

1 AN ACT relating to the Kentucky Employees Retirement System and declaring an
2 emergency.

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

4 ➔SECTION 1. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO
5 READ AS FOLLOWS:

6 *Notwithstanding any other provision of KRS 61.510 to 61.705 to the contrary:*

7 *(1) For purposes of this section:*

8 *(a) "Active member" means a member who is participating in the Kentucky*
9 *Employees Retirement System and is employed by a postsecondary*
10 *education institution;*

11 *(b) "Postsecondary education institution" or "institution" means Eastern*
12 *Kentucky University, Kentucky State University, Morehead State University,*
13 *Murray State University, Northern Kentucky University, Western Kentucky*
14 *University, the Kentucky Community Technical College System, and the*
15 *Kentucky Higher Education Student Loan Corporation;*

16 *(c) "Effective cessation date" means June 30, 2020, provided the institution*
17 *has met the requirements of this section; and*

18 *(d) "Inactive member" means a member who is not participating in the system;*

19 *(2) Any postsecondary education institution participating in the Kentucky Employees*
20 *Retirement System may:*

21 *(a) Voluntarily cease participation in the system subject to the requirements*
22 *and restrictions of this section; and*

23 *(b) Request an estimate of the cost of voluntarily ceasing participation in the*
24 *system prior to officially making a request to cease participation in the*
25 *system. The estimate shall be provided to the institution within thirty (30)*
26 *days of the request;*

27 *(3) (a) If a postsecondary education institution desires to voluntarily cease*

1 participation in the Kentucky Employees Retirement System as provided by
2 subsection (2)(a) of this section:

3 1. The postsecondary education institution shall adopt a resolution to
4 cease participation in the system and shall submit the resolution to the
5 board by December 31, 2019, and the board shall accept the
6 resolution. Prior to December 31, 2019, an institution may rescind a
7 previously submitted resolution to cease participation;

8 2. The cessation of participation in the system shall apply to all
9 employees of the postsecondary education institution except for any
10 active members who elect to continue participating in the system as
11 provided by subsection (4)(b) of this section;

12 3. The postsecondary education institution shall pay for all
13 administrative costs of an actuarial study to be completed by the
14 Kentucky Retirement Systems' consulting actuary and for any other
15 administrative costs for discontinuing participation in the system as
16 determined by the board and as provided by this section;

17 4. The postsecondary education institution shall provide an alternative
18 retirement program for employees who will no longer be covered by
19 the system, which may include a voluntary defined contribution plan
20 but shall not include a defined benefit plan which by nature can have
21 an unfunded liability;

22 5. The postsecondary education institution shall pay the full actuarial
23 cost of the benefits accrued by its current and former employees in the
24 system and for any benefits to be accrued after the effective cessation
25 date for its active employees electing to retain coverage in the system
26 as provided by subsection (4)(b) of this section;

27 6. The full actuarial cost:

- 1 a. Shall be determined separately for the pension fund and the
2 insurance fund by the actuarial study required by subparagraph
3 3. of this paragraph;
- 4 b. May be paid by lump-sum payment or in installment payments to
5 the system as provided by this paragraph;
- 6 c. To the extent the data is available, costs for individual active
7 members, inactive members, and retired members shall be based
8 solely upon the service earned while employed by the institution;
9 and
- 10 d. Shall be fixed, and the postsecondary education institution shall
11 not be subject to any increases or subsequent adjustments, once
12 the lump sum is paid or the first installment payment is made;
13 and
- 14 7. If the postsecondary education institution elects to pay the full
15 actuarial cost in installment payments, the postsecondary education
16 institution:
- 17 a. May pay installment payments to the system over a time period
18 determined by the postsecondary education institution, not to
19 exceed twenty-five (25) years; and
- 20 b. Shall be charged interest over the life of the installment period,
21 at a rate of five and one quarter percent (5.25%) per annum;
- 22 (4) For a postsecondary education institution voluntarily ceasing participation as
23 provided by this section:
- 24 (a) Any employee hired on or after the institution's effective cessation date shall
25 not, regardless of his or her membership date in the systems administered
26 by Kentucky Retirement Systems, be eligible to participate in the Kentucky
27 Employees Retirement System through the institution that ceased

1 participation for the duration of his or her employment with that
2 institution;

3 (b) Any employee hired prior to the institution's effective cessation date may, on
4 or before the institution's effective cessation date, make a one (1) time
5 irrevocable election to continue making employee contributions and
6 accruing benefits in the system after the institution's effective cessation
7 date. The election shall be applicable for the duration of his or her
8 employment with that postsecondary education institution. The election
9 provided by this paragraph shall not apply unless the board receives a
10 favorable private letter ruling from the Internal Revenue Service regarding
11 the election prescribed by this paragraph prior to December 1, 2019. If the
12 Internal Revenue Service denies the request for a private letter ruling or if
13 the board does not receive a favorable private letter ruling on the election
14 prescribed by this paragraph, then the provisions of this paragraph shall be
15 void and the cessation of participation shall apply to all employees of the
16 institution;

17 (c) Any employee hired prior to the institution's effective cessation date who
18 does not make an election as provided by paragraph (b) of this subsection,
19 or all employees hired prior to the institution's effective cessation date in the
20 event the systems does not receive a favorable private letter ruling in order
21 to have an election as provided by paragraph (b) of this subsection, shall
22 accrue benefits through the institution's effective cessation date but shall
23 not accrue any additional benefits in the Kentucky Employees Retirement
24 System, including earning years of service credit through the ceased
25 institution, after the institution's effective cessation date for as long as they
26 remain employed by that institution. The day after the institution's effective
27 cessation date, each employee described by this paragraph shall be

- 1 considered an inactive member with respect to his or her employment with
2 the institution that ceased participation and, subject to the provisions and
3 limitations of KRS 61.510 to 61.705, shall:
- 4 1. Retain his or her accounts with the Kentucky Employees Retirement
5 System and have those accounts credited with interest in accordance
6 with KRS 61.510 to 61.705;
- 7 2. Retain his or her vested rights in accordance with paragraph (d) of
8 this subsection; and
- 9 3. Be eligible to take a refund of his or her accumulated account balance
10 in accordance with KRS 61.625 or any other available distribution if
11 eligible;
- 12 (d) The rights of recipients and the vested rights of active members or inactive
13 members accrued as of the postsecondary education institution's effective
14 cessation date shall not be impaired or reduced in any manner as a result of
15 the postsecondary education institution ceasing participation in the system;
- 16 (5) For purposes of this section, the full actuarial cost shall be determined by the
17 Kentucky Retirement Systems' consulting actuary separately for the pension fund
18 and the insurance fund using the assumptions and methodology established in
19 the 2018 actuarial valuation. For purposes of determining the full actuarial cost,
20 the assumed rate of return and discount rate used to calculate the cost shall be
21 the assumed rate of return utilized in the 2018 actuarial valuation;
- 22 (6) The Kentucky Retirement Systems shall promulgate administrative regulations
23 pursuant to KRS Chapter 13A to administer this section; and
- 24 (7) Any postsecondary education institution who voluntarily ceases participation as
25 provided in this section shall hold the Commonwealth harmless from damages,
26 attorney's fees, and costs from legal claims for any cause of action brought by
27 any inactive member after the departing institution's effective cessation date.

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

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

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

- 1 (9) "Service" means the total of current service and prior service as defined in this
2 section;
- 3 (10) "Current service" means the number of years and months of employment as an
4 employee, on and after July 1, 1956, except that for members, officers, and
5 employees of the General Assembly this date shall be January 1, 1960, for which
6 creditable compensation is paid and employee contributions deducted, except as
7 otherwise provided, and each member, officer, and employee of the General
8 Assembly shall be credited with a month of current service for each month he
9 serves in the position;
- 10 (11) "Prior service" means the number of years and completed months, expressed as a
11 fraction of a year, of employment as an employee, prior to July 1, 1956, for which
12 creditable compensation was paid; except that for members, officers, and employees
13 of the General Assembly, this date shall be January 1, 1960. An employee shall be
14 credited with one (1) month of prior service only in those months he received
15 compensation for at least one hundred (100) hours of work; provided, however, that
16 each member, officer, and employee of the General Assembly shall be credited with
17 a month of prior service for each month he served in the position prior to January 1,
18 1960. Twelve (12) months of current service in the system are required to validate
19 prior service;
- 20 (12) "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 members' account, including employee contributions picked up after August 1,
23 1982, pursuant to KRS 61.560(4), together with interest credited, or investment
24 returns earned as provided by KRS 61.5956, on such amounts and any other
25 amounts the member shall have contributed thereto, including interest credited
26 thereon or investment returns earned as provided by KRS 61.5956. "Accumulated
27 contributions" shall not include employee contributions that are deposited into

1 accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established
2 in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);

3 (13) "Creditable compensation":

4 (a) Except as provided by paragraph (b) or (c) of this subsection, means all salary,
5 wages, tips to the extent the tips are reported for income tax purposes, and
6 fees, including payments for compensatory time, paid to the employee as a
7 result of services performed for the employer or for time during which the
8 member is on paid leave, which are includable on the member's federal form
9 W-2 wage and tax statement under the heading "wages, tips, other
10 compensation," including employee contributions picked up after August 1,
11 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it
12 shall mean all amounts which are includable on the member's federal form W-
13 2 wage and tax statement under the heading "wages, tips, other
14 compensation," including employee contributions picked up after August 1,
15 1982, pursuant to KRS 6.505(4) or 61.560(4);

16 (b) Includes:

- 17 1. Lump-sum bonuses, severance pay, or employer-provided payments for
18 purchase of service credit, which shall be averaged over the employee's
19 total service with the system in which it is recorded if it is equal to or
20 greater than one thousand dollars (\$1,000);
- 21 2. Cases where compensation includes maintenance and other perquisites,
22 but the board shall fix the value of that part of the compensation not paid
23 in money;
- 24 3. Lump-sum payments for creditable compensation paid as a result of an
25 order of a court of competent jurisdiction, the Personnel Board, or the
26 Commission on Human Rights, or for any creditable compensation paid
27 in anticipation of settlement of an action before a court of competent

1 jurisdiction, the Personnel Board, or the Commission on Human Rights,
2 including notices of violations of state or federal wage and hour statutes
3 or violations of state or federal discrimination statutes, which shall be
4 credited to the fiscal year during which the wages were earned or should
5 have been paid by the employer. This subparagraph shall also include
6 lump-sum payments for reinstated wages pursuant to KRS 61.569,
7 which shall be credited to the period during which the wages were
8 earned or should have been paid by the employer;

- 9 4. Amounts which are not includable in the member's gross income by
10 virtue of the member having taken a voluntary salary reduction provided
11 for under applicable provisions of the Internal Revenue Code; and
12 5. Elective amounts for qualified transportation fringes paid or made
13 available on or after January 1, 2001, for calendar years on or after
14 January 1, 2001, that are not includable in the gross income of the
15 employee by reason of 26 U.S.C. sec. 132(f)(4); and

16 (c) Excludes:

- 17 1. Uniform, equipment, or any other expense allowances paid on or after
18 January 1, 2019, living allowances, expense reimbursements, lump-sum
19 payments for accrued vacation leave, and other items determined by the
20 board;
21 2. For employees who begin participating on or after September 1, 2008,
22 lump-sum payments for compensatory time;
23 3. For employees participating in a nonhazardous position who began
24 participating prior to September 1, 2008, and who retire after July 1,
25 2023, lump-sum payments for compensatory time upon termination of
26 employment; and
27 4. For employees who begin participating on or after August 1, 2016,

1 nominal fees paid for services as a volunteer;

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

3 (a) For a member who begins participating before September 1, 2008, who is
4 employed in a nonhazardous position, the creditable compensation of the
5 member during the five (5) fiscal years he was paid at the highest average
6 monthly rate divided by the number of months of service credit during that
7 five (5) year period multiplied by twelve (12). The five (5) years may be
8 fractional and need not be consecutive, except that for members retiring on or
9 after January 1, 2019, the five (5) fiscal years shall be complete fiscal years. If
10 the number of months of service credit during the five (5) year period is less
11 than forty-eight (48) for members retiring prior to January 1, 2019, one (1) or
12 more additional fiscal years shall be used. If a member retiring on or after
13 January 1, 2019, does not have five (5) complete fiscal years that each contain
14 twelve (12) months of service credit, then one (1) or more additional fiscal
15 years, which may contain less than twelve (12) months of service credit, shall
16 be added until the number of months in the final compensation calculation is
17 at least sixty (60) months;

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

1 years shall be used. Notwithstanding the provision of KRS 61.565, the
2 funding for this paragraph shall be provided from existing funds of the
3 retirement allowance;

4 (c) For a member who begins participating before September 1, 2008, who is
5 employed in a hazardous position, as provided in KRS 61.592, and who
6 retired prior to January 1, 2019, the creditable compensation of the member
7 during the three (3) fiscal years he was paid at the highest average monthly
8 rate divided by the number of months of service credit during that three (3)
9 year period multiplied by twelve (12). The three (3) years may be fractional
10 and need not be consecutive. If the number of months of service credit during
11 the three (3) year period is less than twenty-four (24), one (1) or more
12 additional fiscal years shall be used;

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

23 (e) For a member who begins participating on or after September 1, 2008, but
24 prior to January 1, 2014, who is employed in a hazardous position as provided
25 in KRS 61.592, or for a member who begins participating prior to September
26 1, 2008, who is employed in a hazardous position as provided in KRS 61.592,
27 who retires on or after January 1, 2019, the creditable compensation of the

1 member during the three (3) complete fiscal years he was paid at the highest
2 average monthly rate divided by three (3). Each fiscal year used to determine
3 final compensation must contain twelve (12) months of service credit. If the
4 member does not have three (3) complete fiscal years that each contain twelve
5 (12) months of service credit, then one (1) or more additional fiscal years,
6 which may contain less than twelve (12) months of service credit, shall be
7 added until the number of months in the final compensation calculation is at
8 least thirty-six (36) months;

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

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

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

- 1 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless
2 otherwise provided in KRS 61.510 to 61.705;
- 3 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
4 following June 30, which shall also be the plan year. The "fiscal year" shall be the
5 limitation year used to determine contribution and benefit limits as established by
6 26 U.S.C. sec. 415;
- 7 (20) "Officers and employees of the General Assembly" means the occupants of those
8 positions enumerated in KRS 6.150. The term shall also apply to assistants who
9 were employed by the General Assembly for at least one (1) regular legislative
10 session prior to July 13, 2004, who elect to participate in the retirement system, and
11 who serve for at least six (6) regular legislative sessions. Assistants hired after July
12 13, 2004, shall be designated as interim employees;
- 13 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean
14 all positions that average one hundred (100) or more hours per month determined by
15 using the number of months actually worked within a calendar or fiscal year,
16 including all positions except:
- 17 (a) Seasonal positions, which although temporary in duration, are positions which
18 coincide in duration with a particular season or seasons of the year and which
19 may recur regularly from year to year, the period of time shall not exceed nine
20 (9) months;
- 21 (b) Emergency positions which are positions which do not exceed thirty (30)
22 working days and are nonrenewable;
- 23 (c) Temporary positions which are positions of employment with a participating
24 department for a period of time not to exceed nine (9) months and are
25 nonrenewable;
- 26 (d) Part-time positions which are positions which may be permanent in duration,
27 but which require less than a calendar or fiscal year average of one hundred

1 (100) hours of work per month, determined by using the number of months
2 actually worked within a calendar or fiscal year, in the performance of duty;
3 and

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

6 (22) "Delayed contribution payment" means an amount paid by an employee for
7 purchase of current service. The amount shall be determined using the same formula
8 in KRS 61.5525, and the payment shall not be picked up by the employer. A
9 delayed contribution payment shall be deposited to the member's account and
10 considered as accumulated contributions of the individual member. In determining
11 payments under this subsection, the formula found in this subsection shall prevail
12 over the one found in KRS 212.434;

13 (23) "Parted employer" means a department, portion of a department, board, or agency,
14 such as Outwood Hospital and School, which previously participated in the system,
15 but due to lease or other contractual arrangement is now operated by a publicly held
16 corporation or other similar organization, and therefore is no longer participating in
17 the system. The term "parted employer" shall not include a department, board, or
18 agency that ceased participation in the system pursuant to KRS 61.522 or Section 1
19 of this Act;

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

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

26 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by
27 the member in accordance with KRS 61.542 or 61.705 to receive any available

1 benefits in the event of the member's death. As used in KRS 61.702, "beneficiary"
2 does not mean an estate, trust, or trustee;

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

8 (28) "Level dollar amortization method" means a method of determining the annual
9 amortization payment on the unfunded actuarial accrued liability that is set as an
10 equal dollar amount over the remaining amortization period as of the actuarial
11 valuation date. Under this method, the unfunded actuarially accrued liability shall
12 be projected to be fully amortized at the conclusion of the amortization period;

13 (29) "Increment" means twelve (12) months of service credit which are purchased. The
14 twelve (12) months need not be consecutive. The final increment may be less than
15 twelve (12) months;

16 (30) "Person" means a natural person;

17 (31) "Retirement office" means the Kentucky Retirement Systems office building in
18 Frankfort;

19 (32) "Last day of paid employment" means the last date employer and employee
20 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
21 78.615 to the retirement office in order for the employee to receive current service
22 credit for the month. Last day of paid employment does not mean a date the
23 employee receives payment for accrued leave, whether by lump sum or otherwise, if
24 that date occurs twenty-four (24) or more months after previous contributions;

25 (33) "Objective medical evidence" means reports of examinations or treatments; medical
26 signs which are anatomical, physiological, or psychological abnormalities that can
27 be observed; psychiatric signs which are medically demonstrable phenomena

- 1 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
2 or contact with reality; or laboratory findings which are anatomical, physiological,
3 or psychological phenomena that can be shown by medically acceptable laboratory
4 diagnostic techniques, including but not limited to chemical tests,
5 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 6 (34) "Participating" means an employee is currently earning service credit in the system
7 as provided in KRS 61.543;
- 8 (35) "Month" means a calendar month;
- 9 (36) "Membership date" means:
- 10 (a) The date upon which the member began participating in the system as
11 provided in KRS 61.543; or
- 12 (b) For a member electing to participate in the system pursuant to KRS
13 196.167(4) who has not previously participated in the system or the Kentucky
14 Teachers' Retirement System, the date the member began participating in a
15 defined contribution plan that meets the requirements of 26 U.S.C. sec.
16 403(b);
- 17 (37) "Participant" means a member, as defined by subsection (8) of this section, or a
18 retired member, as defined by subsection (24) of this section;
- 19 (38) "Qualified domestic relations order" means any judgment, decree, or order,
20 including approval of a property settlement agreement, that:
- 21 (a) Is issued by a court or administrative agency; and
- 22 (b) Relates to the provision of child support, alimony payments, or marital
23 property rights to an alternate payee;
- 24 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
25 participant, who is designated to be paid retirement benefits in a qualified domestic
26 relations order;
- 27 (40) "Accumulated employer credit" mean the employer pay credit deposited to the

1 member's account and interest credited on such amounts as provided by KRS
2 16.583 and 61.597;

3 (41) "Accumulated account balance" means:

4 (a) For members who began participating in the system prior to January 1, 2014,
5 the member's accumulated contributions;

6 (b) For members who began participating in the system on or after January 1,
7 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,
8 the combined sum of the member's accumulated contributions and the
9 member's accumulated employer credit; or

10 (c) For nonhazardous members who are participating in the 401(a) money
11 purchase plan as provided by KRS 61.5956, the combined sum of the
12 member's accumulated contribution and the member's accumulated employer
13 contribution in the 401(a) money purchase plan;

14 (42) "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;

24 (43) "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;

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

4 (45) "Accumulated employer contribution" means the employer contribution deposited
5 to the member's account and any investment returns on such amounts as provided
6 by KRS 61.5956; and

7 (46) "Monthly average pay" means the higher of the member's monthly final rate of pay
8 or the average monthly creditable compensation earned by the deceased member
9 during his or her last twelve (12) months of employment.

10 ➔Section 3. KRS 61.520 is amended to read as follows:

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

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

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

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

7 (4) Except as provided by KRS 61.522 or Section 1 of this Act:

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

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

12 ➔Section 4. KRS 61.525 is amended to read as follows:

13 Membership in the system shall consist of the following:

14 (1) All persons who become employees of a participating department after the date such
15 department first participates in the system;

16 (2) (a) All persons who are employees of a department on the date the department
17 first participates in the system, either in service or on authorized leave from
18 service, and who elect within thirty (30) days following the department's
19 participation, or in the case of persons on authorized leave, within thirty (30)
20 days of their return to active service, to become members and thereby agree to
21 make contributions as provided in KRS 61.515 to 61.705;

22 (b) All persons who are employees of a department who did not elect to
23 participate within thirty (30) days of the date the department first participated
24 in the system or within thirty (30) days of their return to active service and
25 who subsequently elect to participate the first day of a month after the
26 department's date of participation;

27 (3) All persons who are employees of any credit union whose membership was initially

- 1 limited to employees of state government and their families and which subsequently
2 may have been extended to local government employees and their families;
- 3 (4) All persons who were professional staff employees of the Council on Postsecondary
4 Education or the Higher Education Assistance Authority and were contributing to
5 the system on the effective date of Executive Order 74-762 or 75-964, respectively,
6 and file a written election of their desire to continue in the system and all
7 administrative and professional staff employees of the Higher Education Assistance
8 Authority who, on or after January 1, 1993, are not participating in another
9 retirement plan sponsored by the Higher Education Assistance Authority;
- 10 (5) All persons who were professional staff employees of the Kentucky Authority for
11 Educational Television on and after July 1, 1974;
- 12 (6) All persons who are employees of the Teachers' Retirement System except
13 employees who are required to participate under the Teachers' Retirement System
14 under KRS 161.220(4)(d);
- 15 (7) Membership in the system shall not include persons who are not eligible to
16 participate in the system as provided by KRS 61.522 or Section 1 of this Act or
17 those employees who are simultaneously participating in another state-administered
18 defined benefit plan within Kentucky other than those administered by the Kentucky
19 Retirement Systems, except for employees who have ceased to contribute to one (1)
20 of the state-administered retirement plans as provided in KRS 21.360; and
- 21 (8) Except as provided by Section 1 of this Act, effective January 1, 1998, employees
22 of the Kentucky Community and Technical College System who were previously
23 contributing members and are not required to participate in the Teachers'
24 Retirement System as a member; employees who were previously contributing
25 members transferred from the former Cabinet for Workforce Development as
26 provided in KRS 164.5805(1)(a) and who have not exercised the option to
27 participate in the new Kentucky Community and Technical College personnel

1 system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997,
2 who are not eligible under the Teachers' Retirement System or who are not
3 contributing to an optional retirement plan established by the board of regents for
4 the Kentucky Community and Technical College System.

5 ➔Section 5. KRS 61.543 is amended to read as follows:

6 (1) (a) Employee contributions shall be deducted each payroll period from the
7 creditable compensation of each employee of an agency participating in the
8 retirement system while he is classified as regular full-time as defined in KRS
9 61.510 unless the employee:

- 10 1. Did not elect to become a member as provided by subsection (2) of KRS
11 61.525;
- 12 2. Did not elect membership pursuant to KRS 61.545(3); or
- 13 3. Is not eligible to participate in the system as provided by KRS 61.522 or
14 Section 1 of this Act.

15 (b) After August 1, 1982, employee contributions shall be picked up by the
16 employer pursuant to KRS 61.560(4). Service credit will be allowed for each
17 month the contributions are deducted or picked up during a fiscal or calendar
18 year, if the member receives creditable compensation for an average of one
19 hundred (100) hours or more of work per month. If the average number of
20 hours of work is less than one hundred (100) per month, the member shall be
21 allowed credit only for those months he receives creditable compensation for
22 one hundred (100) hours of work.

23 (2) Employee contributions shall not be deducted from the creditable compensation of
24 an employee or picked up by the employer while he is seasonal, emergency,
25 temporary, or part-time. No service credit will be earned.

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

- 1 (a) A member on military leave shall be entitled to service credit in accordance
2 with KRS 61.555;
- 3 (b) A member on educational leave, approved by the Personnel Cabinet, who is
4 receiving seventy-five percent (75%) or more of full salary, shall receive
5 service credit and shall pay employee contributions, or the contributions shall
6 be picked up in accordance with KRS 61.560 and his employer shall pay
7 employer contributions in accordance with KRS 61.565. If a tuition agreement
8 is broken by the member, the member and employer contributions paid or
9 picked up during the period of educational leave shall be refunded; and
- 10 (c) An employee on educational leave, approved by the appointing authority, not
11 to exceed one (1) year, or with additional approval of one (1) additional year,
12 and not to exceed two (2) years within a five (5) year period, who is receiving
13 a salary of less than seventy-five percent (75%) of full salary, may elect to
14 retain membership in the system during the period of leave. If the employee
15 elects to retain membership in the system, he shall receive service credit by
16 having employee contributions picked up in accordance with KRS 61.560. His
17 employer shall pay employer contributions in accordance with KRS 61.565. If
18 a tuition agreement is broken by the member, the employee and employer
19 contributions paid or picked up during the period of educational leave shall be
20 refunded to the contributor and no service credit shall be earned for the period
21 of leave.
- 22 (4) The retirement office, upon detection, shall refund any erroneous employer and
23 employee contributions made to the retirement system and any interest credited in
24 accordance with KRS 61.575.
- 25 (5) Notwithstanding the provisions of this section and KRS 61.560, employees engaged
26 pursuant to KRS 148.026 and 56.491 in a regular full-time position as defined in
27 KRS 61.510(21) prior to January 1, 1993, shall be allowed service credit for each

1 month the employee received creditable compensation for an average of one
2 hundred (100) or more hours of work, if the employee pays to the retirement system
3 the contributions that would have been deducted for the period of employment. The
4 contributions shall be credited to the member's account and shall not be picked up
5 pursuant to KRS 61.560(4). The employer contributions for the period, plus interest
6 calculated at the actuarial rate, shall be due within thirty (30) days of notice of
7 receipt of payment from the employee.

8 ➔Section 6. KRS 61.560 is amended to read as follows:

- 9 (1) Each employee shall, commencing on August 1, 1986, contribute for each pay
10 period for which he receives compensation five percent (5%) of his creditable
11 compensation, except that members of the General Assembly, who elect the
12 survivorship option provided in KRS 61.635(13), shall each contribute six and six-
13 tenths percent (6.6%) of creditable compensation commencing with the payroll
14 period immediately following his election of the option. Any other provisions of
15 KRS 61.515 to 61.705 notwithstanding, any reemployed retiree, as described in
16 KRS 61.637, who became reemployed prior to September 1, 2008, and began
17 participating in another retirement account shall contribute five percent (5%) of his
18 creditable compensation, or the amount required by KRS 61.592(3) if applicable.
- 19 (2) Each employer shall cause to be deducted from the creditable compensation of each
20 employee for each and every payroll period the contribution payable by each such
21 employee as provided in KRS 61.515 to 61.705.
- 22 (3) The deductions provided for herein shall be made notwithstanding that the
23 minimum compensation provided by law for any employee shall be reduced
24 thereby. Every employee shall be deemed to consent and agree to the deductions
25 made as provided herein; and payment of salary or compensation less such
26 deductions shall be a full and complete discharge of all claims for services rendered
27 by such person during the period covered by such payment, except as to any

1 benefits provided by KRS 61.515 to 61.705.

2 (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of
3 the United States Internal Revenue Code, pick up the employee contributions
4 required by this section for all compensation earned after August 1, 1982, and the
5 contributions so picked up shall be treated as employer contributions in determining
6 tax treatment under the United States Internal Revenue Code and KRS 141.010.
7 These contributions shall not be included as gross income of the employee until
8 such time as the contributions are distributed or made available to the employee.
9 The picked-up employee contribution shall satisfy all obligations to the retirement
10 system satisfied prior to August 1, 1982, by the employee contribution, and the
11 picked-up employee contribution shall be in lieu of an employee contribution. Each
12 employer shall pay these picked-up employee contributions from the same source of
13 funds which is used to pay earnings to the employee. The employee shall have no
14 option to receive the contributed amounts directly instead of having them paid by
15 the employer to the system. Employee contributions picked up after August 1, 1982,
16 shall be treated for all purposes of KRS 61.515 to 61.705 in the same manner and to
17 the same extent as employee contributions made prior to August 1, 1982.

18 (5) The provisions of this section shall not apply to individuals who are not eligible for
19 membership as provided by KRS 61.522 or Section 1 of this Act.

20 ➔Section 7. Notwithstanding any other provision of KRS 61.565, KRS 61.702,
21 2018 Ky. Acts ch. 169, Part IV, 5., and 2018 Ky. Acts ch. 203 to the contrary, the
22 employer contribution rate from July 1, 2019, through June 30, 2020 shall be 49.47
23 percent, consisting of 41.06 percent for pension and 8.41 percent for health insurance for
24 nonhazardous duty employees participating in the Kentucky Employees Retirement
25 System who are employed by Mental Health/Mental Retardation Boards, Local and
26 District Health Departments, domestic violence shelters, rape crisis centers, child
27 advocacy centers, state supported universities and community colleges, and any other

1 agency eligible to voluntarily cease participating in the Kentucky Employees Retirement
2 System pursuant to KRS 61.522.

3 ➔Section 8. Whereas ensuring the financial health of postsecondary education
4 institutions is vital to the future of Kentucky, an emergency is declared to exist, and this
5 Act takes effect upon its passage and approval by the Governor or upon its otherwise
6 becoming a law.