

1 AN ACT relating to erroneous payments to the Kentucky Retirement Systems.

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

3 ➔Section 1. KRS 16.543 is amended to read as follows:

4 (1) Employee contributions shall be deducted from the creditable compensation of each
5 member of the retirement system in the active employment of the Department of
6 Kentucky State Police of the Justice and Public Safety Cabinet as an officer as
7 defined in KRS 16.520. After August 1, 1982, employee contributions shall be
8 picked up by the employer pursuant to KRS 16.545(4). Service credit shall be
9 allowed for each month such member receives creditable compensation for an
10 average of one hundred (100) hours or more of work per month. If the average
11 number of hours of work is less than one hundred (100) per month, the member
12 shall be allowed credit only for those months he or she receives creditable
13 compensation for one hundred (100) hours of work.

14 (2) Contributions shall not be made and no service will be earned while on authorized
15 leave except:

16 (a) A member shall be entitled to service credit in accordance with KRS 61.555;
17 and

18 (b) A member on educational leave, approved by the Personnel Cabinet, who is
19 receiving seventy-five percent (75%) or more of full salary, shall receive
20 service credit and shall pay member contributions or such contributions shall
21 be picked up in accordance with KRS 16.545 and his or her employer shall
22 pay employer contributions in accordance with KRS 61.565. If a tuition
23 agreement is broken by the member, the member and employer contributions
24 paid or picked up during the period of educational leave shall be refunded.

25 (3) The retirement office, upon detection **of any erroneous contributions**, shall refund:

26 **(a)** Any erroneous employer **contributions made to the retirement system;** and

27 **(b)** **Any erroneous** employee contributions made to the retirement system and

1 any interest credited in accordance with KRS 16.560. *In the event the*
2 *erroneous contributions were detected by the retirement office after more*
3 *than five (5) years following the date the erroneous contributions were first*
4 *made, then the retirement system shall refund the erroneous contributions*
5 *to the member plus interest at the actuarially assumed rate from the date the*
6 *erroneous contributions were made.*

7 ➔Section 2. KRS 61.543 is amended to read as follows:

- 8 (1) (a) Employee contributions shall be deducted each payroll period from the
9 creditable compensation of each employee of an agency participating in the
10 retirement system while he is classified as regular full-time as defined in KRS
11 61.510 unless the employee:
- 12 1. Did not elect to become a member as provided by subsection (2) of KRS
13 61.525;
 - 14 2. Did not elect membership pursuant to KRS 61.545(3); or
 - 15 3. Is not eligible to participate in the system as provided by KRS 61.522.
- 16 (b) After August 1, 1982, employee contributions shall be picked up by the
17 employer pursuant to KRS 61.560(4). Service credit will be allowed for each
18 month the contributions are deducted or picked up during a fiscal or calendar
19 year, if the member receives creditable compensation for an average of one
20 hundred (100) hours or more of work per month. If the average number of
21 hours of work is less than one hundred (100) per month, the member shall be
22 allowed credit only for those months he receives creditable compensation for
23 one hundred (100) hours of work.
- 24 (2) Employee contributions shall not be deducted from the creditable compensation of
25 an employee or picked up by the employer while he is seasonal, emergency,
26 temporary, or part-time. No service credit will be earned.
- 27 (3) Contributions shall not be made or picked up by the employer and no service credit

1 will be earned by a member while on leave except:

2 (a) A member on military leave shall be entitled to service credit in accordance
3 with KRS 61.555;

4 (b) A member on educational leave, approved by the Personnel Cabinet, who is
5 receiving seventy-five percent (75%) or more of full salary, shall receive
6 service credit and shall pay employee contributions, or the contributions shall
7 be picked up in accordance with KRS 61.560 and his employer shall pay
8 employer contributions in accordance with KRS 61.565. If a tuition
9 agreement is broken by the member, the member and employer contributions
10 paid or picked up during the period of educational leave shall be refunded;
11 and

12 (c) An employee on educational leave, approved by the appointing authority, not
13 to exceed one (1) year, or with additional approval of one (1) additional year,
14 and not to exceed two (2) years within a five (5) year period, who is receiving
15 a salary of less than seventy-five percent (75%) of full salary, may elect to
16 retain membership in the system during the period of leave. If the employee
17 elects to retain membership in the system, he shall receive service credit by
18 having employee contributions picked up in accordance with KRS 61.560.
19 His employer shall pay employer contributions in accordance with KRS
20 61.565. If a tuition agreement is broken by the member, the employee and
21 employer contributions paid or picked up during the period of educational
22 leave shall be refunded to the contributor and no service credit shall be earned
23 for the period of leave.

24 (4) The retirement office, upon detection of any erroneous contributions, shall refund:
25 (a) Any erroneous employer contributions made to the retirement system; and
26 (b) Any erroneous employee contributions made to the retirement system and
27 any interest credited in accordance with KRS 61.575. In the event the

1 *erroneous contributions were detected by the retirement office after more*
2 *than five (5) years following the date the erroneous contributions were first*
3 *made, then the retirement system shall refund the erroneous contributions*
4 *to the member plus interest at the actuarially assumed rate from the date the*
5 *erroneous contributions were made.*

6 (5) Notwithstanding the provisions of this section and KRS 61.560, employees engaged
7 pursuant to KRS 148.026 and 56.491 in a regular full-time position as defined in
8 KRS 61.510(21) prior to January 1, 1993, shall be allowed service credit for each
9 month the employee received creditable compensation for an average of one
10 hundred (100) or more hours of work, if the employee pays to the retirement system
11 the contributions that would have been deducted for the period of employment. The
12 contributions shall be credited to the member's account and shall not be picked up
13 pursuant to KRS 61.560(4). The employer contributions for the period, plus interest
14 calculated at the actuarial rate, shall be due within thirty (30) days of notice of
15 receipt of payment from the employee.

16 ➔Section 3. KRS 78.615 is amended to read as follows:

17 (1) Employee contributions shall be deducted each payroll period from the creditable
18 compensation of each employee of an agency participating in the system while he is
19 classified as regular full-time as defined in KRS 78.510 unless the person did not
20 elect to become a member as provided by KRS 78.540(2) or is not eligible to
21 participate in the system as provided by KRS 61.522. After August 1, 1982,
22 employee contributions shall be picked up by the employer pursuant to KRS
23 78.610(4).

24 (a) For employees who are not employed by a school board, service credit shall
25 be allowed for each month contributions are deducted or picked up during a
26 fiscal or calendar year, if the employee receives creditable compensation for
27 an average of one hundred (100) hours or more of work per month based on

1 the actual hours worked in a calendar or fiscal year. If the average number of
2 hours of work is less than one hundred (100) hours per month, the employee
3 shall be allowed credit only for those months he receives creditable
4 compensation for one hundred (100) hours of work.

5 (b) For noncertified employees of school boards, for service prior to July 1, 2000,
6 service credit shall be allowed for each month contributions are deducted or
7 picked up under the employee's employment contract during a school year
8 determined by dividing the actual number of contracted calendar days worked
9 by twenty (20) and rounded to the nearest whole month if the employee
10 receives creditable compensation for an average of eighty (80) or more hours
11 of work per month based on the employee's employment contract. The school
12 board shall certify the number of calendar days worked, the rate of pay, and
13 the hours in a work day for each employee monthly or annually. The
14 employer shall file at the retirement office the final monthly report or the
15 annual report for a fiscal year no later than twenty (20) days following the
16 completion of the fiscal year. The retirement system shall impose a penalty on
17 the employer of one thousand dollars (\$1,000) if the information is not
18 submitted by the date required with an additional two hundred and fifty
19 dollars (\$250) for each additional thirty (30) day period the information is
20 reported late.

- 21 1. If the employee works fewer than the number of contracted calendar
22 days, the employee shall receive service credit determined by dividing
23 the actual number of contracted calendar days worked by twenty (20)
24 and rounded to the nearest whole month, provided that the number of
25 hours worked during the period averages eighty (80) or more hours.
- 26 2. If the employee works fewer than the number of contracted calendar
27 days and the average number of hours worked is less than eighty (80)

1 per month, then the employee shall receive service credit for each
2 calendar month in which he worked eighty (80) or more hours.

3 3. The retirement system shall refund contributions and service credit for
4 any period for which the employee is not given credit under this
5 subsection.

6 (c) For noncertified employees of school boards, for service on and after July 1,
7 2000, at the close of each fiscal year, the retirement system shall add service
8 credit to the account of each employee who made contributions to his or her
9 account during the year. Employees shall be entitled to a full year of service
10 credit if their total paid calendar days were not less than one hundred eighty
11 (180) calendar days for a regular school or fiscal year. In the event an
12 employee is paid for less than one hundred eighty (180) calendar days, the
13 employee may purchase credit according to administrative regulations
14 promulgated by the system. In no case shall more than one (1) year of service
15 be credited for all service performed in one (1) fiscal year. Employees who
16 complete their employment contract prior to the close of a fiscal year and
17 elect to retire prior to the close of a fiscal year shall have their service credit
18 reduced by eight percent (8%) for each calendar month that the retirement
19 becomes effective prior to July 1. Employees who are employed and paid for
20 less than the number of calendar days required in their normal employment
21 year shall be entitled to pro rata service credit for the fractional service. This
22 credit shall be based upon the number of calendar days employed and the
23 number of calendar days in the employee's annual employment agreement or
24 normal employment year. Service credit may not exceed the ratio between the
25 school or fiscal year and the number of months or fraction of a month the
26 employee is employed during that year.

27 (d) Notwithstanding paragraph (c) of this subsection, a noncertified employee of

1 a school board who retires between July 1, 2000, and August 1, 2001, may
2 choose to have service earned between July 1, 2000, and August 1, 2001,
3 credited as described in paragraph (b) of this subsection, if the employee or
4 retired member notifies the retirement system within one (1) year of his initial
5 retirement. The decision once made shall be irrevocable.

6 (2) Employee contributions shall not be deducted from the creditable compensation of
7 any employee or picked up by the employer while he is seasonal, emergency,
8 temporary, or part-time. No service credit shall be earned.

9 (3) Contributions shall not be made or picked up by the employer and no service credit
10 shall be earned by a member while on leave except:

11 (a) A member on military leave shall be entitled to service credit in accordance
12 with KRS 61.555; and

13 (b) A member on educational leave who meets the criteria established by the state
14 Personnel Cabinet for approved educational leave, who is receiving seventy-
15 five percent (75%) or more of full salary, shall receive service credit and shall
16 pay member contributions in accordance with KRS 78.610, and his employer
17 shall pay employer contributions or the contributions shall be picked up in
18 accordance with KRS 61.565. If a tuition agreement is broken by the member,
19 the member and employer contributions paid or picked up during the period
20 of educational leave shall be refunded.

21 (4) The retirement office, upon detection of any erroneous contributions, shall refund:
22 (a) Any erroneous employer contributions made to the retirement system; and
23 (b) Any erroneous employee contributions made to the retirement system and
24 any interest credited in accordance with KRS 78.640. In the event the
25 erroneous contributions were detected by the retirement office after more
26 than five (5) years following the date the erroneous contributions were first
27 made, then the retirement system shall refund the erroneous contributions

1 *to the member plus interest credited at the actuarially assumed rate from*
2 *the date the erroneous contributions were made.*

3 ➔Section 4. KRS 61.685 is amended to read as follows:

- 4 (1) Notwithstanding the provisions of KRS Chapter 413, upon discovery of any error or
5 omission in system records, the system shall correct all records including, but not
6 limited to, membership in the system, service credit, member and employer
7 contributions *subject to the requirements of subsection (3) of Section 1 of this Act,*
8 *subsection (4) of Section 2 of this Act, and subsection (4) of Section 3 of this Act,*
9 and benefits paid or payable. The system may conduct audits to detect possible
10 fraud, misrepresentation, and change in circumstance, which may result in errors or
11 omissions in the system's records. The system, by its executive director or by
12 representatives appointed in writing by the executive director, may take testimony
13 or depositions, and may examine records, documents, or files of any person whose
14 records, documents, or files may furnish knowledge concerning any system records,
15 when the executive director or representative deems this reasonably necessary for
16 purposes incident to the performance of the system's functions. The system may
17 enforce these powers by application to the Franklin Circuit Court, which court may
18 compel compliance with the orders of the executive director or representatives
19 appointed by the executive director.
- 20 (2) Neither the board nor any of its individual members shall be liable to any person for
21 any claim arising from the failure of any participating employer, or any employer
22 who should have been participating in any retirement system operated by the board,
23 to make retirement contributions on behalf of the person.