

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, except for those members who are participating in the*  
11 *Kentucky Employees Retirement System under hazardous duty coverage;*

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

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

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

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

22 *(a) Voluntarily cease participation in the system for its nonhazardous*  
23 *employees subject to the requirements and restrictions of this section; and*

24 *(b) On or after October 31, 2019, but prior to February 1, 2020, request an*  
25 *estimate of the cost of voluntarily ceasing participation in the system prior*  
26 *to officially making a request to cease participation in the system. The*  
27 *estimate shall be provided to the institution within sixty (60) days of the*

1           request which shall not include any employees electing to continue  
2           participating in the system as provided by subsection (4)(b) of this section;

3           (3) (a) If a postsecondary education institution desires to voluntarily cease  
4           participation in the Kentucky Employees Retirement System as provided by  
5           subsection (2)(a) of this section:

6           1. The postsecondary education institution shall adopt a resolution to  
7           cease participation in the system and shall submit the resolution to the  
8           board by April 1, 2020, and the board shall accept the resolution on or  
9           before June 30, 2020. Prior to April 1, 2020, an institution may  
10           rescind a previously submitted resolution to cease participation;

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

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

20           4. The postsecondary education institution shall provide an alternative  
21           retirement program for employees who will no longer be covered by  
22           the system, which shall include a mandatory defined contribution plan  
23           that provides a fixed percentage of compensation per pay period for  
24           each employee participating in the system prior to the institution's  
25           effective cessation date that is equal to the percent of compensation  
26           contributed by the employee prior to the effective cessation date, but  
27           shall not include a defined benefit plan which by nature can have an

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unfunded liability;

5. The postsecondary education institution shall pay the full actuarial cost of the benefits accrued by its current and former employees in the system through the effective cessation date. For any benefits accrued after the effective cessation date for its active employees electing to retain coverage in the system as provided by subsection (4)(b) of this section, the institution shall only be required to pay the normal cost as provided by KRS 61.565 and 61.702 for any future service accruals;

6. The full actuarial cost:

a. Shall be determined separately for the pension fund and the insurance fund by the actuarial study required by subparagraph 3. of this paragraph;

b. May be paid by lump-sum payment or in installment payments to the system as provided by this paragraph;

c. To the extent the data is available, costs for individual active members, inactive members, and retired members shall be based solely upon the service earned while employed by the institution;  
and

d. Shall be fixed, and the postsecondary education institution shall not be subject to any increases or subsequent adjustments, once the lump sum is paid or the first installment payment is made;  
and

7. If the postsecondary education institution elects to pay the full actuarial cost in installment payments, the postsecondary education institution:

a. May pay installment payments to the system over a time period determined by the postsecondary education institution, not to

1 exceed twenty-five (25) years; and  
2 b. Shall be charged interest over the life of the installment period,  
3 at a rate of five and one quarter percent (5.25%) per annum for  
4 pension costs and at a rate of six and one-quarter percent  
5 (6.25%) per annum for retiree health costs;

6 (4) For a postsecondary education institution voluntarily ceasing participation as  
7 provided by this section:

8 (a) Any nonhazardous employee hired on or after the institution's effective  
9 cessation date shall not, regardless of his or her membership date in the  
10 systems administered by the Kentucky Retirement Systems, be eligible to  
11 participate in the Kentucky Employees Retirement System through the  
12 institution that ceased participation for the duration of his or her  
13 employment with that institution;

14 (b) Any nonhazardous employee hired prior to the institution's effective  
15 cessation date, if the postsecondary institution has voluntarily ceased  
16 participation, may, on or before the institution's effective cessation date,  
17 make a one (1) time irrevocable election to continue making employee  
18 contributions and accruing benefits in the system after the institution's  
19 effective cessation date. The election shall be applicable for the duration of  
20 his or her employment with that postsecondary education institution;

21 (c) Any nonhazardous employee hired prior to the institution's effective  
22 cessation date, who does not make an election as provided by paragraph (b)  
23 of this subsection, if the postsecondary institution has voluntarily ceased  
24 participation, shall accrue benefits through the institution's effective  
25 cessation date but shall not accrue any additional benefits in the Kentucky  
26 Employees Retirement System, including earning years of service credit  
27 through the ceased institution, after the institution's effective cessation date

1 for as long as they remain employed by that institution. The day after the  
2 institution's effective cessation date, each employee described by this  
3 paragraph shall be considered an inactive member with respect to his or her  
4 employment with the institution that ceased participation and, subject to the  
5 provisions and limitations of KRS 61.510 to 61.705, shall:

6 1. Retain his or her accounts with the Kentucky Employees Retirement  
7 System and have those accounts credited with interest in accordance  
8 with KRS 61.510 to 61.705;

9 2. Contribute to the alternative retirement program established pursuant  
10 to subsection (3)(a)4. of this section;

11 2. Retain his or her vested rights in accordance with paragraph (d) of  
12 this subsection;

13 3. If the alternative retirement plan established pursuant to subsection  
14 (3)(a)4. meets the qualification requirements under 26 U.S.C. sec.  
15 401(a) and is capable of accepting trustee to trustee transfers of both  
16 pre-tax and post-tax contributions, be eligible to seek to transfer his or  
17 her accumulated account balance to the employer's qualified  
18 alternative retirement program within sixty (60) days of the  
19 institution's effective cessation date. An employee's decision to  
20 transfer his or her accumulated account balance within sixty (60) days  
21 of the institution's effective cessation date is an irrevocable waiver of  
22 the right to obtain service credits in the system for the time worked for  
23 the institution ceasing participation. The employer's cost for ceasing  
24 participation shall be reduced accordingly for any employee's  
25 transferring to the alternative retirement program; and

26 4. Be eligible to take a refund of his or her accumulated account balance  
27 in accordance with KRS 61.625 or any other available distribution if

1 eligible;

2 (d) The rights of recipients and the vested rights of active members or inactive  
 3 members accrued as of the postsecondary education institution's effective  
 4 cessation date shall not be impaired or reduced in any manner as a result of  
 5 the postsecondary education institution ceasing participation in the system;

6 (5) For purposes of this section, the full actuarial cost shall be determined by the  
 7 Kentucky Retirement Systems' consulting actuary separately for the pension fund  
 8 and the insurance fund using the assumptions and methodology established in  
 9 the 2019 actuarial valuation. For purposes of determining the full actuarial cost,  
 10 the assumed rate of return and discount rate used to calculate the cost shall be  
 11 the lesser of the assumed rate of return utilized in the system's 2019 actuarial  
 12 valuation or the yield on a thirty (30) year United States Treasury bond as of the  
 13 employer's effective cessation date, but shall in no case be lower than three  
 14 percent (3%);

15 (6) The Kentucky Retirement Systems shall promulgate administrative regulations  
 16 pursuant to KRS Chapter 13A to administer this section; and

17 (7) Any postsecondary education institution who voluntarily ceases participation as  
 18 provided in this section shall hold the Commonwealth harmless from damages,  
 19 attorney's fees, and costs from legal claims for any cause of action brought by  
 20 any inactive member after the departing institution's effective cessation date.

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

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

23 (1) "System" means the Kentucky Employees Retirement System created by KRS  
 24 61.510 to 61.705;

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

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

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

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

7 (5) "Employee" means the members, officers, and employees of the General Assembly  
8 and every regular full-time, appointed or elective officer or employee of a  
9 participating department, including the Department of Military Affairs. The term  
10 does not include persons engaged as independent contractors, seasonal, emergency,  
11 temporary, interim, and part-time workers. In case of any doubt, the board shall  
12 determine if a person is an employee within the meaning of KRS 61.510 to 61.705;

13 (6) "Employer" means a department or any authority of a department having the power  
14 to appoint or select an employee in the department, including the Senate and the  
15 House of Representatives, or any other entity, the employees of which are eligible  
16 for membership in the system pursuant to KRS 61.525;

17 (7) "State" means the Commonwealth of Kentucky;

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

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

23 (10) "Current service" means the number of years and months of employment as an  
24 employee, on and after July 1, 1956, except that for members, officers, and  
25 employees of the General Assembly this date shall be January 1, 1960, for which  
26 creditable compensation is paid and employee contributions deducted, except as  
27 otherwise provided, and each member, officer, and employee of the General

1 Assembly shall be credited with a month of current service for each month he  
2 serves in the position;

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

13 (12) "Accumulated contributions" at any time means the sum of all amounts deducted  
14 from the compensation of a member and credited to his individual account in the  
15 members' account, including employee contributions picked up after August 1,  
16 1982, pursuant to KRS 61.560(4), together with interest credited, or investment  
17 returns earned as provided by KRS 61.5956, on such amounts and any other  
18 amounts the member shall have contributed thereto, including interest credited  
19 thereon or investment returns earned as provided by KRS 61.5956. "Accumulated  
20 contributions" shall not include employee contributions that are deposited into  
21 accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established  
22 in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);

23 (13) "Creditable compensation":

24 (a) Except as provided by paragraph (b) or (c) of this subsection, means all salary,  
25 wages, tips to the extent the tips are reported for income tax purposes, and  
26 fees, including payments for compensatory time, paid to the employee as a  
27 result of services performed for the employer or for time during which the



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

9 (b) Includes:

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

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

9 (c) Excludes:

- 10 1. Uniform, equipment, or any other expense allowances paid on or after
- 11 January 1, 2019, living allowances, expense reimbursements, lump-sum
- 12 payments for accrued vacation leave, and other items determined by the
- 13 board;
- 14 2. For employees who begin participating on or after September 1, 2008,
- 15 lump-sum payments for compensatory time;
- 16 3. For employees participating in a nonhazardous position who began
- 17 participating prior to September 1, 2008, and who retire after July 1,
- 18 2023, lump-sum payments for compensatory time upon termination of
- 19 employment; and
- 20 4. For employees who begin participating on or after August 1, 2016,
- 21 nominal fees paid for services as a volunteer;

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

- 23 (a) For a member who begins participating before September 1, 2008, who is
- 24 employed in a nonhazardous position, the creditable compensation of the
- 25 member during the five (5) fiscal years he was paid at the highest average
- 26 monthly rate divided by the number of months of service credit during that
- 27 five (5) year period multiplied by twelve (12). The five (5) years may be

1 fractional and need not be consecutive, except that for members retiring on or  
2 after January 1, 2019, the five (5) fiscal years shall be complete fiscal years. If  
3 the number of months of service credit during the five (5) year period is less  
4 than forty-eight (48) for members retiring prior to January 1, 2019, one (1) or  
5 more additional fiscal years shall be used. If a member retiring on or after  
6 January 1, 2019, does not have five (5) complete fiscal years that each contain  
7 twelve (12) months of service credit, then one (1) or more additional fiscal  
8 years, which may contain less than twelve (12) months of service credit, shall  
9 be added until the number of months in the final compensation calculation is  
10 at least sixty (60) months;

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

24 (c) For a member who begins participating before September 1, 2008, who is  
25 employed in a hazardous position, as provided in KRS 61.592, and who  
26 retired prior to January 1, 2019, the creditable compensation of the member  
27 during the three (3) fiscal years he was paid at the highest average monthly

1 rate divided by the number of months of service credit during that three (3)  
2 year period multiplied by twelve (12). The three (3) years may be fractional  
3 and need not be consecutive. If the number of months of service credit during  
4 the three (3) year period is less than twenty-four (24), one (1) or more  
5 additional fiscal years shall be used;

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

16 (e) For a member who begins participating on or after September 1, 2008, but  
17 prior to January 1, 2014, who is employed in a hazardous position as provided  
18 in KRS 61.592, or for a member who begins participating prior to September  
19 1, 2008, who is employed in a hazardous position as provided in KRS 61.592,  
20 who retires on or after January 1, 2019, the creditable compensation of the  
21 member during the three (3) complete fiscal years he was paid at the highest  
22 average monthly rate divided by three (3). Each fiscal year used to determine  
23 final compensation must contain twelve (12) months of service credit. If the  
24 member does not have three (3) complete fiscal years that each contain twelve  
25 (12) months of service credit, then one (1) or more additional fiscal years,  
26 which may contain less than twelve (12) months of service credit, shall be  
27 added until the number of months in the final compensation calculation is at

- 1           least thirty-six (36) months;
- 2   (15) "Final rate of pay" means the actual rate upon which earnings of an employee were  
3       calculated during the twelve (12) month period immediately preceding the  
4       member's effective retirement date, including employee contributions picked up  
5       after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the  
6       system by the employer and the following equivalents shall be used to convert the  
7       rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour  
8       workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour  
9       workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months,  
10      one (1) year;
- 11   (16) "Retirement allowance" means the retirement payments to which a member is  
12      entitled;
- 13   (17) "Actuarial equivalent" means a benefit of equal value when computed upon the  
14      basis of the actuarial tables that are adopted by the board. In cases of disability  
15      retirement, the options authorized by KRS 61.635 shall be computed by adding ten  
16      (10) years to the age of the member, unless the member has chosen the Social  
17      Security adjustment option as provided for in KRS 61.635(8), in which case the  
18      member's actual age shall be used. For members who began participating in the  
19      system prior to January 1, 2014, no disability retirement option shall be less than the  
20      same option computed under early retirement;
- 21   (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless  
22      otherwise provided in KRS 61.510 to 61.705;
- 23   (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
24      following June 30, which shall also be the plan year. The "fiscal year" shall be the  
25      limitation year used to determine contribution and benefit limits as established by  
26      26 U.S.C. sec. 415;
- 27   (20) "Officers and employees of the General Assembly" means the occupants of those

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

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

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

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

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

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

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

26 (22) "Delayed contribution payment" means an amount paid by an employee for  
27 purchase of current service. The amount shall be determined using the same formula

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

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

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



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

1 the combined sum of the member's accumulated contributions and the  
2 member's accumulated employer credit; or

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

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

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

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

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

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

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

27 (46) "Monthly average pay" means the higher of the member's monthly final rate of pay

1 or the average monthly creditable compensation earned by the deceased member  
2 during his or her last twelve (12) months of employment.

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

4 (1) Each department determined by the board to be eligible and qualified for  
5 participation shall participate in the system when the Governor by appropriate  
6 executive order, the authority to issue such executive order being granted, directs  
7 such department to participate in the system. The effective date of such participation  
8 shall be determined by the board and fixed by the Governor in his executive order.

9 (2) (a) Notwithstanding the provisions of subsection (1) of this section the Governor  
10 is authorized to permit any state college or university, which he directs by  
11 appropriate executive order to participate in the system after January 1, 1972,  
12 to include its noninstructional employees in the membership of the system  
13 while excluding the instructional employees of the state college or university  
14 from membership.

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

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

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

- 1 (a) Once a department participates it shall continue to participate as long as it  
2 remains qualified; and
- 3 (b) Any position initially required to participate in the Kentucky Employees  
4 Retirement System shall continue to participate as long as the position exists.

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

6 Membership in the system shall consist of the following:

- 7 (1) All persons who become employees of a participating department after the date such  
8 department first participates in the system;
- 9 (2) (a) All persons who are employees of a department on the date the department  
10 first participates in the system, either in service or on authorized leave from  
11 service, and who elect within thirty (30) days following the department's  
12 participation, or in the case of persons on authorized leave, within thirty (30)  
13 days of their return to active service, to become members and thereby agree to  
14 make contributions as provided in KRS 61.515 to 61.705;
- 15 (b) All persons who are employees of a department who did not elect to  
16 participate within thirty (30) days of the date the department first participated  
17 in the system or within thirty (30) days of their return to active service and  
18 who subsequently elect to participate the first day of a month after the  
19 department's date of participation;
- 20 (3) All persons who are employees of any credit union whose membership was initially  
21 limited to employees of state government and their families and which subsequently  
22 may have been extended to local government employees and their families;
- 23 (4) All persons who were professional staff employees of the Council on Postsecondary  
24 Education or the Higher Education Assistance Authority and were contributing to  
25 the system on the effective date of Executive Order 74-762 or 75-964, respectively,  
26 and file a written election of their desire to continue in the system and all  
27 administrative and professional staff employees of the Higher Education Assistance

1 Authority who, on or after January 1, 1993, are not participating in another  
2 retirement plan sponsored by the Higher Education Assistance Authority;

3 (5) All persons who were professional staff employees of the Kentucky Authority for  
4 Educational Television on and after July 1, 1974;

5 (6) All persons who are employees of the Teachers' Retirement System except  
6 employees who are required to participate under the Teachers' Retirement System  
7 under KRS 161.220(4)(d);

8 (7) Membership in the system shall not include persons who are not eligible to  
9 participate in the system as provided by KRS 61.522 or Section 1 of this Act or  
10 those employees who are simultaneously participating in another state-administered  
11 defined benefit plan within Kentucky other than those administered by the Kentucky  
12 Retirement Systems, except for employees who have ceased to contribute to one (1)  
13 of the state-administered retirement plans as provided in KRS 21.360; and

14 (8) Except as provided by Section 1 of this Act, effective January 1, 1998, employees  
15 of the Kentucky Community and Technical College System who were previously  
16 contributing members and are not required to participate in the Teachers'  
17 Retirement System as a member; employees who were previously contributing  
18 members transferred from the former Cabinet for Workforce Development as  
19 provided in KRS 164.5805(1)(a) and who have not exercised the option to  
20 participate in the new Kentucky Community and Technical College personnel  
21 system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997,  
22 who are not eligible under the Teachers' Retirement System or who are not  
23 contributing to an optional retirement plan established by the board of regents for  
24 the Kentucky Community and Technical College System.

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

26 (1) (a) Employee contributions shall be deducted each payroll period from the  
27 creditable compensation of each employee of an agency participating in the

1 retirement system while he is classified as regular full-time as defined in KRS  
2 61.510 unless the employee:

- 3 1. Did not elect to become a member as provided by subsection (2) of KRS  
4 61.525;
- 5 2. Did not elect membership pursuant to KRS 61.545(3); or
- 6 3. Is not eligible to participate in the system as provided by KRS 61.522 or  
7 *Section 1 of this Act.*

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

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

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

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

23 (b) A member on educational leave, approved by the Personnel Cabinet, who is  
24 receiving seventy-five percent (75%) or more of full salary, shall receive  
25 service credit and shall pay employee contributions, or the contributions shall  
26 be picked up in accordance with KRS 61.560 and his employer shall pay  
27 employer contributions in accordance with KRS 61.565. If a tuition agreement

- 1 is broken by the member, the member and employer contributions paid or  
2 picked up during the period of educational leave shall be refunded; and
- 3 (c) An employee on educational leave, approved by the appointing authority, not  
4 to exceed one (1) year, or with additional approval of one (1) additional year,  
5 and not to exceed two (2) years within a five (5) year period, who is receiving  
6 a salary of less than seventy-five percent (75%) of full salary, may elect to  
7 retain membership in the system during the period of leave. If the employee  
8 elects to retain membership in the system, he shall receive service credit by  
9 having employee contributions picked up in accordance with KRS 61.560. His  
10 employer shall pay employer contributions in accordance with KRS 61.565. If  
11 a tuition agreement is broken by the member, the employee and employer  
12 contributions paid or picked up during the period of educational leave shall be  
13 refunded to the contributor and no service credit shall be earned for the period  
14 of leave.
- 15 (4) The retirement office, upon detection, shall refund any erroneous employer and  
16 employee contributions made to the retirement system and any interest credited in  
17 accordance with KRS 61.575.
- 18 (5) Notwithstanding the provisions of this section and KRS 61.560, employees engaged  
19 pursuant to KRS 148.026 and 56.491 in a regular full-time position as defined in  
20 KRS 61.510(21) prior to January 1, 1993, shall be allowed service credit for each  
21 month the employee received creditable compensation for an average of one  
22 hundred (100) or more hours of work, if the employee pays to the retirement system  
23 the contributions that would have been deducted for the period of employment. The  
24 contributions shall be credited to the member's account and shall not be picked up  
25 pursuant to KRS 61.560(4). The employer contributions for the period, plus interest  
26 calculated at the actuarial rate, shall be due within thirty (30) days of notice of  
27 receipt of payment from the employee.

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

- 2       (1) Each employee shall, commencing on August 1, 1986, contribute for each pay  
3       period for which he receives compensation five percent (5%) of his creditable  
4       compensation, except that members of the General Assembly, who elect the  
5       survivorship option provided in KRS 61.635(13), shall each contribute six and six-  
6       tenths percent (6.6%) of creditable compensation commencing with the payroll  
7       period immediately following his election of the option. Any other provisions of  
8       KRS 61.515 to 61.705 notwithstanding, any reemployed retiree, as described in  
9       KRS 61.637, who became reemployed prior to September 1, 2008, and began  
10      participating in another retirement account shall contribute five percent (5%) of his  
11      creditable compensation, or the amount required by KRS 61.592(3) if applicable.
- 12      (2) Each employer shall cause to be deducted from the creditable compensation of each  
13      employee for each and every payroll period the contribution payable by each such  
14      employee as provided in KRS 61.515 to 61.705.
- 15      (3) The deductions provided for herein shall be made notwithstanding that the  
16      minimum compensation provided by law for any employee shall be reduced  
17      thereby. Every employee shall be deemed to consent and agree to the deductions  
18      made as provided herein; and payment of salary or compensation less such  
19      deductions shall be a full and complete discharge of all claims for services rendered  
20      by such person during the period covered by such payment, except as to any  
21      benefits provided by KRS 61.515 to 61.705.
- 22      (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of  
23      the United States Internal Revenue Code, pick up the employee contributions  
24      required by this section for all compensation earned after August 1, 1982, and the  
25      contributions so picked up shall be treated as employer contributions in determining  
26      tax treatment under the United States Internal Revenue Code and KRS 141.010.  
27      These contributions shall not be included as gross income of the employee until



1 such time as the contributions are distributed or made available to the employee.  
2 The picked-up employee contribution shall satisfy all obligations to the retirement  
3 system satisfied prior to August 1, 1982, by the employee contribution, and the  
4 picked-up employee contribution shall be in lieu of an employee contribution. Each  
5 employer shall pay these picked-up employee contributions from the same source of  
6 funds which is used to pay earnings to the employee. The employee shall have no  
7 option to receive the contributed amounts directly instead of having them paid by  
8 the employer to the system. Employee contributions picked up after August 1, 1982,  
9 shall be treated for all purposes of KRS 61.515 to 61.705 in the same manner and to  
10 the same extent as employee contributions made prior to August 1, 1982.

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

13 ➔Section 7. Notwithstanding any other provision of KRS 61.565, KRS 61.702,  
14 2018 Ky. Acts ch. 169, Part IV, 5., and 2018 Ky. Acts ch. 203 to the contrary, the  
15 employer contribution rate from July 1, 2019, through June 30, 2020 shall be 49.47  
16 percent, consisting of 41.06 percent for pension and 8.41 percent for health insurance for  
17 nonhazardous duty employees participating in the Kentucky Employees Retirement  
18 System who are employed by Mental Health/Mental Retardation Boards, Local and  
19 District Health Departments, domestic violence shelters, rape crisis centers, child  
20 advocacy centers, state supported universities and community colleges, and any other  
21 agency eligible to voluntarily cease participating in the Kentucky Employees Retirement  
22 System pursuant to KRS 61.522.

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