to 16.652, unless the context otherwise requires:

- 6 (1) "System" means the State Police Retirement System created by KRS 16.505 to  
7 16.652;
- 8 (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- 9 (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its  
10 successor;
- 11 (4) "Current service" means the number of years and completed months of employment  
12 as an employee subsequent to July 1, 1958, for which creditable compensation was  
13 paid by the employer and employee contributions deducted except as otherwise  
14 provided;
- 15 (5) "Prior service" means the number of years and completed months of employment as  
16 an employee prior to July 1, 1958, for which creditable compensation was paid to  
17 the employee by the Commonwealth. Twelve (12) months of current service in the  
18 system are required to validate prior service;
- 19 (6) "Service" means the total of current service and prior service;
- 20 (7) "Accumulated contributions" at any time means the sum of all amounts deducted  
21 from the compensation of a member and credited to his individual account in the  
22 member's account, including employee contributions picked up after August 1,  
23 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts  
24 as provided in KRS 16.505 to 16.652, and any other amounts the member shall have  
25 contributed, including interest credited. For members who begin participating on or  
26 after September 1, 2008, "accumulated contributions" shall not include employee  
27 contributions that are deposited into accounts established pursuant to 26 U.S.C. sec.

1 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as  
2 prescribed by KRS 61.702(2)(b);

3 (8) "Creditable compensation" means all salary and wages, including payments for  
4 compensatory time, paid to the employee as a result of services performed for the  
5 employer or for time during which the member is on paid leave, which are  
6 includable on the member's federal form W-2 wage and tax statement under the  
7 heading "wages, tips, other compensation," including employee contributions  
8 picked up after August 1, 1982, pursuant to KRS 16.545(4). A lump-sum bonus,  
9 severance pay, or employer-provided payment for purchase of service credit shall be  
10 included as creditable compensation but shall be averaged over the employee's total  
11 service with the system in which it is recorded if it is equal to or greater than one  
12 thousand dollars (\$1,000). Living allowances, expense reimbursements, lump-sum  
13 payments for accrued vacation leave, and other items determined by the board shall  
14 be excluded. Creditable compensation shall also include amounts which are not  
15 includable in the member's gross income by virtue of the member having taken a  
16 voluntary salary reduction provided for under applicable provisions of the Internal  
17 Revenue Code. Creditable compensation shall also include elective amounts for  
18 qualified transportation fringes paid or made available on or after January 1, 2001,  
19 for calendar years on or after January 1, 2001, that are not includable in the gross  
20 income of the employee by reason of 26 U.S.C. sec. 132(f)(4). For employees who  
21 begin participating on or after September 1, 2008, creditable compensation shall not  
22 include payments for compensatory time;

23 (9) "Final compensation" means:

24 (a) For a member who begins participating before September 1, 2008, the  
25 creditable compensation of a member during the three (3) fiscal years he was  
26 paid at the highest average monthly rate divided by the number of months of  
27 service credit during the three (3) year period, multiplied by twelve (12); the

1 three (3) years may be fractional and need not be consecutive. If the number of  
2 months of service credit during the three (3) year period is less than twenty-  
3 four (24), one (1) or more additional fiscal years shall be used; or

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

14 (10) "Final rate of pay" means the actual rate upon which earnings of a member were  
15 calculated during the twelve (12) month period immediately preceding the  
16 member's effective retirement date, including employee contributions picked up  
17 after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the  
18 system by the employer and the following equivalents shall be used to convert the  
19 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour  
20 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-  
21 1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12)  
22 months, or one (1) year;

23 (11) "Retired member" means any former member receiving a retirement allowance or  
24 any former member who has filed the necessary documents for retirement benefits  
25 and is no longer contributing to the retirement system;

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

- 1 (13) "Actuarial equivalent" means a benefit of equal value when computed upon the  
2 basis of actuarial tables adopted by the board. In cases of disability retirement, the  
3 options authorized by KRS 61.635 shall be computed by adding ten (10) years to  
4 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 began participating in the system prior  
7 to January 1, 2014, no disability retirement option shall be less than the same option  
8 computed under early retirement;
- 9 (14) "Authorized leave of absence" means any time during which a person is absent from  
10 employment but retained in the status of an employee in accordance with the  
11 personnel policy of the Department of Kentucky State Police;
- 12 (15) "Normal retirement date" means:
- 13 (a) For a member who begins participating before September 1, 2008, the first  
14 day of the month following a member's fifty-fifth birthday, except that for  
15 members over age fifty-five (55) on July 1, 1958, it shall mean January 1,  
16 1959; or
- 17 (b) For a member who begins participating on or after September 1, 2008, the  
18 first day of the month following a member's sixtieth birthday;
- 19 (16) "Disability retirement date" means the first day of the month following the last day  
20 of paid employment;
- 21 (17) "Dependent child" means a child in the womb and a natural or legally adopted child  
22 of the member who has neither attained age eighteen (18) nor married or who is an  
23 unmarried full-time student who has not attained age twenty-two (22);
- 24 (18) "Optional allowance" means an actuarially equivalent benefit elected by the member  
25 in lieu of all other benefits provided by KRS 16.505 to 16.652;
- 26 (19) "Act in line of duty" means an act occurring or a thing done, which, as determined  
27 by the board, was required in the performance of the duties specified in KRS

- 1           16.060. For employees in hazardous positions under KRS 61.592, an "act in line of  
2           duty" shall mean an act occurring which was required in the performance of the  
3           principal duties of the position as defined by the job description;
- 4           (20) "Early retirement date" means:
- 5           (a) For a member who begins participating before September 1, 2008, the  
6           retirement date declared by a member who is not less than fifty (50) years of  
7           age and has fifteen (15) years of service; or
- 8           (b) For a member who begins participating on or after September 1, 2008, but  
9           prior to January 1, 2014, the retirement date declared by a member who is not  
10          less than fifty (50) years of age and has fifteen (15) years of service credited  
11          under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered  
12          retirement system;
- 13          (21) "Member" means any officer included in the membership of the system as provided  
14          under KRS 16.520 whose membership has not been terminated under KRS 61.535;
- 15          (22) "Regular full-time officers" means the occupants of positions as set forth in KRS  
16          16.010;
- 17          (23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which  
18          results in an employee's total incapacity to continue as an employee in a hazardous  
19          position, but the employee is not necessarily deemed to be totally and permanently  
20          disabled to engage in other occupations for remuneration or profit;
- 21          (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,  
22          monthly, or yearly rate of pay converted to an annual rate as defined in final rate of  
23          pay. The rate shall be certified by the employer;
- 24          (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the  
25          member in accordance with KRS 61.542 or 61.705 to receive any available benefits  
26          in the event of the member's death. As used in KRS 61.702, "beneficiary" does not  
27          mean an estate, trust, or trustee;

- 1 (26) "Recipient" means the retired member, the person or persons designated as  
2 beneficiary by the member and drawing a retirement allowance as a result of the  
3 member's death, or a dependent child drawing a retirement allowance. An alternate  
4 payee of a qualified domestic relations order shall not be considered a recipient,  
5 except for purposes of KRS 61.623;
- 6 (27) "Person" means a natural person;
- 7 (28) "Retirement office" means the Kentucky Retirement Systems office building in  
8 Frankfort;
- 9 (29) "Delayed contribution payment" means an amount paid by an employee for  
10 purchase of current service. The amount shall be determined using the same formula  
11 in KRS 61.5525, and the payment shall not be picked up by the employer. A  
12 delayed contribution payment shall be deposited to the member's account and  
13 considered as accumulated contributions of the individual member;
- 14 (30) "Last day of paid employment" means the last date employer and employee  
15 contributions are required to be reported in accordance with KRS 16.543, 61.543, or  
16 78.615 to the retirement office in order for the employee to receive current service  
17 credit for the month. Last day of paid employment does not mean a date the  
18 employee receives payment for accrued leave, whether by lump sum or otherwise, if  
19 that date occurs twenty-four (24) or more months after previous contributions;
- 20 (31) "Objective medical evidence" means reports of examinations or treatments; medical  
21 signs which are anatomical, physiological, or psychological abnormalities that can  
22 be observed; psychiatric signs which are medically demonstrable phenomena  
23 indicating specific abnormalities of behavior, affect, thought, memory, orientation,  
24 or contact with reality; or laboratory findings which are anatomical, physiological,  
25 or psychological phenomena that can be shown by medically acceptable laboratory  
26 diagnostic techniques, including but not limited to chemical tests,  
27 electrocardiograms, electroencephalograms, X-rays, and psychological tests;

- 1 (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
2 following June 30, which shall also be the plan year. The "fiscal year" shall be the  
3 limitation year used to determine contribution and benefit limits established by 26  
4 U.S.C. sec. 415;
- 5 (33) "Participating" means an employee is currently earning service credit in the system  
6 as provided in KRS 16.543;
- 7 (34) "Month" means a calendar month;
- 8 (35) "Membership date" means the date upon which the member began participating in  
9 the system as provided by KRS 16.543;
- 10 (36) "Participant" means a member, as defined by subsection (21) of this section, or a  
11 retired member, as defined by subsection (11) of this section;
- 12 (37) "Qualified domestic relations order" means any judgment, decree, or order,  
13 including approval of a property settlement agreement, that:
- 14 (a) Is issued by a court or administrative agency; and
- 15 (b) Relates to the provision of child support, alimony payments, or marital  
16 property rights to an alternate payee;
- 17 (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
18 participant, who is designated to be paid retirement benefits in a qualified domestic  
19 relations order;
- 20 (39) "Accumulated employer credit" means the employer pay credit deposited to the  
21 member's account and interest credited on such amounts as provided by KRS  
22 16.583; and
- 23 (40) "Accumulated account balance" means:
- 24 (a) For members who began participating in the system prior to January 1, 2014,  
25 the member's accumulated contributions; or
- 26 (b) For members who began participating in the system on or after January 1,  
27 2014, in the hybrid cash balance plan as provided by KRS 16.583, the

1 combined sum of the member's accumulated contributions and the member's  
2 accumulated employer pay credit.

3 ➔Section 2. KRS 61.510 is amended to read as follows:

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

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



1 any former employee whose membership has not been terminated under KRS  
2 61.535;

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

5 (10) "Current service" means the number of years and months of employment as an  
6 employee, on and after July 1, 1956, except that for members, officers, and  
7 employees of the General Assembly this date shall be January 1, 1960, for which  
8 creditable compensation is paid and employee contributions deducted, except as  
9 otherwise provided, and each member, officer, and employee of the General  
10 Assembly shall be credited with a month of current service for each month he  
11 serves in the position;

12 (11) "Prior service" means the number of years and completed months, expressed as a  
13 fraction of a year, of employment as an employee, prior to July 1, 1956, for which  
14 creditable compensation was paid; except that for members, officers, and employees  
15 of the General Assembly, this date shall be January 1, 1960. An employee shall be  
16 credited with one (1) month of prior service only in those months he received  
17 compensation for at least one hundred (100) hours of work; provided, however, that  
18 each member, officer, and employee of the General Assembly shall be credited with  
19 a month of prior service for each month he served in the position prior to January 1,  
20 1960. Twelve (12) months of current service in the system are required to validate  
21 prior service;

22 (12) "Accumulated contributions" at any time means the sum of all amounts deducted  
23 from the compensation of a member and credited to his individual account in the  
24 members' account, including employee contributions picked up after August 1,  
25 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts  
26 and any other amounts the member shall have contributed thereto, including interest  
27 credited thereon. For members who begin participating on or after September 1,

1 2008, "accumulated contributions" shall not include employee contributions that are  
2 deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the  
3 funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS  
4 61.702(2)(b);

5 (13) "Creditable compensation" means all salary, wages, tips to the extent the tips are  
6 reported for income tax purposes, and fees, including payments for compensatory  
7 time, paid to the employee as a result of services performed for the employer or for  
8 time during which the member is on paid leave, which are includable on the  
9 member's federal form W-2 wage and tax statement under the heading "wages, tips,  
10 other compensation," including employee contributions picked up after August 1,  
11 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall  
12 mean all amounts which are includable on the member's federal form W-2 wage and  
13 tax statement under the heading "wages, tips, other compensation," including  
14 employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4)  
15 or 61.560(4). A lump-sum bonus, severance pay, or employer-provided payment for  
16 purchase of service credit shall be included as creditable compensation but shall be  
17 averaged over the employee's total service with the system in which it is recorded if  
18 it is equal to or greater than one thousand dollars (\$1,000). In cases where  
19 compensation includes maintenance and other perquisites, the board shall fix the  
20 value of that part of the compensation not paid in money. Living allowances,  
21 expense reimbursements, lump-sum payments for accrued vacation leave, and other  
22 items determined by the board shall be excluded. Creditable compensation shall  
23 also include amounts which are not includable in the member's gross income by  
24 virtue of the member having taken a voluntary salary reduction provided for under  
25 applicable provisions of the Internal Revenue Code. Creditable compensation shall  
26 also include elective amounts for qualified transportation fringes paid or made  
27 available on or after January 1, 2001, for calendar years on or after January 1, 2001,

1 that are not includable in the gross income of the employee by reason of 26 U.S.C.  
2 sec. 132(f)(4). For employees who begin participating on or after September 1,  
3 2008, creditable compensation shall not include payments for compensatory time.  
4 For employees who begin participating on or after August 1, 2016, creditable  
5 compensation shall exclude nominal fees paid for services as a volunteer;

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

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

15 (b) For a member who is not employed in a hazardous position, as provided in  
16 KRS 61.592, whose effective retirement date is between August 1, 2001, and  
17 January 1, 2009, and whose total service credit is at least twenty-seven (27)  
18 years and whose age and years of service total at least seventy-five (75), final  
19 compensation means the creditable compensation of the member during the  
20 three (3) fiscal years the member was paid at the highest average monthly rate  
21 divided by the number of months of service credit during that three (3) years  
22 period multiplied by twelve (12). The three (3) years may be fractional and  
23 need not be consecutive. If the number of months of service credit during the  
24 three (3) year period is less than twenty-four (24), one (1) or more additional  
25 fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the  
26 funding for this paragraph shall be provided from existing funds of the  
27 retirement allowance;

- 1 (c) For a member who begins participating before September 1, 2008, who is  
2 employed in a hazardous position, as provided in KRS 61.592, the creditable  
3 compensation of the member during the three (3) fiscal years he was paid at  
4 the highest average monthly rate divided by the number of months of service  
5 credit during that three (3) year period multiplied by twelve (12). The three (3)  
6 years may be fractional and need not be consecutive. If the number of months  
7 of service credit during the three (3) year period is less than twenty-four (24),  
8 one (1) or more additional fiscal years shall be used;
- 9 (d) For a member who begins participating on or after September 1, 2008, but  
10 prior to January 1, 2014, who is not employed in a hazardous position, as  
11 provided in KRS 61.592, the creditable compensation of the member during  
12 the five (5) complete fiscal years immediately preceding retirement divided by  
13 five (5). Each fiscal year used to determine final compensation must contain  
14 twelve (12) months of service credit. If the member does not have five (5)  
15 complete fiscal years that each contain twelve (12) months of service credit,  
16 then one (1) or more additional fiscal years, **which may contain less than**  
17 **twelve (12) months of service credit,** shall be **added until the number of**  
18 **months in the final compensation calculation is at least sixty (60)**  
19 **months**~~used~~; or
- 20 (e) For a member who begins participating on or after September 1, 2008, but  
21 prior to January 1, 2014, who is employed in a hazardous position, as  
22 provided in KRS 61.592, the creditable compensation of the member during  
23 the three (3) complete fiscal years he was paid at the highest average monthly  
24 rate divided by three (3). Each fiscal year used to determine final  
25 compensation must contain twelve (12) months of service credit. **If the**  
26 **member does not have three (3) complete fiscal years that each contain**  
27 **twelve (12) months of service credit, then one (1) or more additional fiscal**

1                   years, which may contain less than twelve (12) months of service credit,  
2                   shall be added until the number of months in the final compensation  
3                   calculation is at least thirty-six (36) months;

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

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

15 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the  
16 basis of the actuarial tables that are adopted by the board. In cases of disability  
17 retirement, the options authorized by KRS 61.635 shall be computed by adding ten  
18 (10) years to the age of the member, unless the member has chosen the Social  
19 Security adjustment option as provided for in KRS 61.635(8), in which case the  
20 member's actual age shall be used. For members who began participating in the  
21 system prior to January 1, 2014, no disability retirement option shall be less than the  
22 same option computed under early retirement;

23 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless  
24 otherwise provided in KRS 61.510 to 61.705;

25 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
26 following June 30, which shall also be the plan year. The "fiscal year" shall be the  
27 limitation year used to determine contribution and benefit limits as established by

1           26 U.S.C. sec. 415;

2       (20) "Officers and employees of the General Assembly" means the occupants of those  
3           positions enumerated in KRS 6.150. The term shall also apply to assistants who  
4           were employed by the General Assembly for at least one (1) regular legislative  
5           session prior to July 13, 2004, who elect to participate in the retirement system, and  
6           who serve for at least six (6) regular legislative sessions. Assistants hired after July  
7           13, 2004, shall be designated as interim employees;

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

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

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

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

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

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

27       (22) "Delayed contribution payment" means an amount paid by an employee for

1 purchase of current service. The amount shall be determined using the same formula  
2 in KRS 61.5525, and the payment shall not be picked up by the employer. A  
3 delayed contribution payment shall be deposited to the member's account and  
4 considered as accumulated contributions of the individual member. In determining  
5 payments under this subsection, the formula found in this subsection shall prevail  
6 over the one found in KRS 212.434;

7 (23) "Parted employer" means a department, portion of a department, board, or agency,  
8 such as Outwood Hospital and School, which previously participated in the system,  
9 but due to lease or other contractual arrangement is now operated by a publicly held  
10 corporation or other similar organization, and therefore is no longer participating in  
11 the system. The term "parted employer" shall not include a department, board, or  
12 agency that ceased participation in the system pursuant to KRS 61.522;

13 (24) "Retired member" means any former member receiving a retirement allowance or  
14 any former member who has filed the necessary documents for retirement benefits  
15 and is no longer contributing to the retirement system;

16 (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,  
17 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of  
18 pay. The rate shall be certified by the employer;

19 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by  
20 the member in accordance with KRS 61.542 or 61.705 to receive any available  
21 benefits in the event of the member's death. As used in KRS 61.702, "beneficiary"  
22 does not mean an estate, trust, or trustee;

23 (27) "Recipient" means the retired member or the person or persons designated as  
24 beneficiary by the member and drawing a retirement allowance as a result of the  
25 member's death or a dependent child drawing a retirement allowance. An alternate  
26 payee of a qualified domestic relations order shall not be considered a recipient,  
27 except for purposes of KRS 61.623;

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



- 1 as provided in KRS 61.543;
- 2 (35) "Month" means a calendar month;
- 3 (36) "Membership date" means:
- 4 (a) The date upon which the member began participating in the system as
- 5 provided in KRS 61.543; or
- 6 (b) For a member electing to participate in the system pursuant to KRS
- 7 196.167(4) who has not previously participated in the system or the Kentucky
- 8 Teachers' Retirement System, the date the member began participating in a
- 9 defined contribution plan that meets the requirements of 26 U.S.C. sec.
- 10 403(b);
- 11 (37) "Participant" means a member, as defined by subsection (8) of this section, or a
- 12 retired member, as defined by subsection (24) of this section;
- 13 (38) "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 (39) "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 (40) "Accumulated employer credit" mean the employer pay credit deposited to the
- 22 member's account and interest credited on such amounts as provided by KRS
- 23 16.583 and 61.597;
- 24 (41) "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 16.583 and 61.597,  
2           the combined sum of the member's accumulated contributions and the  
3           member's accumulated employer credit;

4 (42) "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 without receipt of compensation for services rendered,  
8           except for reimbursement of actual expenses, payment of a nominal fee to  
9           offset the costs of performing the voluntary services, or both; and

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

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

19          ➔Section 3. KRS 78.510 is amended to read as follows:

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

21          (1) "System" means the County Employees Retirement System;

22          (2) "Board" means the board of trustees of the system as provided in KRS 78.780;

23          (3) "County" means any county, or nonprofit organization created and governed by a  
24          county, counties, or elected county officers, sheriff and his employees, county clerk  
25          and his employees, circuit clerk and his deputies, former circuit clerks or former  
26          circuit clerk deputies, or political subdivision or instrumentality, including school  
27          boards, charter county government, or urban-county government participating in the

1 system by order appropriate to its governmental structure, as provided in KRS  
2 78.530, and if the board is willing to accept the agency, organization, or  
3 corporation, the board being hereby granted the authority to determine the eligibility  
4 of the agency to participate;

5 (4) "School board" means any board of education participating in the system by order  
6 appropriate to its governmental structure, as provided in KRS 78.530, and if the  
7 board is willing to accept the agency or corporation, the board being hereby granted  
8 the authority to determine the eligibility of the agency to participate;

9 (5) "Examiner" means the medical examiners as provided in KRS 61.665;

10 (6) "Employee" means every regular full-time appointed or elective officer or employee  
11 of a participating county and the coroner of a participating county, whether or not he  
12 qualifies as a regular full-time officer. The term shall not include persons engaged  
13 as independent contractors, seasonal, emergency, temporary, and part-time workers.  
14 In case of any doubt, the board shall determine if a person is an employee within the  
15 meaning of KRS 78.510 to 78.852;

16 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected  
17 officials of a county, or any authority of the county having the power to appoint or  
18 elect an employee to office or employment in the county;

19 (8) "Member" means any employee who is included in the membership of the system or  
20 any former employee whose membership has not been terminated under KRS  
21 61.535;

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

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

27 (11) "Prior service" means the number of years and completed months, expressed as a

1 fraction of a year, of employment as an employee, prior to July 1, 1958, for which  
2 creditable compensation was paid. An employee shall be credited with one (1)  
3 month of prior service only in those months he received compensation for at least  
4 one hundred (100) hours of work. Twelve (12) months of current service in the  
5 system shall be required to validate prior service;

6 (12) "Accumulated contributions" means the sum of all amounts deducted from the  
7 compensation of a member and credited to his individual account in the members'  
8 account, including employee contributions picked up after August 1, 1982, pursuant  
9 to KRS 78.610(4), together with interest credited on the amounts, and any other  
10 amounts the member shall have contributed thereto, including interest credited  
11 thereon. For members who begin participating on or after September 1, 2008,  
12 "accumulated contributions" shall not include employee contributions that are  
13 deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the  
14 funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS  
15 61.702(2)(b);

16 (13) "Creditable compensation" means all salary, wages, and fees, including payments  
17 for compensatory time, paid to the employee as a result of services performed for  
18 the employer or for time during which the member is on paid leave, which are  
19 includable on the member's federal form W-2 wage and tax statement under the  
20 heading "wages, tips, other compensation", including employee contributions  
21 picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus,  
22 severance pay, or employer-provided payment for purchase of service credit shall be  
23 included as creditable compensation but shall be averaged over the employee's  
24 service with the system in which it is recorded if it is equal to or greater than one  
25 thousand dollars (\$1,000). If compensation includes maintenance and other  
26 perquisites, the board shall fix the value of that part of the compensation not paid in  
27 money. Living allowances, expense reimbursements, lump-sum payments for

1 accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other  
2 items determined by the board shall be excluded. Creditable compensation shall  
3 also include amounts that are not includable in the member's gross income by virtue  
4 of the member having taken a voluntary salary reduction provided for under  
5 applicable provisions of the Internal Revenue Code. Creditable compensation shall  
6 also include elective amounts for qualified transportation fringes paid or made  
7 available on or after January 1, 2001, for calendar years on or after January 1, 2001,  
8 that are not includable in the gross income of the employee by reason of 26 U.S.C.  
9 sec. 132(f)(4). For employees who begin participating on or after September 1,  
10 2008, creditable compensation shall not include payments for compensatory time.  
11 Creditable compensation shall not include training incentive payments for city  
12 officers paid as set out in KRS 64.5277 to 64.5279. For employees who begin  
13 participating on or after August 1, 2016, creditable compensation shall exclude  
14 nominal fees paid for services as a volunteer;

15 (14) "Final compensation" means:

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

24 (b) For a member who is not employed in a hazardous position, as provided in  
25 KRS 61.592, whose effective retirement date is between August 1, 2001, and  
26 January 1, 2009, and whose total service credit is at least twenty-seven (27)  
27 years and whose age and years of service total at least seventy-five (75), final

1 compensation means the creditable compensation of the member during the  
2 three (3) fiscal years the member was paid at the highest average monthly rate  
3 divided by the number of months of service credit during that three (3) year  
4 period multiplied by twelve (12). The three (3) years may be fractional and  
5 need not be consecutive. If the number of months of service credit during the  
6 three (3) year period is less than twenty-four (24), one (1) or more additional  
7 fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the  
8 funding for this paragraph shall be provided from existing funds of the  
9 retirement allowance;

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

18 (d) For a member who begins participating on or after September 1, 2008, but  
19 prior to January 1, 2014, who is not employed in a hazardous position, as  
20 provided in KRS 61.592, the creditable compensation of the member during  
21 the five (5) complete fiscal years immediately preceding retirement divided by  
22 five (5). Each fiscal year used to determine final compensation must contain  
23 twelve (12) months of service credit. If the member does not have five (5)  
24 complete fiscal years that each contain twelve (12) months of service credit,  
25 then one (1) or more additional fiscal years, which may contain less than  
26 twelve (12) months of service credit, shall be added until the number of  
27 months in the final compensation calculation is at least sixty (60)

1           months~~[used]~~; or

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

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

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

24          (17) "Actuarial equivalent" means a benefit of equal value when computed upon the  
25          basis of the actuarial tables adopted by the board. In cases of disability retirement,  
26          the options authorized by KRS 61.635 shall be computed by adding ten (10) years  
27          to the age of the member, unless the member has chosen the Social Security

1 adjustment option as provided for in KRS 61.635(8), in which case the member's  
2 actual age shall be used. For members who begin participating in the system prior to  
3 January 1, 2014, no disability retirement option shall be less than the same option  
4 computed under early retirement;

5 (18) "Normal retirement date" means the sixty-fifth birthday of a member unless  
6 otherwise provided in KRS 78.510 to 78.852;

7 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
8 following June 30, which shall also be the plan year. The "fiscal year" shall be the  
9 limitation year used to determine contribution and benefits limits as set out in 26  
10 U.S.C. sec. 415;

11 (20) "Agency reporting official" means the person designated by the participating agency  
12 who shall be responsible for forwarding all employer and employee contributions  
13 and a record of the contributions to the system and for performing other  
14 administrative duties pursuant to the provisions of KRS 78.510 to 78.852;

15 (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean  
16 all positions that average one hundred (100) or more hours per month, determined  
17 by using the number of hours actually worked in a calendar or fiscal year, or eighty  
18 (80) or more hours per month in the case of noncertified employees of school  
19 boards, determined by using the number of hours actually worked in a calendar or  
20 school year, unless otherwise specified, except:

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

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



- 1 (c) Temporary, also referred to as probationary, positions that are positions of  
2 employment with a participating agency for a period of time not to exceed  
3 twelve (12) months and not renewable; or
- 4 (d) Part-time positions that are positions that may be permanent in duration, but  
5 that require less than a calendar or fiscal year average of one hundred (100)  
6 hours of work per month, determined by using the number of months actually  
7 worked within a calendar or fiscal year, in the performance of duty, except in  
8 case of noncertified employees of school boards, the school term average shall  
9 be eighty (80) hours of work per month, determined by using the number of  
10 months actually worked in a calendar or school year, in the performance of  
11 duty;
- 12 (22) "Alternate participation plan" means a method of participation in the system as  
13 provided for by KRS 78.530(3);
- 14 (23) "Retired member" means any former member receiving a retirement allowance or  
15 any former member who has on file at the retirement office the necessary  
16 documents for retirement benefits and is no longer contributing to the system;
- 17 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,  
18 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of  
19 pay. The rate shall be certified by the employer;
- 20 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the  
21 member in accordance with KRS 61.542 or 61.705 to receive any available benefits  
22 in the event of the member's death. As used in KRS 61.702, beneficiary shall not  
23 mean an estate, trust, or trustee;
- 24 (26) "Recipient" means the retired member, the person or persons designated as  
25 beneficiary by the member and drawing a retirement allowance as a result of the  
26 member's death, or a dependent child drawing a retirement allowance. An alternate  
27 payee of a qualified domestic relations order shall not be considered a recipient,

- 1           except for purposes of KRS 61.623;
- 2   (27) "Person" means a natural person;
- 3   (28) "School term or year" means the twelve (12) months from July 1 through the  
4       following June 30;
- 5   (29) "Retirement office" means the Kentucky Retirement Systems office building in  
6       Frankfort;
- 7   (30) "Delayed contribution payment" means an amount paid by an employee for current  
8       service obtained under KRS 61.552. The amount shall be determined using the  
9       same formula in KRS 61.5525, except the determination of the actuarial cost for  
10      classified employees of a school board shall be based on their final compensation,  
11      and the payment shall not be picked up by the employer. A delayed contribution  
12      payment shall be deposited to the member's account and considered as accumulated  
13      contributions of the individual member. In determining payments under this  
14      subsection, the formula found in this subsection shall prevail over the one found in  
15      KRS 212.434;
- 16   (31) "Participating" means an employee is currently earning service credit in the system  
17      as provided in KRS 78.615;
- 18   (32) "Month" means a calendar month;
- 19   (33) "Membership date" means the date upon which the member began participating in  
20      the system as provided in KRS 78.615;
- 21   (34) "Participant" means a member, as defined by subsection (8) of this section, or a  
22      retired member, as defined by subsection (23) of this section;
- 23   (35) "Qualified domestic relations order" means any judgment, decree, or order,  
24      including approval of a property settlement agreement, that:
- 25      (a) Is issued by a court or administrative agency; and
- 26      (b) Relates to the provision of child support, alimony payments, or marital  
27      property rights to an alternate payee;

- 1 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
2 participant, who is designated to be paid retirement benefits in a qualified domestic  
3 relations order;
- 4 (37) "Accumulated employer credit" means the employer pay credit deposited to the  
5 member's account and interest credited on such amounts as provided by KRS  
6 16.583 and 61.597;
- 7 (38) "Accumulated account balance" means:
- 8 (a) For members who began participating in the system prior to January 1, 2014,  
9 the member's accumulated contributions; or
- 10 (b) For members who began participating in the system on or after January 1,  
11 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,  
12 the combined sum of the member's accumulated contributions and the  
13 member's accumulated employer credit;
- 14 (39) "Volunteer" means an individual who:
- 15 (a) Freely and without pressure or coercion performs hours of service for an  
16 employer participating in one (1) of the systems administered by Kentucky  
17 Retirement Systems without receipt of compensation for services rendered,  
18 except for reimbursement of actual expenses, payment of a nominal fee to  
19 offset the costs of performing the voluntary services, or both; and
- 20 (b) If a retired member, does not become an employee, leased employee, or  
21 independent contractor of the employer for which he or she is performing  
22 volunteer services for a period of at least twenty-four (24) months following  
23 the retired member's most recent retirement date; and
- 24 (40) "Nominal fee" means compensation earned for services as a volunteer that does not  
25 exceed five hundred dollars (\$500) per month. Compensation earned for services as  
26 a volunteer from more than one (1) participating employer during a month shall be  
27 aggregated to determine whether the compensation exceeds the five hundred dollars

1 (\$500) per month maximum provided by this subsection.