

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

12 *(b) "Effective cessation date" means June 30, 2020, unless the quasi-*
13 *governmental entity submits a resolution to continue participating in the*
14 *system as provided by subsection (2)(a) of this section;*

15 *(c) "Inactive member" means a member who is not participating in the system;*
16 *and*

17 *(d) "Quasi-governmental employer" or "employer" means Eastern Kentucky*
18 *University, Kentucky State University, Morehead State University, Murray*
19 *State University, Northern Kentucky University, Western Kentucky*
20 *University, the Kentucky Community Technical College System, the*
21 *Kentucky Higher Education Student Loan Corporation, state-administered*
22 *retirement systems, local and district health departments, mental*
23 *health/mental retardation boards, domestic violence shelters, rape crisis*
24 *centers, child advocacy centers, and any other agency eligible to voluntarily*
25 *cease participating in the Kentucky Employees Retirement System pursuant*
26 *to KRS 61.522, who participate in the Kentucky Employees Retirement*
27 *System, except that it shall not include any employer who has ceased*

1 participation in the systems under KRS 61.522;

2 (2) Any quasi-governmental employer participating in the Kentucky Employees
3 Retirement System:

4 (a) Shall be required to cease participation in the system for its nonhazardous
5 employees subject to the requirements and restrictions of this section, unless
6 the quasi-governmental employer adopts a resolution to continue
7 participation in the system and submits the resolution to the board by
8 December 31, 2019. The board shall accept the resolution on or before June
9 30, 2020, and the employer shall not be able to rescind a request to continue
10 participating once it has been submitted to the system. If a quasi-
11 governmental employer adopts a resolution to continue participation in the
12 system and submits the resolution to the board by December 31, 2019, as
13 provided by this paragraph, the quasi-governmental employer shall be
14 required to pay the full actuarially required contribution in all future fiscal
15 years occurring on or after July 1, 2020, as prescribed by KRS 61.565 and
16 61.702; and

17 (b) On or after the effective date of this Act, but prior to August 1, 2019, may
18 request an estimate of the cost of ceasing participation in the system. The
19 estimate shall be provided to the employer within sixty (60) days of the
20 request;

21 (3) If a quasi-governmental employer ceases participation in the Kentucky
22 Employees Retirement System as provided by subsection (2)(a) of this section
23 because the employer has not submitted a resolution to continue participating in
24 the system by December 31, 2019:

25 (a) The cessation of participation in the system shall apply to all nonhazardous
26 employees of the quasi-governmental employer except for those employees
27 making an election as provided by subsection (4)(c) of this section;

1 **(b) The quasi-governmental employer shall pay for all administrative costs of**
2 **an actuarial study to be completed by the Kentucky Retirement Systems'**
3 **consulting actuary and for any other administrative costs for ceasing**
4 **participation in the system as determined by the board and as provided by**
5 **this section;**

6 **(c) The quasi-governmental employer shall provide an alternative retirement**
7 **program for employees who will no longer be covered by the system, which:**

8 **1. Shall include a qualified trust or eligible retirement plan as defined by**
9 **26 U.S.C. sec. 402(c)(8) that accepts direct trustee-to-trustee transfers**
10 **from the system of both before-tax and after-tax contributions in**
11 **accordance with 26 U.S.C. 401(a)(31) and that provides a fixed**
12 **employee contribution rate for each pay period that is equal to the**
13 **system's employee contribution rate to the pension fund for those**
14 **employees participating in the system prior to the employer's effective**
15 **cessation date; and**

16 **2. Shall not include a defined benefit plan which by nature can have an**
17 **unfunded liability;**

18 **(d) The quasi-governmental employer shall pay the full actuarial cost of the**
19 **benefits accrued by its current and former employees in the system through**
20 **the effective cessation date, the present value of future normal costs of**
21 **additional service accrued by employees making an election as provided by**
22 **subsection (4) of this section, and for interest and adjustments to the cost in**
23 **the case of ceasing employers making installment payments as provided by**
24 **paragraph (f) of this subsection;**

25 **(e) The full actuarial cost:**

26 **1. Shall be determined separately for the pension fund and the insurance**
27 **fund by the actuarial study required by paragraph (b) of this**

1 subsection;

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

4 3. For the ceasing employer shall include all service for any active
5 member, inactive member, or retired member whose last participating
6 employer was the ceasing employer; and

7 4. Shall be fixed, and the quasi-governmental employer shall not be
8 subject to any increases or subsequent adjustments, once the lump
9 sum is paid or the first installment payment is made, except as
10 provided by paragraph (f) of this subsection for those employers
11 making installment payments and in the event of an unfavorable
12 private letter ruling regarding employee elections as provided by
13 subsection (4)(d) of this section; and

14 (f) If the quasi-governmental employer elects to pay the costs in installment
15 payments, the cost of ceasing participation as provided by this subsection
16 shall be financed by the systems using the following method:

17 1. Annual payments occurring on or after July 1, 2020, shall be a set
18 dollar value and shall be paid in monthly installments. In fiscal year
19 2020-2021, the set dollar value shall be equal to the annualized
20 average of the creditable compensation reported to the systems by the
21 ceasing employer over the last sixty (60) months occurring prior to
22 July 1, 2019, for which contributions were paid by the ceasing
23 employer, and multiplying that value by an employer rate of forty-nine
24 and forty-seven one-hundredths percent (49.47%). Annual payments,
25 for fiscal years occurring on or after July 1, 2021, which shall be paid
26 monthly, shall be increased by one and one-half percent (1.5%)
27 annually and shall be paid until the cost as provided by subsection (5)

1 of this section and as adjusted annually by subparagraphs 2. and 3. of
2 this paragraph is paid in full. If the employer ceasing participation is
3 receiving a general fund appropriation to help pay retirement
4 contributions and that appropriation is reduced in future years
5 occurring on or after July 1, 2020, from the amount appropriated in
6 fiscal year 2019-2020, the payment under this subsection shall be
7 reduced on a dollar-for-dollar basis as the appropriation reduction;

8 2. Interest shall be assigned to the principal amount annually beginning
9 on July 1, 2020, and for each July 1 thereafter, that is equal to a rate
10 of five and one-quarter percent (5.25%) per annum for pension costs
11 and at a rate of six and one-quarter percent (6.25%) per annum for
12 retiree health costs; and

13 3. If, on the basis of actuarial valuations occurring on or after June 30,
14 2021, the systems determines that additional unfunded liabilities have
15 been created that are attributable to current employees and retirees of
16 an employer making installments as provided by this paragraph, then
17 the systems may adjust the principal balance to account for the
18 additional unfunded liability during the time installments are being
19 made.

20 An employer ceasing participation who is making installment payments as
21 provided by this paragraph may at any time payoff the remaining balance
22 and shall not be charged any interest for periods beyond the payoff date;

23 (4) Notwithstanding any other provision of statute to the contrary, for a quasi-
24 governmental employer ceasing participation as provided by this section:

25 (a) Any nonhazardous employee hired on or after January 1, 2019, shall not,
26 regardless of his or her membership date in the systems administered by the
27 Kentucky Retirement Systems, be eligible to participate in the Kentucky

1 Employees Retirement System through the quasi-governmental employer
2 that ceased participation for the duration of his or her employment with
3 that quasi-governmental employer;

4 (b) Any nonhazardous employee who began participating in the system on or
5 after January 1, 2014, who is participating in the hybrid cash balance plan
6 as provided by KRS 61.597, and who was hired by the quasi-governmental
7 employer prior to January 1, 2019, shall accrue benefits through the
8 employer's effective cessation date but shall not accrue any additional
9 benefits in the Kentucky Employees Retirement System, including earning
10 years of service credit through the ceased employer, on or after the
11 employer's effective cessation date, for as long as they remain employed by
12 that employer;

13 (c) Any nonhazardous employee who began participating in the system prior to
14 January 1, 2014, and who was hired by the quasi-governmental employer
15 prior to January 1, 2019, may, on or before the employer's effective
16 cessation date, make a one (1) time irrevocable election to continue making
17 employee contributions and accruing benefits in the system after the
18 employer's effective cessation date for the duration of his or her
19 employment with the ceasing employer subject to the provisions of KRS
20 61.510 to 61.705 and subsection (8) of this section;

21 (d) Any nonhazardous employee who began participating in the system prior to
22 January 1, 2014, who was hired by the quasi-governmental employer prior
23 to January 1, 2019, and who does not make an election as provided by
24 paragraph (c) of this subsection shall accrue benefits through the
25 employer's effective cessation date but shall not accrue any additional
26 benefits in the Kentucky Employees Retirement System, including earning
27 years of service credit through the ceased employer, after the employer's

1 effective cessation date for as long as he or she remains employed by that
2 employer. The systems shall request a private letter ruling to verify whether
3 or not an employee of a ceasing employer can make an election to continue
4 participating in the system as provided by paragraph (c) of this subsection.
5 In the event the systems receives a private letter ruling that does not allow
6 for the employee election as provided by paragraph (c) of this subsection,
7 then an employee covered by this paragraph who did not make an election
8 as provided by paragraph (c) of this subsection shall participate in the
9 system and the ceasing employer shall be billed for the present value of
10 future normal costs of these employees;

11 (e) On the first day of the month following the effective cessation date, an
12 employee described by paragraphs (b) and (d) of this subsection who will
13 cease participation in the system as of the effective cessation date shall be
14 considered an inactive member with respect to his or her employment with
15 the employer that ceased participation and, subject to the provisions and
16 limitations of KRS 61.510 to 61.705, shall:

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

20 2. Contribute to the alternative retirement program established pursuant
21 to subsection (3)(c) of this section;

22 3. Retain his or her vested rights in accordance with paragraph (f) of this
23 subsection;

24 4. If the alternative retirement plan established pursuant to subsection
25 (3)(c) is a qualified trust or eligible retirement plan as defined in 26
26 U.S.C. sec. 402(c)(8) and is capable of accepting trustee-to-trustee
27 transfers of both before-tax and after-tax contributions, be eligible to

1 seek to transfer his or her accumulated account balance to the
2 employer's qualified alternative retirement program within sixty (60)
3 days of the employer's effective cessation date, unless the employee is
4 prohibited due to an election to continue participating in the system as
5 provided by paragraph (c) of this subsection. An employee's decision
6 to transfer his or her accumulated account balance within sixty (60)
7 days of the employer's effective cessation date is an irrevocable waiver
8 of the right to obtain service credits in the system for the time worked
9 for the employer ceasing participation. The employer's cost for
10 ceasing participation shall be reduced accordingly for any employee
11 transferring to the alternative retirement program; and
12 5. Be eligible to take a refund of his or her accumulated account balance
13 in accordance with KRS 61.625 or any other available distribution if
14 eligible; and
15 (f) The rights of recipients and the vested rights of active members or inactive
16 members accrued as of the quasi-governmental employer's effective
17 cessation date shall not be impaired or reduced in any manner as a result of
18 the employer ceasing participation in the system;
19 (5) For purposes of this section, the full actuarial cost shall be determined by the
20 Kentucky Retirement Systems' consulting actuary separately for the pension fund
21 and the insurance fund using the assumptions and methodology established in
22 the 2018 actuarial valuation. For purposes of determining the full actuarial cost,
23 the assumed rate of return and discount rate used to calculate the cost shall be
24 the lesser of the assumed rate of return utilized in the system's 2018 actuarial
25 valuation or the yield on a thirty (30) year United States Treasury bond as of the
26 employer's effective cessation date, but shall in no case be lower than three
27 percent (3%) for those employers paying their full actuarial costs by installment

1 payments and four and one-half percent (4.5%) for those employers paying their
2 full actuarial costs by lump-sum payment within twelve (12) months of the
3 employer's effective cessation date;

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

6 (7) Any quasi-governmental employer who ceases participation as provided in this
7 section shall:

8 (a) Hold the Commonwealth harmless from damages, attorney's fees, and costs
9 from legal claims for any cause of action brought by any inactive member
10 after the departing quasi-governmental employer's effective cessation date;

11 (b) If the employer has federally funded employees, attempt to maximize the use
12 of federal dollars to pay for their costs of ceasing participation; and

13 (c) Be required to pledge any security in any relevant real estate, chattel paper,
14 deposit accounts, documents, goods covered by documents, instruments,
15 investment property, letters of credit rights, and money to the costs of
16 ceasing participation until all costs of ceasing participation are paid in full;
17 and

18 (8) If a quasi-governmental employer ceases participation as provided by this section
19 and is delinquent in making the required installment payments required by
20 subsection (3)(f) of this section for a period of thirty (30) days or more, the
21 following actions shall be taken:

22 (a) Notwithstanding any other statute to the contrary, the Finance and
23 Administration Cabinet shall have the authority to and shall direct the
24 administration of the ceasing employer's operations and finances, including
25 but not limited to its financial record keeping, personnel management
26 operations, and financial and program reporting until the ceasing employer
27 is making the required installment payments as provided by this section;

1 **(b) The systems shall suspend benefit payments and refunds of current and**
2 **former employees and retirees of the delinquent ceasing employer until the**
3 **ceasing employer is making the required installment payments as provided**
4 **by this section; and**

5 **(c) The employees of the delinquent ceasing employer who elected to retain**
6 **coverage in the system as provided by subsection (4)(c) of this section, shall**
7 **contribute to the alternative retirement plan established by the employer**
8 **pursuant to subsection (3)(c) of this section instead of the Kentucky**
9 **Employees Retirement System for the duration of employment with the**
10 **ceasing employer.**

11 ➔Section 2. KRS 61.675 is amended to read as follows:

12 (1) The employer shall prepare the records and, from time to time, shall furnish the
13 information the system may require in the discharge of its duties. Upon employment
14 of an employee, the employer shall inform him of his duties and obligations in
15 connection with the system as a condition of employment.

16 (2) The system may at any time conduct an audit of the employer in order to determine
17 if the employer is complying with the provisions of KRS 16.505 to 16.652, 61.610
18 to 61.705, or 78.510 to 78.852. The system shall have access to and may examine
19 all books, accounts, reports, correspondence files, and records of any employer.
20 Every employer, employee, or agency reporting official of a department or county,
21 as defined in KRS 78.510(3), having records in his possession or under his control,
22 shall permit access to and examination of the records upon the request of the
23 system.

24 (3) (a) Any agency participating in the Kentucky Employees Retirement System
25 which is not an integral part of the executive branch of state government shall
26 file the following at the retirement office on or before the tenth day of the
27 month following the period being reported:

- 1 1. The employer and employee contributions required under KRS 61.560,
2 61.565, and 61.702;
- 3 2. The employer contributions and reimbursements for retiree health
4 insurance premiums required under KRS 61.637; and
- 5 3. A record of all contributions to the system on the forms prescribed by
6 the board.
- 7 (b) If the agency fails to file all contributions and reports on or before the tenth
8 day of the month following the period being reported, interest on the
9 delinquent contributions at the actuarial rate adopted by the board
10 compounded annually, but not less than one thousand dollars (\$1,000), shall
11 be added to the amount due the system.

12 **(4) If a quasi-governmental employer ceases participation in the Kentucky**
13 **Employees Retirement System as provided by Section 1 of this Act and is**
14 **delinquent in making the required installment payments required by Section 1 of**
15 **this Act for a period of thirty (30) days or more:**

- 16 **(a) Refunds and retirement allowance payments to members of the ceasing**
17 **employer shall be suspended until the delinquent payments have been paid**
18 **to the system; and**
- 19 **(b) The board may file an action in the Franklin Circuit Court to collect any**
20 **delinquent payments owed by the employer and to attach so much of the**
21 **general fund of the delinquent employer as is necessary to achieve full**
22 **compliance with Section 1 of this Act.**

23 ➔Section 3. KRS 18A.225 (Effective July 1, 2019) is amended to read as follows:

- 24 (1) (a) The term "employee" for purposes of this section means:
- 25 1. Any person, including an elected public official, who is regularly
26 employed by any department, office, board, agency, or branch of state
27 government; or by a public postsecondary educational institution; or by

- 1 any city, urban-county, charter county, county, or consolidated local
2 government, whose legislative body has opted to participate in the state-
3 sponsored health insurance program pursuant to KRS 79.080; and who
4 is either a contributing member to any one (1) of the retirement systems
5 administered by the state, including but not limited to the Kentucky
6 Retirement Systems, Kentucky Teachers' Retirement System, the
7 Legislators' Retirement Plan, or the Judicial Retirement Plan; or is
8 receiving a contractual contribution from the state toward a retirement
9 plan; or, in the case of a public postsecondary education institution, is an
10 individual participating in an optional retirement plan authorized by
11 KRS 161.567; *or is eligible to participate in a retirement plan*
12 *established by an employer who ceases participating in the Kentucky*
13 *Employees Retirement System pursuant to Section 1 of this Act;*
- 14 2. Any certified or classified employee of a local board of education;
 - 15 3. Any elected member of a local board of education;
 - 16 4. Any person who is a present or future recipient of a retirement
17 allowance from the Kentucky Retirement Systems, Kentucky Teachers'
18 Retirement System, the Legislators' Retirement Plan, the Judicial
19 Retirement Plan, or the Kentucky Community and Technical College
20 System's optional retirement plan authorized by KRS 161.567, except
21 that a person who is receiving a retirement allowance and who is age
22 sixty-five (65) or older shall not be included, with the exception of
23 persons covered under KRS 61.702(4)(c), unless he or she is actively
24 employed pursuant to subparagraph 1. of this paragraph; and
 - 25 5. Any eligible dependents and beneficiaries of participating employees
26 and retirees who are entitled to participate in the state-sponsored health
27 insurance program;

- 1 (b) The term "health benefit plan" for the purposes of this section means a health
2 benefit plan as defined in KRS 304.17A-005;
- 3 (c) The term "insurer" for the purposes of this section means an insurer as defined
4 in KRS 304.17A-005; and
- 5 (d) The term "managed care plan" for the purposes of this section means a
6 managed care plan as defined in KRS 304.17A-500.
- 7 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
8 recommendation of the secretary of the Personnel Cabinet, shall procure, in
9 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
10 from one (1) or more insurers authorized to do business in this state, a group
11 health benefit plan that may include but not be limited to health maintenance
12 organization (HMO), preferred provider organization (PPO), point of service
13 (POS), and exclusive provider organization (EPO) benefit plans encompassing
14 all or any class or classes of employees. With the exception of employers
15 governed by the provisions of KRS Chapters 16, 18A, and 151B, all
16 employers of any class of employees or former employees shall enter into a
17 contract with the Personnel Cabinet prior to including that group in the state
18 health insurance group. The contracts shall include but not be limited to
19 designating the entity responsible for filing any federal forms, adoption of
20 policies required for proper plan administration, acceptance of the contractual
21 provisions with health insurance carriers or third-party administrators, and
22 adoption of the payment and reimbursement methods necessary for efficient
23 administration of the health insurance program. Health insurance coverage
24 provided to state employees under this section shall, at a minimum, contain
25 the same benefits as provided under Kentucky Kare Standard as of January 1,
26 1994, and shall include a mail-order drug option as provided in subsection
27 (13) of this section. All employees and other persons for whom the health care

1 coverage is provided or made available shall annually be given an option to
2 elect health care coverage through a self-funded plan offered by the
3 Commonwealth or, if a self-funded plan is not available, from a list of
4 coverage options determined by the competitive bid process under the
5 provisions of KRS 45A.080, 45A.085, and 45A.090 and made available
6 during annual open enrollment.

7 (b) The policy or policies shall be approved by the commissioner of insurance and
8 may contain the provisions the commissioner of insurance approves, whether
9 or not otherwise permitted by the insurance laws.

10 (c) Any carrier bidding to offer health care coverage to employees shall agree to
11 provide coverage to all members of the state group, including active
12 employees and retirees and their eligible covered dependents and
13 beneficiaries, within the county or counties specified in its bid. Except as
14 provided in subsection (20) of this section, any carrier bidding to offer health
15 care coverage to employees shall also agree to rate all employees as a single
16 entity, except for those retirees whose former employers insure their active
17 employees outside the state-sponsored health insurance program.

18 (d) Any carrier bidding to offer health care coverage to employees shall agree to
19 provide enrollment, claims, and utilization data to the Commonwealth in a
20 format specified by the Personnel Cabinet with the understanding that the data
21 shall be owned by the Commonwealth; to provide data in an electronic form
22 and within a time frame specified by the Personnel Cabinet; and to be subject
23 to penalties for noncompliance with data reporting requirements as specified
24 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions
25 to protect the confidentiality of each individual employee; however,
26 confidentiality assertions shall not relieve a carrier from the requirement of
27 providing stipulated data to the Commonwealth.

- 1 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities
2 for timely analysis of data received from carriers and, to the extent possible,
3 provide in the request-for-proposal specifics relating to data requirements,
4 electronic reporting, and penalties for noncompliance. The Commonwealth
5 shall own the enrollment, claims, and utilization data provided by each carrier
6 and shall develop methods to protect the confidentiality of the individual. The
7 Personnel Cabinet shall include in the October annual report submitted
8 pursuant to the provisions of KRS 18A.226 to the Governor, the General
9 Assembly, and the Chief Justice of the Supreme Court, an analysis of the
10 financial stability of the program, which shall include but not be limited to
11 loss ratios, methods of risk adjustment, measurements of carrier quality of
12 service, prescription coverage and cost management, and statutorily required
13 mandates. If state self-insurance was available as a carrier option, the report
14 also shall provide a detailed financial analysis of the self-insurance fund
15 including but not limited to loss ratios, reserves, and reinsurance agreements.
- 16 (f) If any agency participating in the state-sponsored employee health insurance
17 program for its active employees terminates participation and there is a state
18 appropriation for the employer's contribution for active employees' health
19 insurance coverage, then neither the agency nor the employees shall receive
20 the state-funded contribution after termination from the state-sponsored
21 employee health insurance program.
- 22 (g) Any funds in flexible spending accounts that remain after all reimbursements
23 have been processed shall be transferred to the credit of the state-sponsored
24 health insurance plan's appropriation account.
- 25 (h) Each entity participating in the state-sponsored health insurance program shall
26 provide an amount at least equal to the state contribution rate for the employer
27 portion of the health insurance premium. For any participating entity that used

1 the state payroll system, the employer contribution amount shall be equal to
2 but not greater than the state contribution rate.

3 (3) The premiums may be paid by the policyholder:

4 (a) Wholly from funds contributed by the employee, by payroll deduction or
5 otherwise;

6 (b) Wholly from funds contributed by any department, board, agency, public
7 postsecondary education institution, or branch of state, city, urban-county,
8 charter county, county, or consolidated local government; or

9 (c) Partly from each, except that any premium due for health care coverage or
10 dental coverage, if any, in excess of the premium amount contributed by any
11 department, board, agency, postsecondary education institution, or branch of
12 state, city, urban-county, charter county, county, or consolidated local
13 government for any other health care coverage shall be paid by the employee.

14 (4) If an employee moves his place of residence or employment out of the service area
15 of an insurer offering a managed health care plan, under which he has elected
16 coverage, into either the service area of another managed health care plan or into an
17 area of the Commonwealth not within a managed health care plan service area, the
18 employee shall be given an option, at the time of the move or transfer, to change his
19 or her coverage to another health benefit plan.

20 (5) No payment of premium by any department, board, agency, public postsecondary
21 educational institution, or branch of state, city, urban-county, charter county,
22 county, or consolidated local government shall constitute compensation to an
23 insured employee for the purposes of any statute fixing or limiting the
24 compensation of such an employee. Any premium or other expense incurred by any
25 department, board, agency, public postsecondary educational institution, or branch
26 of state, city, urban-county, charter county, county, or consolidated local
27 government shall be considered a proper cost of administration.

- 1 (6) The policy or policies may contain the provisions with respect to the class or classes
2 of employees covered, amounts of insurance or coverage for designated classes or
3 groups of employees, policy options, terms of eligibility, and continuation of
4 insurance or coverage after retirement.
- 5 (7) Group rates under this section shall be made available to the disabled child of an
6 employee regardless of the child's age if the entire premium for the disabled child's
7 coverage is paid by the state employee. A child shall be considered disabled if he
8 has been determined to be eligible for federal Social Security disability benefits.
- 9 (8) The health care contract or contracts for employees shall be entered into for a period
10 of not less than one (1) year.
- 11 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
12 State Health Insurance Subscribers to advise the secretary or his designee regarding
13 the state-sponsored health insurance program for employees. The secretary shall
14 appoint, from a list of names submitted by appointing authorities, members
15 representing school districts from each of the seven (7) Supreme Court districts,
16 members representing state government from each of the seven (7) Supreme Court
17 districts, two (2) members representing retirees under age sixty-five (65), one (1)
18 member representing local health departments, two (2) members representing the
19 Kentucky Teachers' Retirement System, and three (3) members at large. The
20 secretary shall also appoint two (2) members from a list of five (5) names submitted
21 by the Kentucky Education Association, two (2) members from a list of five (5)
22 names submitted by the largest state employee organization of nonschool state
23 employees, two (2) members from a list of five (5) names submitted by the
24 Kentucky Association of Counties, two (2) members from a list of five (5) names
25 submitted by the Kentucky League of Cities, and two (2) members from a list of
26 names consisting of five (5) names submitted by each state employee organization
27 that has two thousand (2,000) or more members on state payroll deduction. The

1 advisory committee shall be appointed in January of each year and shall meet
2 quarterly.

3 (10) Notwithstanding any other provision of law to the contrary, the policy or policies
4 provided to employees pursuant to this section shall not provide coverage for
5 obtaining or performing an abortion, nor shall any state funds be used for the
6 purpose of obtaining or performing an abortion on behalf of employees or their
7 dependents.

8 (11) Interruption of an established treatment regime with maintenance drugs shall be
9 grounds for an insured to appeal a formulary change through the established appeal
10 procedures approved by the Department of Insurance, if the physician supervising
11 the treatment certifies that the change is not in the best interests of the patient.

12 (12) Any employee who is eligible for and elects to participate in the state health
13 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any
14 one (1) of the state-sponsored retirement systems shall not be eligible to receive the
15 state health insurance contribution toward health care coverage as a result of any
16 other employment for which there is a public employer contribution. This does not
17 preclude a retiree and an active employee spouse from using both contributions to
18 the extent needed for purchase of one (1) state sponsored health insurance policy for
19 that plan year.

20 (13) (a) The policies of health insurance coverage procured under subsection (2) of
21 this section shall include a mail-order drug option for maintenance drugs for
22 state employees. Maintenance drugs may be dispensed by mail order in
23 accordance with Kentucky law.

24 (b) A health insurer shall not discriminate against any retail pharmacy located
25 within the geographic coverage area of the health benefit plan and that meets
26 the terms and conditions for participation established by the insurer, including
27 price, dispensing fee, and copay requirements of a mail-order option. The

1 retail pharmacy shall not be required to dispense by mail.

2 (c) The mail-order option shall not permit the dispensing of a controlled
3 substance classified in Schedule II.

4 (14) The policy or policies provided to state employees or their dependents pursuant to
5 this section shall provide coverage for obtaining a hearing aid and acquiring hearing
6 aid-related services for insured individuals under eighteen (18) years of age, subject
7 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months
8 pursuant to KRS 304.17A-132.

9 (15) Any policy provided to state employees or their dependents pursuant to this section
10 shall provide coverage for the diagnosis and treatment of autism spectrum disorders
11 consistent with KRS 304.17A-142.

12 (16) Any policy provided to state employees or their dependents pursuant to this section
13 shall provide coverage for obtaining amino acid-based elemental formula pursuant
14 to KRS 304.17A-258.

15 (17) If a state employee's residence and place of employment are in the same county, and
16 if the hospital located within that county does not offer surgical services, intensive
17 care services, obstetrical services, level II neonatal services, diagnostic cardiac
18 catheterization services, and magnetic resonance imaging services, the employee
19 may select a plan available in a contiguous county that does provide those services,
20 and the state contribution for the plan shall be the amount available in the county
21 where the plan selected is located.

22 (18) If a state employee's residence and place of employment are each located in counties
23 in which the hospitals do not offer surgical services, intensive care services,
24 obstetrical services, level II neonatal services, diagnostic cardiac catheterization
25 services, and magnetic resonance imaging services, the employee may select a plan
26 available in a county contiguous to the county of residence that does provide those
27 services, and the state contribution for the plan shall be the amount available in the

1 county where the plan selected is located.

2 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and
3 in the best interests of the state group to allow any carrier bidding to offer health
4 care coverage under this section to submit bids that may vary county by county or
5 by larger geographic areas.

6 (20) Notwithstanding any other provision of this section, the bid for proposals for health
7 insurance coverage for calendar year 2004 shall include a bid scenario that reflects
8 the statewide rating structure provided in calendar year 2003 and a bid scenario that
9 allows for a regional rating structure that allows carriers to submit bids that may
10 vary by region for a given product offering as described in this subsection:

11 (a) The regional rating bid scenario shall not include a request for bid on a
12 statewide option;

13 (b) The Personnel Cabinet shall divide the state into geographical regions which
14 shall be the same as the partnership regions designated by the Department for
15 Medicaid Services for purposes of the Kentucky Health Care Partnership
16 Program established pursuant to 907 KAR 1:705;

17 (c) The request for proposal shall require a carrier's bid to include every county
18 within the region or regions for which the bid is submitted and include but not
19 be restricted to a preferred provider organization (PPO) option;

20 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the
21 carrier all of the counties included in its bid within the region. If the Personnel
22 Cabinet deems the bids submitted in accordance with this subsection to be in
23 the best interests of state employees in a region, the cabinet may award the
24 contract for that region to no more than two (2) carriers; and

25 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including
26 other requirements or criteria in the request for proposal.

27 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or

1 after July 12, 2006, to public employees pursuant to this section which provides
2 coverage for services rendered by a physician or osteopath duly licensed under KRS
3 Chapter 311 that are within the scope of practice of an optometrist duly licensed
4 under the provisions of KRS Chapter 320 shall provide the same payment of
5 coverage to optometrists as allowed for those services rendered by physicians or
6 osteopaths.

7 (22) Any fully insured health benefit plan or self-insured plan issued or renewed on or
8 after July 12, 2006, to public employees pursuant to this section shall comply with
9 the provisions of KRS 304.17A-270 and 304.17A-525.

10 (23) Any fully insured health benefit plan or self -insured plan issued or renewed on or
11 after July 12, 2006, to public employees shall comply with KRS 304.17A-600 to
12 304.17A-633 pertaining to utilization review, KRS 205.593 and 304.17A-700 to
13 304.17A-730 pertaining to payment of claims, KRS 304.14-135 pertaining to
14 uniform health insurance claim forms, KRS 304.17A-580 and 304.17A-641
15 pertaining to emergency medical care, KRS 304.99-123, and any administrative
16 regulations promulgated thereunder.

17 (24) Any fully insured health benefit plan or self-insured plan issued or renewed on or
18 after July 1, 2019, to public employees pursuant to this section shall comply with
19 KRS 304.17A-138.

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

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

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

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

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

27 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the

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

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

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

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

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

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

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

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

1 serves in the position;

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

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

22 (13) "Creditable compensation":

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

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

8 (b) Includes:

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

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

8 (c) Excludes:

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

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

- 22 (a) For a member who begins participating before September 1, 2008, who is
23 employed in a nonhazardous position, the creditable compensation of the
24 member during the five (5) fiscal years he was paid at the highest average
25 monthly rate divided by the number of months of service credit during that
26 five (5) year period multiplied by twelve (12). The five (5) years may be
27 fractional and need not be consecutive, except that for members retiring on or

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

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

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

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

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

15 (e) For a member who begins participating on or after September 1, 2008, but
16 prior to January 1, 2014, who is employed in a hazardous position as provided
17 in KRS 61.592, or for a member who begins participating prior to September
18 1, 2008, who is employed in a hazardous position as provided in KRS 61.592,
19 who retires on or after January 1, 2019, the creditable compensation of the
20 member during the three (3) complete fiscal years he was paid at the highest
21 average monthly rate divided by three (3). Each fiscal year used to determine
22 final compensation must contain twelve (12) months of service credit. If the
23 member does not have three (3) complete fiscal years that each contain twelve
24 (12) months of service credit, then one (1) or more additional fiscal years,
25 which may contain less than twelve (12) months of service credit, shall be
26 added until the number of months in the final compensation calculation is at
27 least thirty-six (36) months;

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

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

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

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

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

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

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

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

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

1 delayed contribution payment shall be deposited to the member's account and
2 considered as accumulated contributions of the individual member. In determining
3 payments under this subsection, the formula found in this subsection shall prevail
4 over the one found in KRS 212.434;

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

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

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

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

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

27 (28) "Level dollar amortization method" means a method of determining the annual

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

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

1 member's accumulated employer credit; or

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

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

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

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

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

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

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

26 (46) "Monthly average pay" means the higher of the member's monthly final rate of pay
27 or the average monthly creditable compensation earned by the deceased member

1 during his or her last twelve (12) months of employment.

2 ➔Section 5. KRS 61.520 is amended to read as follows:

- 3 (1) Each department determined by the board to be eligible and qualified for
4 participation shall participate in the system when the Governor by appropriate
5 executive order, the authority to issue such executive order being granted, directs
6 such department to participate in the system. The effective date of such participation
7 shall be determined by the board and fixed by the Governor in his executive order.
- 8 (2) (a) Notwithstanding the provisions of subsection (1) of this section the Governor
9 is authorized to permit any state college or university, which he directs by
10 appropriate executive order to participate in the system after January 1, 1972,
11 to include its noninstructional employees in the membership of the system
12 while excluding the instructional employees of the state college or university
13 from membership.
- 14 (b) All employees of an agency participating under authority of subsection (2)(a)
15 of this section shall be considered noninstructional employees except the
16 members of the instructional staff of the state college or university who are
17 responsible for teaching and the administrative positions which are included
18 in the Teachers' Insurance and Annuity Association (TIAA) or the Kentucky
19 Teachers' Retirement System.
- 20 (3) All executive orders issued under authority of this section since July 1, 1956, are
21 hereby ratified by the General Assembly and each participating and contributing
22 department, board, agency, corporation, board for mental health or individuals with
23 an intellectual disability, or entity participating since that date under such executive
24 order is hereby declared to be a participating department under the Kentucky
25 Employees Retirement System.
- 26 (4) Except as provided by KRS 61.522 or Section 1 of this Act:
- 27 (a) Once a department participates it shall continue to participate as long as it

1 remains qualified; and

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

4 ➔Section 6. KRS 61.525 is amended to read as follows:

5 Membership in the system shall consist of the following:

- 6 (1) All persons who become employees of a participating department after the date such
7 department first participates in the system;
- 8 (2) (a) All persons who are employees of a department on the date the department
9 first participates in the system, either in service or on authorized leave from
10 service, and who elect within thirty (30) days following the department's
11 participation, or in the case of persons on authorized leave, within thirty (30)
12 days of their return to active service, to become members and thereby agree to
13 make contributions as provided in KRS 61.515 to 61.705;
- 14 (b) All persons who are employees of a department who did not elect to
15 participate within thirty (30) days of the date the department first participated
16 in the system or within thirty (30) days of their return to active service and
17 who subsequently elect to participate the first day of a month after the
18 department's date of participation;
- 19 (3) All persons who are employees of any credit union whose membership was initially
20 limited to employees of state government and their families and which subsequently
21 may have been extended to local government employees and their families;
- 22 (4) All persons who were professional staff employees of the Council on Postsecondary
23 Education or the Higher Education Assistance Authority and were contributing to
24 the system on the effective date of Executive Order 74-762 or 75-964, respectively,
25 and file a written election of their desire to continue in the system and all
26 administrative and professional staff employees of the Higher Education Assistance
27 Authority who, on or after January 1, 1993, are not participating in another

- 1 retirement plan sponsored by the Higher Education Assistance Authority;
- 2 (5) All persons who were professional staff employees of the Kentucky Authority for
3 Educational Television on and after July 1, 1974;
- 4 (6) All persons who are employees of the Teachers' Retirement System except
5 employees who are required to participate under the Teachers' Retirement System
6 under KRS 161.220(4)(d);
- 7 (7) Membership in the system shall not include persons who are not eligible to
8 participate in the system as provided by KRS 61.522 or Section 1 of this Act or
9 those employees who are simultaneously participating in another state-administered
10 defined benefit plan within Kentucky other than those administered by the Kentucky
11 Retirement Systems, except for employees who have ceased to contribute to one (1)
12 of the state-administered retirement plans as provided in KRS 21.360; and
- 13 (8) Except as provided by Section 1 of this Act, effective January 1, 1998, employees
14 of the Kentucky Community and Technical College System who were previously
15 contributing members and are not required to participate in the Teachers'
16 Retirement System as a member; employees who were previously contributing
17 members transferred from the former Cabinet for Workforce Development as
18 provided in KRS 164.5805(1)(a) and who have not exercised the option to
19 participate in the new Kentucky Community and Technical College personnel
20 system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997,
21 who are not eligible under the Teachers' Retirement System or who are not
22 contributing to an optional retirement plan established by the board of regents for
23 the Kentucky Community and Technical College System.
- 24 ➔Section 7. KRS 61.543 is amended to read as follows:
- 25 (1) (a) Employee contributions shall be deducted each payroll period from the
26 creditable compensation of each employee of an agency participating in the
27 retirement system while he is classified as regular full-time as defined in KRS

1 61.510 unless the employee:

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

7 (b) After August 1, 1982, employee contributions shall be picked up by the

8 employer pursuant to KRS 61.560(4). Service credit will be allowed for each

9 month the contributions are deducted or picked up during a fiscal or calendar

10 year, if the member receives creditable compensation for an average of one

11 hundred (100) hours or more of work per month. If the average number of

12 hours of work is less than one hundred (100) per month, the member shall be

13 allowed credit only for those months he receives creditable compensation for

14 one hundred (100) hours of work.

15 (2) Employee contributions shall not be deducted from the creditable compensation of

16 an employee or picked up by the employer while he is seasonal, emergency,

17 temporary, or part-time. No service credit will be earned.

18 (3) Contributions shall not be made or picked up by the employer and no service credit

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

20 (a) A member on military leave shall be entitled to service credit in accordance

21 with KRS 61.555;

22 (b) A member on educational leave, approved by the Personnel Cabinet, who is

23 receiving seventy-five percent (75%) or more of full salary, shall receive

24 service credit and shall pay employee contributions, or the contributions shall

25 be picked up in accordance with KRS 61.560 and his employer shall pay

26 employer contributions in accordance with KRS 61.565. If a tuition agreement

27 is broken by the member, the member and employer contributions paid or

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

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

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

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

12 ➔Section 9. Notwithstanding any other provision of KRS 61.565 or 61.702, 2018
13 Ky. Acts ch. 169, Part IV, 5., and 2018 Ky. Acts ch. 203 to the contrary, the employer
14 contribution rate from July 1, 2019, through June 30, 2020, shall be 49.47 percent,
15 consisting of 41.06 percent for pension and 8.41 percent for health insurance for
16 nonhazardous duty employees participating in the Kentucky Employees Retirement
17 System who are employed by Mental Health/Mental Retardation Boards, Local and
18 District Health Departments, domestic violence shelters, rape crisis centers, child
19 advocacy centers, state-supported universities and community colleges, and any other
20 agency eligible to voluntarily cease participating in the Kentucky Employees Retirement
21 System pursuant to KRS 61.522.

22 ➔Section 10. The provisions of KRS 6.350 shall not affect or impair the validity
23 of any provision of this Act in a court of competent jurisdiction.

24 ➔Section 11. Whereas ensuring the financial health of quasi-governmental
25 employers providing essential service to the Commonwealth of Kentucky is imperative,
26 an emergency is declared to exist, and this Act takes effect upon its passage and approval
27 by the Governor or upon its otherwise becoming a law.