

1 AN ACT relating to duty-related disability benefits and declaring an emergency.

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

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

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

- 5 (1) "System" means the State Police Retirement System created by KRS 16.505 to  
6 16.652;
- 7 (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- 8 (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its  
9 successor;
- 10 (4) "Current service" means the number of years and completed months of employment  
11 as an employee subsequent to July 1, 1958, for which creditable compensation was  
12 paid by the employer and employee contributions deducted except as otherwise  
13 provided;
- 14 (5) "Prior service" means the number of years and completed months of employment as  
15 an employee prior to July 1, 1958, for which creditable compensation was paid to  
16 the employee by the Commonwealth. Twelve (12) months of current service in the  
17 system are required to validate prior service;
- 18 (6) "Service" means the total of current service and prior service;
- 19 (7) "Accumulated contributions" at any time means the sum of all amounts deducted  
20 from the compensation of a member and credited to his individual account in the  
21 member's account, including employee contributions picked up after August 1,  
22 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts  
23 as provided in KRS 16.505 to 16.652, and any other amounts the member shall have  
24 contributed, including interest credited. For members who begin participating on or  
25 after September 1, 2008, "accumulated contributions" shall not include employee  
26 contributions that are deposited into accounts established pursuant to 26 U.S.C. sec.  
27 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as

1 prescribed by KRS 61.702(2)(b);

2 (8) "Creditable compensation":

3 (a) Except as provided by paragraph (b) or (c) of this subsection, means all salary  
4 and wages, including payments for compensatory time, paid to the employee  
5 as a result of services performed for the employer or for time during which the  
6 member is on paid leave, which are includable on the member's federal form  
7 W-2 wage and tax statement under the heading "wages, tips, other  
8 compensation," including employee contributions picked up after August 1,  
9 1982, pursuant to KRS 16.545(4);

10 (b) Includes:

11 1. Lump-sum bonuses, severance pay, or employer-provided payments for  
12 purchase of service credit, which shall be averaged over the employee's  
13 total service with the system in which it is recorded if it is equal to or  
14 greater than one thousand dollars (\$1,000);

15 2. Lump-sum payments for creditable compensation paid as a result of an  
16 order of a court of competent jurisdiction, the Personnel Board, or the  
17 Commission on Human Rights, or for any creditable compensation paid  
18 in anticipation of settlement of an action before a court of competent  
19 jurisdiction, the Personnel Board, or the Commission on Human Rights,  
20 including notices of violations of state or federal wage and hour statutes  
21 or violations of state or federal discrimination statutes, which shall be  
22 credited to the fiscal year during which the wages were earned or should  
23 have been paid by the employer. This subparagraph shall also include  
24 lump-sum payments for reinstated wages pursuant to KRS 61.569,  
25 which shall be credited to the period during which the wages were  
26 earned or should have been paid by the employer;

27 3. Amounts which are not includable in the member's gross income by

1 virtue of the member having taken a voluntary salary reduction provided  
2 for under applicable provisions of the Internal Revenue Code; and

3 4. Elective amounts for qualified transportation fringes paid or made  
4 available on or after January 1, 2001, for calendar years on or after  
5 January 1, 2001, that are not includable in the gross income of the  
6 employee by reason of 26 U.S.C. sec. 132(f)(4); and

7 (c) Excludes:

8 1. Uniform, equipment, or any other expense allowances paid on or after  
9 January 1, 2019, living allowances, expense reimbursements, lump-sum  
10 payments for accrued vacation leave, and other items determined by the  
11 board;

12 2. For employees who begin participating on or after September 1, 2008,  
13 lump-sum payments for compensatory time; and

14 3. Any salary or wages paid to an employee for services as a Kentucky  
15 State Police school resource officer as defined by KRS 158.441;

16 (9) "Final compensation" means:

17 (a) For a member who begins participating prior to September 1, 2008, who  
18 retires prior to January 1, 2019, the creditable compensation of a member  
19 during the three (3) fiscal years he was paid at the highest average monthly  
20 rate divided by the number of months of service credit during the three (3)  
21 year period, multiplied by twelve (12); the three (3) years may be fractional  
22 and need not be consecutive. If the number of months of service credit during  
23 the three (3) year period is less than twenty-four (24), one (1) or more  
24 additional fiscal years shall be used; or

25 (b) For a member who begins participating on or after September 1, 2008, but  
26 prior to January 1, 2014, or for a member who begins participating prior to  
27 September 1, 2008, who retires on or after January 1, 2019, the creditable

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

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

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

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

23 (13) "Actuarial equivalent" means a benefit of equal value when computed upon the  
24 basis of actuarial tables adopted by the board. In cases of disability retirement, the  
25 options authorized by KRS 61.635 shall be computed by adding ten (10) years to  
26 the age of the member, unless the member has chosen the Social Security  
27 adjustment option as provided for in KRS 61.635(8), in which case the member's

- 1 actual age shall be used. For members who began participating in the system prior  
2 to January 1, 2014, no disability retirement option shall be less than the same option  
3 computed under early retirement;
- 4 (14) "Authorized leave of absence" means any time during which a person is absent from  
5 employment but retained in the status of an employee in accordance with the  
6 personnel policy of the Department of Kentucky State Police;
- 7 (15) "Normal retirement date" means:
- 8 (a) For a member who begins participating before September 1, 2008, the first  
9 day of the month following a member's fifty-fifth birthday, except that for  
10 members over age fifty-five (55) on July 1, 1958, it shall mean January 1,  
11 1959; or
- 12 (b) For a member who begins participating on or after September 1, 2008, the  
13 first day of the month following a member's sixtieth birthday;
- 14 (16) "Disability retirement date" means the first day of the month following the last day  
15 of paid employment;
- 16 (17) "Dependent child" means a child in the womb and a natural or legally adopted child  
17 of the member who has neither attained age eighteen (18) nor married or who is an  
18 unmarried full-time student who has not attained age twenty-two (22). Solely in the  
19 **cases where**~~case of~~ a member ~~who~~ dies as a direct result of an act in line of duty  
20 as defined in this section, ~~or who~~ dies as a result of a duty-related injury as defined  
21 in KRS 61.621, **becomes totally and permanently disabled as a direct result of an**  
22 **act in the line of duty as defined in this section, or becomes disabled as a result of**  
23 **a duty-related injury as defined in Section 3 of this Act.** "dependent child" also  
24 means a naturally or legally adopted disabled child of the member, regardless of the  
25 child's age, if the child has been determined to be eligible for federal Social Security  
26 disability benefits or is being claimed as a qualifying child for tax purposes due to  
27 the child's total and permanent disability;

- 1 (18) "Optional allowance" means an actuarially equivalent benefit elected by the member  
2 in lieu of all other benefits provided by KRS 16.505 to 16.652;
- 3 (19) "Act in line of duty" means:
- 4 **(a) A ~~single~~[an] act occurring or a single thing done, which, as determined by the**  
5 **board, was required in the performance of the duties specified in KRS**  
6 **16.060;[~~]~~**
- 7 **(b) For employees in hazardous positions under KRS 61.592, [~~an "act in line of~~**  
8 **~~duty" shall mean] a single[an] act occurring which was required in the~~**  
9 **performance of the principal duties of the position as defined by the job**  
10 **description; or**
- 11 **(c) *For employees participating in the State Police Retirement System and for***  
12 ***employees who are in hazardous positions under KRS 61.592, a single act of***  
13 ***violence committed against the employee that is found to be related to his or***  
14 ***her job duties, whether or not it occurs at his or her job site;***
- 15 (20) "Early retirement date" means:
- 16 (a) For a member who begins participating before September 1, 2008, the  
17 retirement date declared by a member who is not less than fifty (50) years of  
18 age and has fifteen (15) years of service; or
- 19 (b) For a member who begins participating on or after September 1, 2008, but  
20 prior to January 1, 2014, the retirement date declared by a member who is not  
21 less than fifty (50) years of age and has fifteen (15) years of service credited  
22 under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered  
23 retirement system;
- 24 (21) "Member" means any officer included in the membership of the system as provided  
25 under KRS 16.520 whose membership has not been terminated under KRS 61.535;
- 26 (22) "Regular full-time officers" means the occupants of positions as set forth in KRS  
27 16.010;

- 1 (23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which  
2 results in an employee's total incapacity to continue as an employee in a hazardous  
3 position, but the employee is not necessarily deemed to be totally and permanently  
4 disabled to engage in other occupations for remuneration or profit;
- 5 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,  
6 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of  
7 pay. The rate shall be certified by the employer;
- 8 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the  
9 member in accordance with KRS 61.542 or 61.705 to receive any available benefits  
10 in the event of the member's death. As used in KRS 61.702, "beneficiary" does not  
11 mean an estate, trust, or trustee;
- 12 (26) "Recipient" means the retired member, the person or persons designated as  
13 beneficiary by the member and drawing a retirement allowance as a result of the  
14 member's death, or a dependent child drawing a retirement allowance. An alternate  
15 payee of a qualified domestic relations order shall not be considered a recipient,  
16 except for purposes of KRS 61.623;
- 17 (27) "Person" means a natural person;
- 18 (28) "Retirement office" means the Kentucky Retirement Systems office building in  
19 Frankfort;
- 20 (29) "Delayed contribution payment" means an amount paid by an employee for  
21 purchase of current service. The amount shall be determined using the same formula  
22 in KRS 61.5525, and the payment shall not be picked up by the employer. A  
23 delayed contribution payment shall be deposited to the member's account and  
24 considered as accumulated contributions of the individual member;
- 25 (30) "Last day of paid employment" means the last date employer and employee  
26 contributions are required to be reported in accordance with KRS 16.543, 61.543, or  
27 78.615 to the retirement office in order for the employee to receive current service

- 1 credit for the month. Last day of paid employment does not mean a date the  
2 employee receives payment for accrued leave, whether by lump sum or otherwise, if  
3 that date occurs twenty-four (24) or more months after previous contributions;
- 4 (31) "Objective medical evidence" means reports of examinations or treatments; medical  
5 signs which are anatomical, physiological, or psychological abnormalities that can  
6 be observed; psychiatric signs which are medically demonstrable phenomena  
7 indicating specific abnormalities of behavior, affect, thought, memory, orientation,  
8 or contact with reality; or laboratory findings which are anatomical, physiological,  
9 or psychological phenomena that can be shown by medically acceptable laboratory  
10 diagnostic techniques, including but not limited to chemical tests,  
11 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 12 (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
13 following June 30, which shall also be the plan year. The "fiscal year" shall be the  
14 limitation year used to determine contribution and benefit limits established by 26  
15 U.S.C. sec. 415;
- 16 (33) "Participating" means an employee is currently earning service credit in the system  
17 as provided in KRS 16.543;
- 18 (34) "Month" means a calendar month;
- 19 (35) "Membership date" means the date upon which the member began participating in  
20 the system as provided by KRS 16.543;
- 21 (36) "Participant" means a member, as defined by subsection (21) of this section, or a  
22 retired member, as defined by subsection (11) of this section;
- 23 (37) "Qualified domestic relations order" means any judgment, decree, or order,  
24 including approval of a property settlement agreement, that:
- 25 (a) Is issued by a court or administrative agency; and  
26 (b) Relates to the provision of child support, alimony payments, or marital  
27 property rights to an alternate payee;



1 (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
 2 participant, who is designated to be paid retirement benefits in a qualified domestic  
 3 relations order;

4 (39) "Accumulated employer credit" means the employer pay credit deposited to the  
 5 member's account and interest credited on such amounts as provided by KRS  
 6 16.583;

7 (40) "Accumulated account balance" means:

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

10 (b) For members who began participating in the system on or after January 1,  
 11 2014, in the hybrid cash balance plan as provided by KRS 16.583, the  
 12 combined sum of the member's accumulated contributions and the member's  
 13 accumulated employer pay credit; and

14 (41) "Monthly average pay" means:

15 (a) In the case of a member who dies as a direct result of an act in line of duty  
 16 as defined in this section or who dies as a result of a duty-related injury as  
 17 defined in Section 3 of this Act, the higher of the member's monthly final rate  
 18 of pay or the average monthly creditable compensation earned by the deceased  
 19 member during his or her last twelve (12) months of employment; or

20 (b) In the case where a member becomes totally and permanently disabled as a  
 21 direct result of an act in line of duty as defined in this section or becomes  
 22 disabled as a result of a duty-related injury as defined in Section 3 of this  
 23 Act, the higher of the member's monthly final rate of pay or the average  
 24 monthly creditable compensation earned by the disabled member during his  
 25 or her last twelve (12) months of employment prior to the date the act in line  
 26 of duty or duty-related injury occurred.

27 ➔Section 2. KRS 16.582 is amended to read as follows:

- 1 (1) (a) Total and permanent disability means a disability which results in the  
2 member's incapacity to engage in any occupation for remuneration or profit.  
3 Loss by severance of both hands at or above the wrists, or both feet at or  
4 above the ankles, or one (1) hand above the wrist and one (1) foot above the  
5 ankle, or the complete, irrevocable loss of the sight of both eyes shall be  
6 considered as total and permanent.
- 7 (b) Hazardous disability means a disability which results in the member's total  
8 incapacity to continue as a regular full-time officer or as an employee in a  
9 hazardous position, as defined in KRS 61.592, but which does not result in the  
10 member's total and permanent incapacity to engage in other occupations for  
11 remuneration or profit.
- 12 (c) In determining whether the disability meets the requirement of this section,  
13 any reasonable accommodation provided by the employer as provided in 42  
14 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.
- 15 (d) If the board determines that the total and permanent disability of a member  
16 receiving a retirement allowance under this section has ceased, then the board  
17 shall determine if the member has a hazardous disability.
- 18 (2) Any person may qualify to retire on disability, subject to the following:
- 19 (a) The person shall have sixty (60) months of service, twelve (12) of which shall  
20 be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The  
21 service requirement shall be waived if the disability is a total and permanent  
22 disability or a hazardous disability and is a direct result of an act in line of  
23 duty;
- 24 (b) For a person whose membership date is prior to August 1, 2004, the person  
25 shall not be eligible for an unreduced retirement allowance;
- 26 (c) The person's application shall be on file in the retirement office no later than  
27 twenty-four (24) months after the person's last day of paid employment, as

- 1 defined in KRS 16.505, as a regular full-time officer or in a regular full-time  
2 hazardous position under KRS 61.592;
- 3 (d) The person shall receive a satisfactory determination pursuant to KRS 61.665;  
4 and
- 5 (e) A person's disability application based on the same claim of incapacity shall  
6 be accepted and reconsidered for disability if accompanied by new objective  
7 medical evidence. The application shall be on file in the retirement office no  
8 later than twenty-four (24) months after the person's last day of paid  
9 employment as a regular full-time officer or in a regular full-time hazardous  
10 position.
- 11 (3) Upon the examination of the objective medical evidence by licensed physicians  
12 pursuant to KRS 61.665, it shall be determined that:
- 13 (a) The incapacity results from bodily injury, mental illness, or disease. For  
14 purposes of this section, "injury" means any physical harm or damage to the  
15 human organism other than disease or mental illness;
- 16 (b) The incapacity is deemed to be permanent; and
- 17 (c) The incapacity does not result directly or indirectly from:
- 18 1. Injury intentionally self-inflicted while sane or insane; or  
19 2. Bodily injury, mental illness, disease, or condition which pre-existed  
20 membership in the system or reemployment, whichever is most recent,  
21 unless:
- 22 a. The disability results from bodily injury, mental illness, disease, or  
23 a condition which has been substantially aggravated by an injury or  
24 accident arising out of or in the course of employment; or
- 25 b. The person has at least sixteen (16) years' current or prior service  
26 for employment with employers participating in the retirement  
27 systems administered by the Kentucky Retirement Systems.

1 For purposes of this subparagraph, "reemployment" shall not mean a  
2 change of employment between employers participating in the  
3 retirement systems administered by the Kentucky Retirement Systems  
4 with no loss of service credit.

- 5 (4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result  
6 in death or can be expected to last for a continuous period of not less  
7 than twelve (12) months from the person's last day of paid employment  
8 in a position as regular full-time officer or a hazardous position.
- 9 2. The determination of a permanent incapacity shall be based on the  
10 medical evidence contained in the member's file and the member's  
11 residual functional capacity and physical exertion requirements.

12 (b) The person's residual functional capacity shall be the person's capacity for  
13 work activity on a regular and continuing basis. The person's physical ability  
14 shall be assessed in light of the severity of the person's physical, mental, and  
15 other impairments. The person's ability to walk, stand, carry, push, pull, reach,  
16 handle, and other physical functions shall be considered with regard to  
17 physical impairments. The person's ability to understand, remember, and carry  
18 out instructions and respond appropriately to supervision, coworkers, and  
19 work pressures in a work setting shall be considered with regard to mental  
20 impairments. Other impairments, including skin impairments, epilepsy, visual  
21 sensory impairments, postural and manipulative limitations, and  
22 environmental restrictions, shall be considered in conjunction with the  
23 person's physical and mental impairments to determine residual functional  
24 capacity.

25 (c) The person's physical exertion requirements shall be determined based on the  
26 following standards:

- 27 1. Sedentary work shall be work that involves lifting no more than ten (10)

- 1                   pounds at a time and occasionally lifting or carrying articles such as  
2                   large files, ledgers, and small tools. Although a sedentary job primarily  
3                   involves sitting, occasional walking and standing may also be required  
4                   in the performance of duties.
- 5                   2. Light work shall be work that involves lifting no more than twenty (20)  
6                   pounds at a time with frequent lifting or carrying of objects weighing up  
7                   to ten (10) pounds. A job shall be in this category if lifting is  
8                   infrequently required but walking and standing are frequently required,  
9                   or if the job primarily requires sitting with pushing and pulling of arm or  
10                  leg controls. If the person has the ability to perform substantially all of  
11                  these activities, the person shall be deemed capable of light work. A  
12                  person deemed capable of light work shall be deemed capable of  
13                  sedentary work unless the person has additional limitations such as the  
14                  loss of fine dexterity or inability to sit for long periods.
- 15                  3. Medium work shall be work that involves lifting no more than fifty (50)  
16                  pounds at a time with frequent lifting or carrying of objects weighing up  
17                  to twenty-five (25) pounds. If the person is deemed capable of medium  
18                  work, the person shall be deemed capable of light and sedentary work.
- 19                  4. Heavy work shall be work that involves lifting no more than one  
20                  hundred (100) pounds at a time with frequent lifting or carrying of  
21                  objects weighing up to fifty (50) pounds. If the person is deemed capable  
22                  of heavy work, the person shall also be deemed capable of medium,  
23                  light, and sedentary work.
- 24                  5. Very heavy work shall be work that involves lifting objects weighing  
25                  more than one hundred (100) pounds at a time with frequent lifting or  
26                  carrying of objects weighing fifty (50) or more pounds. If the person is  
27                  deemed capable of very heavy work, the person shall be deemed capable

1 of heavy, medium, light, and sedentary work.

2 (5) (a) The disability retirement allowance shall be determined as provided in KRS  
3 16.576, except if the member's total service credit on his last day of paid  
4 employment in a regular full-time position is less than twenty (20) years,  
5 service shall be added beginning with his last date of paid employment and  
6 continuing to his fifty-fifth birthday. The maximum service credit added shall  
7 not exceed the total service the member had on his last day of paid  
8 employment, and the maximum service credit for calculating his retirement  
9 allowance, including his total service and service added under this section,  
10 shall not exceed twenty (20) years.

11 (b) For a member whose participation begins on or after August 1, 2004, but prior  
12 to January 1, 2014, the disability retirement allowance shall be the higher of  
13 twenty-five percent (25%) of the member's monthly final rate of pay or the  
14 retirement allowance determined in the same manner as for retirement at his  
15 normal retirement date with years of service and final compensation being  
16 determined as of the date of his disability.

17 (c) For a member who begins participating on or after January 1, 2014, in the  
18 hybrid cash balance plan as provided by KRS 16.583, the disability retirement  
19 allowance shall be the higher of twenty-five percent (25%) of the member's  
20 monthly final rate of pay or the retirement allowance determined in the same  
21 manner as for retirement at his or her normal retirement date under KRS  
22 16.583.

23 (6) If the member receives a satisfactory determination of ~~total and permanent~~  
24 ~~disability or hazardous disability~~ pursuant to KRS 61.665 and the disability is the  
25 direct result of an act in line of duty **as defined in Section 1 of this Act**, the  
26 member's retirement allowance shall be calculated as follows:

27 (a) For the disabled member, benefits as provided in subsection (5) of this section

1           except that the monthly retirement allowance payable shall not be less than  
2           twenty-five percent (25%) of the member's monthly final rate of pay; and

3           (b) For each dependent child of the member on his disability retirement date, who  
4           is alive at the time any particular payment is due, a monthly payment equal to  
5           ten percent (10%) of the disabled member's monthly final rate of pay;  
6           however, total maximum dependent children's benefit shall not exceed forty  
7           percent (40%) of the member's monthly final rate of pay. The payments shall  
8           be payable to each dependent child, or to a legally appointed guardian or as  
9           directed by the system.

10       **(7) If the member receives a satisfactory determination of total and permanent**  
11       **disability pursuant to KRS 61.665 and the disability is the direct result of an act**  
12       **in line of duty as defined in Section 1 of this Act, the member's retirement**  
13       **allowance shall be calculated as follows:**

14       **(a) For the disabled member, the benefits as provided in subsection (5) of this**  
15       **section except that the monthly retirement allowance payable shall not be**  
16       **less than seventy-five percent (75%) of the member's monthly average pay;**  
17       **and**

18       **(b) For each dependent child of the member on his or her disability retirement**  
19       **date, who is alive at the time any particular payment is due, a monthly**  
20       **payment equal to ten percent (10%) of the disabled member's monthly**  
21       **average pay, except that:**

22       **1. Member and dependent children payments under this subsection shall**  
23       **not exceed one hundred percent (100%) of the member's monthly**  
24       **average pay; and**

25       **2. Total maximum dependent children's benefits shall not exceed twenty-**  
26       **five percent (25%) of the member's monthly average pay while the**  
27       **member is living and forty percent (40%) of the member's monthly**

1                   average pay after the member's death. The payments shall be payable  
 2                   to each dependent child, or to a legally appointed guardian or as  
 3                   directed by the system, and shall be divided equally among all  
 4                   dependent children.

5     ~~(8)~~~~(7)~~     No benefit provided in this section shall be reduced as a result of any change  
 6                   in the extent of disability of any retired member who is age fifty-five (55) or older.

7     ~~(9)~~~~(8)~~     If a regular full-time officer or hazardous position member has been approved  
 8                   for benefits under a hazardous disability, the board shall, upon request of the  
 9                   member, permit the member to receive the hazardous disability allowance while  
 10                  accruing benefits in a nonhazardous position, subject to proper medical review of  
 11                  the nonhazardous position's job description by the system's medical examiner.

12    ~~(10)~~~~(9)~~    For a member of the State Police Retirement System, in lieu of the allowance  
 13                  provided in subsection (5) to (7)~~for (6)~~ of this section, the member may be retained  
 14                  on the regular payroll and receive the compensation authorized by KRS 16.165, if  
 15                  he is qualified.

16                  ➔Section 3. KRS 61.621 is amended to read as follows:

17    (1) Notwithstanding any provision of any statutes to the contrary, effective June 1,  
 18                  2000, any employee participating in one (1) of the state-administered retirement  
 19                  systems who is not in a hazardous duty position, as defined in KRS 61.592, shall be  
 20                  eligible for minimum benefits equal to the benefits payable under this section or  
 21                  KRS 61.702 if the employee dies or becomes totally and permanently disabled to  
 22                  engage in any occupation for remuneration or profit as a result of a duty-related  
 23                  injury.

24    (2) (a) For purposes of this section, "duty-related injury" means:

- 25                  1. a. A single traumatic event that occurs while the employee is
- 26                                  performing the duties of his position; or
- 27                  b. A single act of violence committed against the employee that is



1 found to be related to his job duties, whether or not it occurs at his  
2 job site; and

3 2. The event or act of violence produces a harmful change in the human  
4 organism evidenced by objective medical findings.

5 (b) "Duty-related injury" does not include the effects of the natural aging process,  
6 a communicable disease unless the risk of contracting the disease is increased  
7 by nature of the employment, or a psychological, psychiatric, or stress-related  
8 change in the human organism unless it is the direct result of a physical injury.

9 (3) (a) If the employee dies as a result of a duty-related injury and is survived by a  
10 spouse, the surviving spouse shall be the beneficiary, and this shall supersede  
11 the designation of all previous beneficiaries of the deceased employee's  
12 retirement account, except as provided in KRS 61.542(2)(e).

13 (b) The surviving spouse, provided he or she supersedes all previously designated  
14 beneficiaries, may elect to receive the benefits payable under KRS 61.640 or  
15 other applicable death benefit statutes, or may elect to receive a lump-sum  
16 payment of ten thousand dollars (\$10,000) and a monthly payment equal to  
17 seventy-five percent (75%) of the member's monthly average pay beginning in  
18 the month following the member's death and continuing each month until the  
19 death of the surviving spouse.

20 (c) In addition, if the member is also survived by dependent children, monthly  
21 payments shall be made for each dependent child equal to ten percent (10%)  
22 of the deceased member's monthly average pay, except that the combined  
23 maximum payment made to the:

24 1. Surviving spouse and dependent children under this subsection shall not  
25 exceed one hundred percent (100%) of the deceased member's monthly  
26 average pay; and

27 2. Dependent children, while the surviving spouse is living, shall not

1                   exceed twenty-five percent (25%) of the deceased member's monthly  
2                   average pay. Payments made to the dependent children under this  
3                   subsection shall be divided equally among all the dependent children.

4 (4) If the employee dies as a result of a duty-related injury and is not survived by a  
5       spouse but is survived by a dependent child or children, the following benefits shall  
6       be paid to the dependent child or children:

7       (a) Fifty percent (50%) of the deceased member's monthly average pay, if the  
8       deceased member has one (1) dependent child;

9       (b) Sixty-five percent (65%) of the deceased member's monthly average pay, if  
10      the deceased member has two (2) dependent children; or

11      (c) Seventy-five percent (75%) of the deceased member's monthly average pay, if  
12      the deceased member has three (3) or more dependent children.

13       Payments made to the dependent children under this subsection shall be divided  
14       equally among all the dependent children.

15 (5) If the employee is determined to be disabled as provided in KRS 61.600, or other  
16       applicable disability statutes in any other state-administered retirement system, as  
17       the result of a duty-related injury, the employee may elect to receive benefits  
18       determined under the provisions of KRS 61.605, or other applicable disability  
19       statutes in any other state-administered retirement system, except that the monthly  
20       retirement allowance shall not be less than ~~seventy-five~~ percent  
21       (75%) of the employee's monthly average pay. For purposes of  
22       determining disability, the service requirement in KRS 61.600(1)(a), or other  
23       applicable statutes in any other state-administered retirement system, shall be  
24       waived.

25 (6) In the period of time following a member's disability during which dependent  
26       children survive, a monthly payment shall be made for each dependent child who is  
27       alive which shall be equal to ten percent (10%) of the disabled member's monthly

1 ~~average~~<sup>[final rate of]</sup> pay~~[-];~~, ~~except that:~~<sup>[however,]</sup>

2 1. Member and dependent children payments under this section shall not  
 3 exceed one hundred percent (100%) of the member's monthly average pay;

4 and

5 2. Total maximum dependent children's benefits shall not exceed twenty-five  
 6 percent (25%) of the member's monthly average pay while the member is  
 7 living and forty percent (40%) of the disabled member's monthly  
 8 ~~average~~<sup>[final rate of]</sup> pay after the member's death~~[at the time any particular~~  
 9 ~~payment is due]~~. The payment shall commence in the month following the  
 10 date of disability of the member and shall be payable to the beneficiaries, or to  
 11 a legally appointed guardian, or as directed by the system and shall be divided  
 12 equally among all dependent children.

13 (7) Benefits for death as a result of a duty-related injury to a dependent child shall be  
 14 payable under this section notwithstanding an election by a surviving spouse or  
 15 beneficiary to withdraw the deceased member's accumulated account balance as  
 16 provided in KRS 61.625 or benefits under any other provisions of KRS 61.515 to  
 17 61.705 or other applicable death benefit statutes in any other state-administered  
 18 retirement system.

19 (8) (a) A spouse applying for benefits under this section who is also eligible for  
 20 benefits under KRS 61.640 may elect to receive benefits under KRS  
 21 61.640(2)(a) or (b) while the application for benefits under this section is  
 22 pending.

23 (b) If a final determination results in a finding of eligibility for benefits under this  
 24 section, the system shall recalculate the benefits due the spouse in accordance  
 25 with this subsection.

26 (c) If the spouse has been paid less than the amount of benefits to which the  
 27 spouse was entitled to receive under this section, the system shall pay the

1 additional funds due to the spouse.

2 (d) If the spouse has been paid more than the benefit the spouse was eligible to  
3 receive under this section, then the system shall deduct the amount owed by  
4 the spouse from the ten thousand dollars (\$10,000) lump-sum payment and  
5 from the monthly retirement allowance payments until the amount owed to the  
6 systems has been recovered.

7 (9) For purposes of this section, "dependent child" has the same meaning as in KRS  
8 16.505.

9 (10) This section shall be known as "The Fred Capps Memorial Act."

10 ➔Section 4. KRS 61.702 (Effective April 1, 2021) is amended to read as follows:

11 (1) (a) 1. The board of trustees of Kentucky Retirement Systems and the County  
12 Employees Retirement System shall arrange by appropriate contract or  
13 on a self-insured basis to provide a group hospital and medical insurance  
14 plan for present and future recipients of a retirement allowance from the  
15 systems the respective boards administer, except as provided in  
16 subsection (8) of this section. Each respective board shall also arrange to  
17 provide health care coverage through an insurer licensed pursuant to  
18 Subtitle 38 of KRS Chapter 304 and offering a managed care plan as  
19 defined in KRS 304.17A-500, as an alternative to group hospital and  
20 medical insurance for any person eligible for hospital and medical  
21 benefits under this section.

22 2. Any person who chooses coverage under a hospital and medical  
23 insurance plan shall pay, by payroll deduction from the retirement  
24 allowance or by another method, the difference in premium between the  
25 cost of the hospital and medical insurance plan coverage and the benefits  
26 to which he or she would be entitled under this section.

27 3. For purposes of this section, "hospital and medical insurance plan" may

1 include, at each respective board's discretion, any one (1) or more of the  
2 following:

- 3 a. Any hospital and medical expense policy or certificate, provider-  
4 sponsored integrated health delivery network, self-insured medical  
5 plan, health maintenance organization contract, or other health  
6 benefit plan;
- 7 b. Any health savings account as permitted by 26 U.S.C. sec. 223 or  
8 health reimbursement arrangement or a similar account as may be  
9 permitted by 26 U.S.C. sec. 105 or 106. Such arrangement or  
10 account, in the board's discretion, may reimburse any medical  
11 expense permissible under 26 U.S.C. sec. 213; or
- 12 c. A medical insurance reimbursement program established by the  
13 board through the promulgation of administrative regulation under  
14 which members purchase individual health insurance coverage  
15 through a health insurance exchange established under 42 U.S.C.  
16 sec. 18031 or 18041.

17 (b) Each respective board may authorize present and future recipients of a  
18 retirement allowance from any of the retirement systems the board administers  
19 to be included in the state employees' group for hospital and medical  
20 insurance and shall provide benefits for recipients equal to those provided to  
21 state employees having the same Medicare hospital and medical insurance  
22 eligibility status, except as provided in subsection (8) of this section.  
23 Notwithstanding the provisions of any other statute, recipients shall be  
24 included in the same class as current state employees in determining medical  
25 insurance policies and premiums.

26 (c) For recipients of a retirement allowance who are not eligible for the same  
27 level of hospital and medical benefits as recipients living in Kentucky having

1 the same Medicare hospital and medical insurance eligibility status, each  
2 respective board shall provide a medical insurance reimbursement plan as  
3 described in subsection (7) of this section.

4 (d) Notwithstanding anything in KRS Chapter 61 to the contrary, each respective  
5 board of trustees, in its discretion, may take necessary steps to ensure  
6 compliance with 42 U.S.C. secs. 300bb-1 et seq., including but not limited to  
7 receiving contributions and premiums from, and providing benefits pursuant  
8 to this section to, persons entitled to continuation coverage under 42 U.S.C.  
9 secs. 300bb-1 et seq., regardless of whether such persons are recipients of a  
10 retirement allowance.

11 (2) (a) Each employer participating in the State Police Retirement System as  
12 provided for in KRS 16.505 to 16.652, each employer participating in the  
13 County Employees Retirement System as provided in KRS 78.510 to 78.852,  
14 and each employer participating in the Kentucky Employees Retirement  
15 System as provided for in KRS 61.510 to 61.705 shall contribute to the  
16 insurance trust funds established by KRS 61.701 the amount necessary to  
17 provide hospital and medical insurance as provided for under this section.  
18 Such employer contribution rate shall be developed by appropriate actuarial  
19 method as a part of the determination of each respective employer  
20 contribution rate to each respective retirement system determined under KRS  
21 61.565 or 78.635, as applicable.

22 (b) 1. Each employer described in paragraph (a) of this subsection shall deduct  
23 from the creditable compensation of each member having a membership  
24 date on or after September 1, 2008, an amount equal to one percent (1%)  
25 of the member's creditable compensation. The deducted amounts shall,  
26 at the discretion of the board, be credited to accounts established  
27 pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS

1           16.510, 61.515, and 78.520, or the insurance trust funds established  
2           under KRS 61.701, or partially to one (1) fund with the remainder  
3           deposited to the other fund. Notwithstanding the provisions of this  
4           paragraph, a transfer of assets between the accounts established pursuant  
5           to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510,  
6           61.515, and 78.520, and the insurance trust funds established under KRS  
7           61.701 shall not be allowed.

8           2. The employer shall file the contributions as provided by subparagraph 1.  
9           of this paragraph at the retirement office in accordance with KRS 61.675  
10          and 78.625. Any interest or penalties paid on any delinquent  
11          contributions shall be credited to accounts established pursuant to 26  
12          U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515,  
13          and 78.520, or the insurance trust funds established under KRS 61.701.  
14          Notwithstanding any minimum compensation requirements provided by  
15          law, the deductions provided by this paragraph shall be made, and the  
16          compensation of the member shall be reduced accordingly.

17          3. Each employer shall submit payroll reports, contributions lists, and other  
18          data as may be required by administrative regulation promulgated by  
19          each respective board of trustees pursuant to KRS Chapter 13A.

20          4. Every member shall be deemed to consent and agree to the deductions  
21          made pursuant to this paragraph, and the payment of salary or  
22          compensation less the deductions shall be a full and complete discharge  
23          of all claims for services rendered by the person during the period  
24          covered by the payment, except as to any benefits provided by KRS  
25          16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. No member  
26          may elect whether to participate in, or choose the contribution amount  
27          payable to accounts established pursuant to 26 U.S.C. sec. 401(h) within

1 the funds established in KRS 16.510, 61.515, and 78.520, or the  
2 insurance trust funds established under KRS 61.701. The member shall  
3 have no option to receive the contribution required by this paragraph  
4 directly instead of having the contribution paid to accounts established  
5 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS  
6 16.510, 61.515, and 78.520, or the insurance trust funds established  
7 under KRS 61.701. No member may receive a rebate or refund of  
8 contributions. If a member establishes a membership date prior to  
9 September 1, 2008, pursuant to KRS 61.552(1) or 61.552(20), then this  
10 paragraph shall not apply to the member and all contributions previously  
11 deducted in accordance with this paragraph shall be refunded to the  
12 member without interest. The contribution made pursuant to this  
13 paragraph shall not act as a reduction or offset to any other contribution  
14 required of a member or recipient under KRS 16.505 to 16.652, 61.510  
15 to 61.705, and 78.510 to 78.852.

16 5. The respective board of trustees, at its discretion, may direct that the  
17 contributions required by this paragraph be accounted for within  
18 accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds  
19 established in KRS 16.510, 61.515, and 78.520, or the insurance trust  
20 funds established under KRS 61.701, through the use of separate  
21 accounts.

22 (3) (a) The premium required to provide hospital and medical benefits under this  
23 section shall be paid:

- 24 1. Wholly or partly from funds contributed by the recipient of a retirement  
25 allowance, by payroll deduction, or otherwise;
- 26 2. Wholly or partly from funds contributed by the insurance trust funds  
27 established under KRS 61.701;



- 1           3. Wholly or partly from funds contributed to accounts established  
2           pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS  
3           16.510, 61.515, and 78.520;
- 4           4. Wholly or partly from funds contributed by another state-administered  
5           retirement system under a reciprocal arrangement, except that any  
6           portion of the premium paid from the insurance trust funds or accounts  
7           established pursuant to 26 U.S.C. sec. 401(h) within the funds  
8           established in KRS 16.510, 61.515, and 78.520 under a reciprocal  
9           agreement shall not exceed the amount that would be payable under this  
10          section if all the member's service were in one (1) of the systems  
11          administered by the Kentucky Retirement Systems or County Employees  
12          Retirement System;
- 13          5. Partly from subparagraphs 1. to 4. of this paragraph, except that any  
14          premium for hospital and medical insurance over the amount contributed  
15          by the insurance trust funds; accounts established pursuant to 26 U.S.C.  
16          sec. 401(h) within the funds established in KRS 16.510, 61.515, and  
17          78.520; or another state-administered retirement system under a  
18          reciprocal agreement shall be paid by the recipient by an automatic  
19          electronic transfer of funds. If the board provides for cross-referencing  
20          of insurance premiums, the employer's contribution for the working  
21          member or spouse shall be applied toward the premium, and the  
22          insurance trust funds or accounts established pursuant to 26 U.S.C. sec.  
23          401(h) within the funds established in KRS 16.510, 61.515, and 78.520  
24          shall pay the balance, not to exceed the monthly contribution; or
- 25          6. In full from the insurance trust funds or accounts established pursuant to  
26          26 U.S.C. sec. 401(h) within the funds established in KRS 16.510,  
27          61.515, and 78.520 for all recipients of a retirement allowance from any

1 of the three (3) retirement systems administered by the Kentucky  
2 retirement systems or the County Employees Retirement System where  
3 such recipient is a retired former member of one (1) or more of the three  
4 (3) retirement systems administered by the Kentucky retirement systems  
5 or the County Employees Retirement System (not a beneficiary or  
6 dependent child receiving benefits) and had two hundred and forty (240)  
7 months or more of service upon retirement. Should such recipient have  
8 less than two hundred forty (240) months of service but have at least one  
9 hundred eighty (180) months of service, seventy-five percent (75%) of  
10 such premium shall be paid from the insurance trust fund or accounts  
11 established pursuant to 26 U.S.C. sec. 401(h) within the funds  
12 established in KRS 16.510, 61.515, and 78.520, provided such recipient  
13 agrees to pay the remaining twenty-five percent (25%) by payroll  
14 deduction from his or her retirement allowance or by another method.  
15 Should such recipient have less than one hundred eighty (180) months of  
16 service but have at least one hundred twenty (120) months of service,  
17 fifty percent (50%) of such premium shall be paid from the insurance  
18 trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h)  
19 within the funds established in KRS 16.510, 61.515, and 78.520,  
20 provided such recipient agrees to pay the remaining fifty percent (50%)  
21 by payroll deduction from his or her retirement allowance or by another  
22 method. Should such recipient have less than one hundred twenty (120)  
23 months of service but have at least forty-eight (48) months of service,  
24 twenty-five percent (25%) of such premium shall be paid from the  
25 insurance trust fund or accounts established pursuant to 26 U.S.C. sec.  
26 401(h) within the funds established in KRS 16.510, 61.515, and 78.520,  
27 provided such recipient agrees to pay the remaining seventy-five percent

1 (75%) by payroll deduction from his or her retirement allowance or by  
2 another method. Notwithstanding the foregoing provisions of this  
3 subsection, an employee participating in one (1) of the retirement  
4 systems administered by the Kentucky Retirement Systems who  
5 becomes disabled as a direct result of an act in line of duty as defined in  
6 KRS 16.505 or as a result of a duty-related injury as defined in KRS  
7 61.621, shall have his or her premium paid in full as if he or she had two  
8 hundred forty (240) months or more of service. Further, an employee  
9 participating in one (1) of the retirement systems administered by the  
10 Kentucky Retirement Systems who ~~dies~~<sup>is killed</sup> as a direct result of an  
11 act in line of duty as defined in KRS 16.505, ~~or dies~~<sup>or</sup> as a result of a  
12 duty-related injury as defined in KRS 61.621, **becomes totally and**  
13 **permanently disabled as a direct result of an act in line of duty as**  
14 **defined in Section 1 of this Act, or becomes disabled as a result of a**  
15 **duty-related injury as defined in Section 3 of this Act,** shall have the  
16 premium for ~~his or her~~<sup>the</sup> **spouse, if the member is disabled, his or**  
17 **her** beneficiary, if the beneficiary is the member's spouse **and the**  
18 **member is deceased,** and for each dependent child as defined in KRS  
19 16.505, paid so long as **the member, beneficiary, or dependent**  
20 **child<sup>they</sup> individually ~~remains~~<sup>remain</sup> eligible for a monthly  
21 retirement benefit. "Months of service" as used in this section shall mean  
22 the total months of combined service used to determine benefits under  
23 any or all of the three (3) retirement systems administered by the  
24 Kentucky retirement systems or the County Employees Retirement  
25 System, except service added to determine disability benefits shall not  
26 be counted as "months of service." For current and former employees of  
27 the Council on Postsecondary Education who were employed prior to**

1           January 1, 1993, and who earn at least fifteen (15) years of service credit  
2           in the Kentucky Employees Retirement System, "months of service"  
3           shall also include vested service in another retirement system other than  
4           the Kentucky Teachers' Retirement System sponsored by the Council on  
5           Postsecondary Education.

6           (b) 1. For a member electing insurance coverage through the Kentucky  
7           Retirement Systems or County Employees Retirement System, "months  
8           of service" shall include, in addition to service as described in paragraph  
9           (a) of this subsection, service credit in one (1) of the other state-  
10          administered retirement plans.

11          2. Effective August 1, 1998, the Kentucky Retirement Systems or County  
12          Employees Retirement System shall compute the member's combined  
13          service, including service credit in another state-administered retirement  
14          plan, and calculate the portion of the member's premium to be paid by  
15          the insurance trust fund accounts established pursuant to 26 U.S.C. sec.  
16          401(h) within the funds established in KRS 16.510, 61.515, and 78.520,  
17          according to the criteria established in paragraph (a) of this subsection.  
18          Each state-administered retirement plan annually shall pay to the  
19          insurance trust fund the percentage of the system's cost of the retiree's  
20          monthly contribution for single coverage for hospital and medical  
21          insurance which shall be equal to the percentage of the member's  
22          number of months of service in the other state-administered retirement  
23          plan divided by his or her total combined service. The amounts paid by  
24          the other state-administered retirement plans and the insurance trust fund  
25          or accounts established pursuant to 26 U.S.C. sec. 401(h) within the  
26          funds established in KRS 16.510, 61.515, and 78.520 shall not be more  
27          than one hundred percent (100%) of the monthly contribution adopted

- 1 by the respective boards of trustees.
- 2 3. A member may not elect coverage for hospital and medical benefits  
3 under this subsection through more than one (1) of the state-  
4 administered retirement plans.
- 5 4. A state-administered retirement plan shall not pay any portion of a  
6 member's monthly contribution for medical insurance unless the member  
7 is a recipient or annuitant of the plan.
- 8 5. The premium paid by the insurance trust funds established by KRS  
9 61.701 or accounts established pursuant to 26 U.S.C. sec. 401(h) within  
10 the funds established in KRS 16.510, 61.515, and 78.520 shall not  
11 exceed one hundred percent (100%) of the monthly contribution rate  
12 toward hospital and medical insurance coverage approved by the board  
13 of trustees of the Kentucky Retirement Systems or the board of trustees  
14 of the County Employees Retirement System.
- 15 (4) (a) Group rates under the hospital and medical insurance plan shall be made  
16 available to the spouse, each dependent child, and each disabled child,  
17 regardless of the disabled child's age, of a recipient who is a former member  
18 or the beneficiary, if the premium for the hospital and medical insurance for  
19 the spouse, each dependent child, and each disabled child, or beneficiary is  
20 paid by payroll deduction from the retirement allowance or by another  
21 method. For purposes of this subsection only, a child shall be considered  
22 disabled if he or she has been determined to be eligible for federal Social  
23 Security disability benefits or meets the dependent disability standard  
24 established by the Department of Employee Insurance in the Personnel  
25 Cabinet.
- 26 (b) The other provisions of this section notwithstanding, the insurance trust funds  
27 or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds

1 established in KRS 16.510, 61.515, and 78.520 shall pay a percentage of the  
2 monthly contribution for the spouse and for each dependent child of a  
3 recipient who was a member of the General Assembly and is receiving a  
4 retirement allowance based on General Assembly service, of the Kentucky  
5 Employees Retirement System and determined to be in a hazardous position,  
6 of the County Employees Retirement System, and determined to be in a  
7 hazardous position or of the State Police Retirement System. The percentage  
8 of the monthly contribution paid for the spouse and each dependent child of a  
9 recipient who was in a hazardous position shall be based solely on the  
10 member's service with the State Police Retirement System or service in a  
11 hazardous position using the formula in subsection (3)(a) of this section,  
12 except that for any recipient of a retirement allowance from the County  
13 Employees Retirement System who was contributing to the system on January  
14 1, 1998, for service in a hazardous position, the percentage of the monthly  
15 contribution shall be based on the total of hazardous service and any  
16 nonhazardous service as a police or firefighter with the same agency, if that  
17 agency was participating in the County Employees Retirement System but did  
18 not offer hazardous duty coverage for its police and firefighters at the time of  
19 initial participation.

- 20 (c) The insurance trust funds or accounts established pursuant to 26 U.S.C. sec.  
21 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall  
22 continue the same level of coverage for a recipient who was a member of the  
23 County Employees Retirement System after the age of sixty-five (65) as  
24 before the age of sixty-five (65), if the recipient is not eligible for Medicare  
25 coverage. If the insurance trust funds or accounts established pursuant to 26  
26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and  
27 78.520 provides coverage for the spouse or each dependent child of a former

1 member of the County Employees Retirement System, the insurance trust fund  
2 or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds  
3 established in KRS 16.510, 61.515, and 78.520 shall continue the same level  
4 of coverage for the spouse or each dependent child after the age of sixty-five  
5 (65) as before the age of sixty-five (65), if the spouse or dependent child is not  
6 eligible for Medicare coverage.

7 (5) After July 1, 1998, notwithstanding any other provision to the contrary, a member  
8 who holds a judicial office but did not elect to participate in the Judicial Retirement  
9 Plan and is participating instead in the Kentucky Employees Retirement System, the  
10 County Employees Retirement System, or the State Police Retirement System, as  
11 provided in KRS 61.680, and who has at least twenty (20) years of total service,  
12 one-half (1/2) of which is in a judicial office, shall receive the same hospital and  
13 medical insurance benefits, including paid benefits for spouse and dependents, as  
14 provided to persons retiring under the provisions of KRS 21.427. The  
15 Administrative Office of the Courts shall pay the cost of the medical insurance  
16 benefits provided by this subsection.

17 (6) Premiums paid for hospital and medical insurance coverage procured under  
18 authority of this section shall be exempt from any premium tax which might  
19 otherwise be required under KRS Chapter 136. The payment of premiums by the  
20 insurance trust funds or accounts established pursuant to 26 U.S.C. sec. 401(h)  
21 within the funds established in KRS 16.510, 61.515, and 78.520 shall not constitute  
22 taxable income to an insured recipient. No commission shall be paid for hospital  
23 and medical insurance procured under authority of this section.

24 (7) Each respective board shall promulgate an administrative regulation to establish a  
25 medical insurance reimbursement plan to provide reimbursement for hospital and  
26 medical insurance premiums of recipients of a retirement allowance who are not  
27 eligible for the same level of hospital and medical benefits as recipients living in

1 Kentucky and having the same Medicare hospital and medical insurance eligibility  
2 status. An eligible recipient shall file proof of payment for hospital and medical  
3 insurance at the retirement office. Reimbursement to eligible recipients shall be  
4 made on a quarterly basis. The recipient shall be eligible for reimbursement of  
5 substantiated medical insurance premiums for an amount not to exceed the total  
6 monthly premium determined under subsection (3) of this section. The plan shall  
7 not be made available if all recipients are eligible for the same coverage as  
8 recipients living in Kentucky.

9 (8) (a) 1. For employees having a membership date on or after July 1, 2003, and  
10 before September 1, 2008, participation in the insurance benefits  
11 provided under this section shall not be allowed until the employee has  
12 earned at least one hundred twenty (120) months of service in the state-  
13 administered retirement systems.

14 2. For an employee having a membership date on or after September 1,  
15 2008, participation in the insurance benefits provided under this section  
16 shall not be allowed until the employee has earned at least one hundred  
17 eighty (180) months of service credited under KRS 16.543(1),  
18 61.543(1), or 78.615(1) or another state-administered retirement system.

19 (b) An employee who meets the minimum service requirements as provided by  
20 paragraph (a) of this subsection shall be eligible for benefits as follows:

21 1. For employees who are not in a hazardous position, a monthly insurance  
22 contribution of ten dollars (\$10) for each year of service as a  
23 participating employee.

24 2. For employees who are in a hazardous position or who participate in the  
25 State Police Retirement System, a monthly insurance contribution of  
26 fifteen dollars (\$15) for each year of service as a participating employee  
27 in a hazardous position or as a participating member of the State Police



1 Retirement System. Upon the death of the retired member, the  
 2 beneficiary, if the beneficiary is the member's spouse, shall be entitled to  
 3 a monthly insurance contribution of ten dollars (\$10) for each year of  
 4 service the member attained as a participating employee in a hazardous  
 5 position or as a participating member of the State Police Retirement  
 6 System.

7 (c) 1. The minimum service requirement to participate in benefits as provided  
 8 by paragraph (a) of this subsection shall be waived for a member who  
 9 receives a satisfactory determination of a hazardous disability that is ~~is~~  
 10 ~~disabled as~~ a direct result of an act in line of duty as defined in KRS  
 11 16.505, and the member or his spouse and eligible dependents shall be  
 12 entitled to the benefits payable under this subsection as though the  
 13 member had twenty (20) years of service in a hazardous position.

14 ~~2. The minimum service required to participate in benefits as provided by~~  
 15 ~~paragraph (a) of this subsection shall be waived for a member who is~~  
 16 ~~disabled by a duty-related injury as defined in KRS 61.621, and the~~  
 17 ~~member shall be entitled to the benefits payable under this subsection as~~  
 18 ~~though the member has twenty (20) years of service in a nonhazardous~~  
 19 ~~position.~~

20 ~~3.~~ Notwithstanding the provisions of this section, the minimum service  
 21 required to participate in benefits as provided by paragraph (a) of this  
 22 subsection shall be waived for a member who dies as a direct result of an  
 23 act in line of duty as defined in KRS 16.505, who becomes totally and  
 24 permanently disabled as a direct result of an act in line of duty as  
 25 defined in Section 1 of this Act, ~~or~~ who dies as a result of a duty-  
 26 related injury as defined in KRS 61.621, or becomes disabled as a result  
 27 of a duty-related injury as defined in Section 3 of this Act, and the

1 premium for the member, member's spouse, and for each dependent  
2 child as defined in KRS 16.505 shall be paid in full by the systems so  
3 long as they individually remain eligible for a monthly retirement  
4 benefit.

5 (d) Except as provided by paragraph ~~(c)2.~~~~(c)3.~~ of this subsection, the monthly  
6 insurance contribution amount shall be increased July 1 of each year by one  
7 and one-half percent (1.5%). The increase shall be cumulative and shall  
8 continue to accrue after the member's retirement for as long as a monthly  
9 insurance contribution is payable to the retired member or beneficiary.

10 (e) The benefits of this subsection provided to a member whose participation  
11 begins on or after July 1, 2003, shall not be considered as benefits protected  
12 by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The  
13 General Assembly reserves the right to suspend or reduce the benefits  
14 conferred in this subsection if in its judgment the welfare of the  
15 Commonwealth so demands.

16 (f) An employee whose membership date is on or after September 1, 2008, who  
17 retires and is reemployed in a regular full-time position required to participate  
18 in one (1) of the systems administered by Kentucky Retirement Systems shall  
19 not be eligible for health insurance coverage or benefits provided by this  
20 section and shall take coverage with his or her employing agency during the  
21 period of reemployment in a regular full-time position.

22 ➔Section 5. KRS 61.510 (Effective April 1, 2021) is amended to read as follows:

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

- 24 (1) "System" means the Kentucky Employees Retirement System created by KRS  
25 61.510 to 61.705;
- 26 (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- 27 (3) "Department" means any state department or board or agency participating in the

1 system in accordance with appropriate executive order, as provided in KRS 61.520.  
2 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the  
3 General Assembly and any other body, entity, or instrumentality designated by  
4 executive order by the Governor, shall be deemed to be a department,  
5 notwithstanding whether said body, entity, or instrumentality is an integral part of  
6 state government;

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

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

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

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

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

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

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

1 otherwise provided, and each member, officer, and employee of the General  
2 Assembly shall be credited with a month of current service for each month he  
3 serves in the position;

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

14 (12) "Accumulated contributions" at any time means the sum of all amounts deducted  
15 from the compensation of a member and credited to his individual account in the  
16 members' account, including employee contributions picked up after August 1,  
17 1982, pursuant to KRS 61.560(4), together with interest credited, on such amounts  
18 and any other amounts the member shall have contributed thereto, including interest  
19 credited thereon. For members who begin participating on or after September 1,  
20 2008, "accumulated contributions" shall not include employee contributions that are  
21 deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the  
22 funds established in KRS 16.510 and 78.520, as prescribed by KRS 61.702(2)(b);

23 (13) "Creditable compensation":

24 (a) Means all salary, wages, tips to the extent the tips are reported for income tax  
25 purposes, and fees, including payments for compensatory time, paid to the  
26 employee as a result of services performed for the employer or for time during  
27 which the member is on paid leave, which are includable on the member's

1 federal form W-2 wage and tax statement under the heading "wages, tips,  
2 other compensation," including employee contributions picked up after  
3 August 1, 1982, pursuant to KRS 61.560(4). For members of the General  
4 Assembly, it shall mean all amounts which are includable on the member's  
5 federal form W-2 wage and tax statement under the heading "wages, tips,  
6 other compensation," including employee contributions picked up after  
7 August 1, 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. Living allowances, expense reimbursements, lump-sum payments for  
10           accrued vacation leave, and other items determined by the board;
- 11           2. For employees who begin participating on or after September 1, 2008,  
12           lump-sum payments for compensatory time;
- 13           3. For employees who begin participating on or after August 1, 2016,  
14           nominal fees paid for services as a volunteer; and
- 15           4. Any salary or wages paid to an employee for services as a Kentucky  
16           State Police school resource officer as defined by KRS 158.441;

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

- 18           (a) For a member who begins participating before September 1, 2008, who is  
19           employed in a nonhazardous position, the creditable compensation of the  
20           member during the five (5) fiscal years he or she was paid at the highest  
21           average monthly rate divided by the number of months of service credit during  
22           that five (5) year period multiplied by twelve (12). The five (5) years may be  
23           fractional and need not be consecutive. If the number of months of service  
24           credit during the five (5) year period is less than forty-eight (48), one (1) or  
25           more additional fiscal years shall be used;
- 26           (b) For a member who is employed in a nonhazardous position, whose effective  
27           retirement date is between August 1, 2001, and January 1, 2009, and whose

1 total service credit is at least twenty-seven (27) years and whose age and years  
2 of service total at least seventy-five (75), final compensation means the  
3 creditable compensation of the member during the three (3) fiscal years the  
4 member was paid at the highest average monthly rate divided by the number  
5 of months of service credit during that three (3) years period multiplied by  
6 twelve (12). The three (3) years may be fractional and need not be  
7 consecutive. If the number of months of service credit during the three (3)  
8 year period is less than twenty-four (24), one (1) or more additional fiscal  
9 years shall be used. Notwithstanding the provision of KRS 61.565, the  
10 funding for this paragraph shall be provided from existing funds of the  
11 retirement allowance;

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

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

1 service credit, shall be added until the number of months in the final  
2 compensation calculation is at least sixty (60) months; or

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

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

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

25 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the  
26 basis of the actuarial tables that are adopted by the board. In cases of disability  
27 retirement, the options authorized by KRS 61.635 shall be computed by adding ten



- 1 (10) years to the age of the member, unless the member has chosen the Social  
2 Security adjustment option as provided for in KRS 61.635(8), in which case the  
3 member's actual age shall be used. For members who began participating in the  
4 system prior to January 1, 2014, no disability retirement option shall be less than the  
5 same option computed under early retirement;
- 6 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless  
7 otherwise provided in KRS 61.510 to 61.705;
- 8 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
9 following June 30, which shall also be the plan year. The "fiscal year" shall be the  
10 limitation year used to determine contribution and benefit limits as established by  
11 26 U.S.C. sec. 415;
- 12 (20) "Officers and employees of the General Assembly" means the occupants of those  
13 positions enumerated in KRS 6.150. The term shall also apply to assistants who  
14 were employed by the General Assembly for at least one (1) regular legislative  
15 session prior to July 13, 2004, who elect to participate in the retirement system, and  
16 who serve for at least six (6) regular legislative sessions. Assistants hired after July  
17 13, 2004, shall be designated as interim employees;
- 18 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean  
19 all positions that average one hundred (100) or more hours per month determined by  
20 using the number of months actually worked within a calendar or fiscal year,  
21 including all positions except:
- 22 (a) Seasonal positions, which although temporary in duration, are positions which  
23 coincide in duration with a particular season or seasons of the year and which  
24 may recur regularly from year to year, the period of time shall not exceed nine  
25 (9) months;
- 26 (b) Emergency positions which are positions which do not exceed thirty (30)  
27 working days and are nonrenewable;

- 1 (c) Temporary positions which are positions of employment with a participating  
2 department for a period of time not to exceed nine (9) months and are  
3 nonrenewable;
- 4 (d) Part-time positions which are positions which may be permanent in duration,  
5 but which require less than a calendar or fiscal year average of one hundred  
6 (100) hours of work per month, determined by using the number of months  
7 actually worked within a calendar or fiscal year, in the performance of duty;  
8 and
- 9 (e) Interim positions which are positions established for a one-time or recurring  
10 need not to exceed nine (9) months;
- 11 (22) "Delayed contribution payment" means an amount paid by an employee for  
12 purchase of current service. The amount shall be determined using the same formula  
13 in KRS 61.5525, and the payment shall not be picked up by the employer. A  
14 delayed contribution payment shall be deposited to the member's account and  
15 considered as accumulated contributions of the individual member. In determining  
16 payments under this subsection, the formula found in this subsection shall prevail  
17 over the one found in KRS 212.434;
- 18 (23) "Parted employer" means a department, portion of a department, board, or agency,  
19 such as Outwood Hospital and School, which previously participated in the system,  
20 but due to lease or other contractual arrangement is now operated by a publicly held  
21 corporation or other similar organization, and therefore is no longer participating in  
22 the system. The term "parted employer" shall not include a department, board, or  
23 agency that ceased participation in the system pursuant to KRS 61.522;
- 24 (24) "Retired member" means any former member receiving a retirement allowance or  
25 any former member who has filed the necessary documents for retirement benefits  
26 and is no longer contributing to the retirement system;
- 27 (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,

- 1 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of  
2 pay. The rate shall be certified by the employer;
- 3 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by  
4 the member in accordance with KRS 61.542 or 61.705 to receive any available  
5 benefits in the event of the member's death. As used in KRS 61.702, "beneficiary"  
6 does not mean an estate, trust, or trustee;
- 7 (27) "Recipient" means the retired member or the person or persons designated as  
8 beneficiary by the member and drawing a retirement allowance as a result of the  
9 member's death or a dependent child drawing a retirement allowance. An alternate  
10 payee of a qualified domestic relations order shall not be considered a recipient,  
11 except for purposes of KRS 61.623;
- 12 (28) "Level percentage of payroll amortization method" means a method of determining  
13 the annual amortization payment on the unfunded actuarial accrued liability as  
14 expressed as a percentage of payroll over a set period of years. Under this method,  
15 the percentage of payroll shall be projected to remain constant for all years  
16 remaining in the set period of time and the unfunded actuarially accrued liability  
17 shall be projected to be fully amortized at the conclusion of the set period of years;
- 18 (29) "Increment" means twelve (12) months of service credit which are purchased. The  
19 twelve (12) months need not be consecutive. The final increment may be less than  
20 twelve (12) months;
- 21 (30) "Person" means a natural person;
- 22 (31) "Retirement office" means the Kentucky Public Pensions Authority's office building  
23 in Frankfort;
- 24 (32) "Last day of paid employment" means the last date employer and employee  
25 contributions are required to be reported in accordance with KRS 16.543, 61.543, or  
26 78.615 to the retirement office in order for the employee to receive current service  
27 credit for the month. Last day of paid employment does not mean a date the

- 1 employee receives payment for accrued leave, whether by lump sum or otherwise, if  
2 that date occurs twenty-four (24) or more months after previous contributions;
- 3 (33) "Objective medical evidence" means reports of examinations or treatments; medical  
4 signs which are anatomical, physiological, or psychological abnormalities that can  
5 be observed; psychiatric signs which are medically demonstrable phenomena  
6 indicating specific abnormalities of behavior, affect, thought, memory, orientation,  
7 or contact with reality; or laboratory findings which are anatomical, physiological,  
8 or psychological phenomena that can be shown by medically acceptable laboratory  
9 diagnostic techniques, including but not limited to chemical tests,  
10 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 11 (34) "Participating" means an employee is currently earning service credit in the system  
12 as provided in KRS 61.543;
- 13 (35) "Month" means a calendar month;
- 14 (36) "Membership date" means:
- 15 (a) The date upon which the member began participating in the system as  
16 provided in KRS 61.543; or
- 17 (b) For a member electing to participate in the system pursuant to KRS  
18 196.167(4) who has not previously participated in the system or the Kentucky  
19 Teachers' Retirement System, the date the member began participating in a  
20 defined contribution plan that meets the requirements of 26 U.S.C. sec.  
21 403(b);
- 22 (37) "Participant" means a member, as defined by subsection (8) of this section, or a  
23 retired member, as defined by subsection (24) of this section;
- 24 (38) "Qualified domestic relations order" means any judgment, decree, or order,  
25 including approval of a property settlement agreement, that:
- 26 (a) Is issued by a court or administrative agency; and
- 27 (b) Relates to the provision of child support, alimony payments, or marital

1 property rights to an alternate payee;

2 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
3 participant, who is designated to be paid retirement benefits in a qualified domestic  
4 relations order;

5 (40) "Accumulated employer credit" mean the employer pay credit deposited to the  
6 member's account and interest credited on such amounts as provided by KRS  
7 16.583 and 61.597;

8 (41) "Accumulated account balance" means:

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

11 (b) For members who began participating in the system on or after January 1,  
12 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,  
13 the combined sum of the member's accumulated contributions and the  
14 member's accumulated employer credit;

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

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

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

25 (43) "Nominal fee" means compensation earned for services as a volunteer that does not  
26 exceed five hundred dollars (\$500) per month. Compensation earned for services as  
27 a volunteer from more than one (1) participating employer during a month shall be

1 aggregated to determine whether the compensation exceeds the five hundred dollars  
2 (\$500) per month maximum provided by this subsection;

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

5 (45) "Monthly average pay" means:

6 **(a) In the case of a member who dies as a direct result of an act in line of duty**  
7 **as defined in Section 1 of this Act or who dies as a result of a duty-related**  
8 **injury as defined in Section 3 of this Act,** the higher of the member's monthly  
9 final rate of pay or the average monthly creditable compensation earned by the  
10 deceased member during his or her last twelve (12) months of employment; **or**

11 **(b) In the case where a member becomes totally and permanently disabled as a**  
12 **direct result of an act in line of duty as defined in Section 1 of this Act or**  
13 **becomes disabled as a result of a duty-related injury as defined in Section 3**  
14 **of this Act, the higher of the member's monthly final rate of pay or the**  
15 **average monthly creditable compensation earned by the disabled member**  
16 **during his or her last twelve (12) months of employment prior to the date**  
17 **the act in line of duty or duty-related injury occurred;**

18 (46) "Authority" means the Kentucky Public Pensions Authority as provided by KRS  
19 61.505; and

20 (47) "Executive director" means the executive director of the Kentucky Public Pensions  
21 Authority.

22 ➔Section 6. KRS 78.510 (Effective April 1, 2021) is amended to read as follows:

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

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

25 (2) "Board" means the board of trustees of the system as provided in KRS 78.782;

26 (3) "County" means any county, or nonprofit organization created and governed by a  
27 county, counties, or elected county officers, sheriff and his or her employees, county

1 clerk and his or her employees, circuit clerk and his or her deputies, former circuit  
2 clerks or former circuit clerk deputies, or political subdivision or instrumentality,  
3 including school boards, cities, charter county governments, urban-county  
4 governments, consolidated local governments, or unified local governments  
5 participating in the system by order appropriate to its governmental structure, as  
6 provided in KRS 78.530, and if the board is willing to accept the agency,  
7 organization, or corporation, the board being hereby granted the authority to  
8 determine the eligibility of the agency to participate;

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

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

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

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

23 (8) "Member" means any employee who is included in the membership of the system or  
24 any former employee whose membership has not ceased under KRS 78.535;

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

27 (10) "Current service" means the number of years and months of employment as an

1 employee, on and after July 1, 1958, for which creditable compensation is paid and  
2 employee contributions deducted, except as otherwise provided;

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, 1958, for which  
5 creditable compensation was paid. An employee shall be credited with one (1)  
6 month of prior service only in those months he received compensation for at least  
7 one hundred (100) hours of work. Twelve (12) months of current service in the  
8 system shall be required to validate prior service;

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

17 (13) "Creditable compensation":

18 (a) Except as limited by paragraph (c) of this subsection, means all salary, wages,  
19 and fees, including payments for compensatory time, paid to the employee as  
20 a result of services performed for the employer or for time during which the  
21 member is on paid leave, which are includable on the member's federal form  
22 W-2 wage and tax statement under the heading "wages, tips, other  
23 compensation", including employee contributions picked up after August 1,  
24 1982, pursuant to KRS 78.610(4). The creditable compensation of fee officers  
25 who receive salary, fees, maintenance, or other perquisites as a result of their  
26 official duties is the gross amount received decreased by the cost of salary  
27 paid deputies and clerks and the cost of office supplies and other official



1 expenses;

2 (b) Includes:

- 3 1. Lump-sum bonuses, severance pay, or employer-provided payments for  
4 purchase of service credit, which shall be averaged over the employee's  
5 service with the system in which it is recorded if it is equal to or greater  
6 than one thousand dollars (\$1,000);
- 7 2. Cases where compensation includes maintenance and other perquisites,  
8 but the board shall fix the value of that part of the compensation not paid  
9 in money;
- 10 3. Lump-sum payments for creditable compensation paid as a result of an  
11 order of a court of competent jurisdiction, the Personnel Board, or the  
12 Commission on Human Rights, or for any creditable compensation paid  
13 in anticipation of settlement of an action before a court of competent  
14 jurisdiction, the Personnel Board, or the Commission on Human Rights,  
15 including notices of violations of state or federal wage and hour statutes  
16 or violations of state or federal discrimination statutes, which shall be  
17 credited to the fiscal year during which the wages were earned or should  
18 have been paid by the employer. This subparagraph shall also include  
19 lump-sum payments for reinstated wages pursuant to KRS 61.569,  
20 which shall be credited to the period during which the wages were  
21 earned or should have been paid by the employer;
- 22 4. Amounts which are not includable in the member's gross income by  
23 virtue of the member having taken a voluntary salary reduction provided  
24 for under applicable provisions of the Internal Revenue Code; and
- 25 5. Elective amounts for qualified transportation fringes paid or made  
26 available on or after January 1, 2001, for calendar years on or after  
27 January 1, 2001, that are not includable in the gross income of the

1 employee by reason of 26 U.S.C. sec. 132(f)(4); and

2 (c) Excludes:

- 3 1. Living allowances, expense reimbursements, lump-sum payments for  
4 accrued vacation leave, sick leave except as provided in KRS 78.616(5),  
5 and other items determined by the board;
- 6 2. For employees who begin participating on or after September 1, 2008,  
7 lump-sum payments for compensatory time;
- 8 3. Training incentive payments for city officers paid as set out in KRS  
9 64.5277 to 64.5279;
- 10 4. For employees who begin participating on or after August 1, 2016,  
11 nominal fees paid for services as a volunteer; and
- 12 5. Any salary or wages paid to an employee for services as a Kentucky  
13 State Police school resource officer as defined by KRS 158.441;

14 (14) "Final compensation" means:

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

23 (b) For a member who is employed in a nonhazardous position, whose effective  
24 retirement date is between August 1, 2001, and January 1, 2009, and whose  
25 total service credit is at least twenty-seven (27) years and whose age and years  
26 of service total at least seventy-five (75), final compensation means the  
27 creditable compensation of the member during the three (3) fiscal years the

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

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

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

26 (e) For a member who begins participating on or after September 1, 2008, but  
27 prior to January 1, 2014, who is employed in a hazardous position as provided

1 in KRS 61.592, the creditable compensation of the member during the three  
2 (3) complete fiscal years he or she was paid at the highest average monthly  
3 rate divided by three (3). Each fiscal year used to determine final  
4 compensation must contain twelve (12) months of service credit. If the  
5 member does not have three (3) complete fiscal years that each contain twelve  
6 (12) months of service credit, then one (1) or more additional fiscal years,  
7 which may contain less than twelve (12) months of service credit, shall be  
8 added until the number of months in the final compensation calculation is at  
9 least thirty-six (36) months;

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

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

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

1           computed under early retirement;

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

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

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

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

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

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

25       (c) Temporary positions that are positions of employment with a participating  
26          agency for a period of time not to exceed twelve (12) months and not  
27          renewable;

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

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

1 including approval of a property settlement agreement, that:

2 (a) Is issued by a court or administrative agency; and

3 (b) Relates to the provision of child support, alimony payments, or marital  
4 property rights to an alternate payee;

5 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
6 participant, who is designated to be paid retirement benefits in a qualified domestic  
7 relations order;

8 (37) "Accumulated employer credit" means the employer pay credit deposited to the  
9 member's account and interest credited on such amounts as provided by KRS  
10 16.583 and 61.597;

11 (38) "Accumulated account balance" means:

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

14 (b) For members who began participating in the system on or after January 1,  
15 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,  
16 the combined sum of the member's accumulated contributions and the  
17 member's accumulated employer credit;

18 (39) "Volunteer" means an individual who:

19 (a) Freely and without pressure or coercion performs hours of service for an  
20 employer participating in one (1) of the systems administered by Kentucky  
21 Retirement Systems or the County Employees Retirement System without  
22 receipt of compensation for services rendered, except for reimbursement of  
23 actual expenses, payment of a nominal fee to offset the costs of performing  
24 the voluntary services, or both; and

25 (b) If a retired member, does not become an employee, leased employee, or  
26 independent contractor of the employer for which he or she is performing  
27 volunteer services for a period of at least twelve (12) months following the



1 retired member's most recent retirement date;

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

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

9 (42) "Hazardous position" means a position that meets the requirements of KRS 61.592  
10 and has been approved by the board as hazardous;

11 (43) "Level-percentage-of-payroll amortization method" means a method of determining  
12 the annual amortization payment on the unfunded actuarial accrued liability as  
13 expressed as a percentage of payroll over a set period of years. Under this method,  
14 the percentage of payroll shall be projected to remain constant for all years  
15 remaining in the set period and the unfunded actuarially accrued liability shall be  
16 projected to be fully amortized at the conclusion of the set period;

17 (44) "Increment" means twelve (12) months of service credit which are purchased. The  
18 twelve (12) months need not be consecutive. The final increment may be less than  
19 twelve (12) months;

20 (45) "Monthly average pay" means:

21 **(a) In the case of a member who dies as a direct result of an act in line of duty**  
22 **as defined in Section 1 of this Act or who dies as a result of a duty-related**  
23 **injury as defined in Section 3 of this Act,** the higher of the member's monthly  
24 final rate of pay or the average monthly creditable compensation earned by the  
25 deceased member during his or her last twelve (12) months of employment; **or**

26 **(b) In the case where a member becomes totally and permanently disabled as a**  
27 **direct result of an act in line of duty as defined in Section 1 of this Act or**

1           *becomes disabled as a result of a duty-related injury as defined in Section 3*  
2           *of this Act, the higher of the member's monthly final rate of pay or the*  
3           *average monthly creditable compensation earned by the disabled member*  
4           *during his or her last twelve (12) months of employment prior to the date*  
5           *the act in line of duty or duty-related injury occurred;*

6 (46) "Authority" means the Kentucky Public Pensions Authority as provided by KRS  
7 61.505; and

8 (47) "Executive director" means the executive director of the Kentucky Public Pensions  
9 Authority.

10       ➔Section 7. Notwithstanding KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to  
11 78.852, 161.220 to 161.716, or any provision of Sections 1 to 6 of this Act to the  
12 contrary, the Kentucky Retirement Systems shall provide the following benefit  
13 adjustments to members, and beneficiaries and dependent children of those members,  
14 who become disabled prior to the effective date of this Act and whose disability was  
15 determined by the systems to be a total and permanent disability that was the direct result  
16 of an act in line of duty as defined in subsection (19) of Section 1 of this Act or whose  
17 disability resulted from a duty-related injury as defined in Section 3 of this Act:

18 (1) In the month following the effective date of this Act, the member, or the beneficiary  
19 of the member if the beneficiary is receiving a monthly benefit due to a member's  
20 death and selection of a payment pursuant to KRS 61.635 that provided a monthly  
21 payment to the beneficiary upon their death, and the dependent children of the  
22 member, shall have his or her monthly benefit increased to the amount specified by  
23 Section 2 or 3 of this Act, as applicable, except that the amount payable to the  
24 member or beneficiary of the member shall not be increased above a level that  
25 exceeds 100 percent of the member's monthly average pay when combined with any  
26 dependent child payments from the systems and prior to any adjustment for an  
27 optional payment plan selected by the member upon retirement in accordance with

1 KRS 61.635. The systems may adjust this amount to reflect any optional payment  
2 plans selected by the member in accordance with KRS 61.635 upon disability  
3 retirement;

4 (2) In the month following the effective date of this Act, any member, spouse of a  
5 disabled or deceased member, and any dependent child of a deceased member who  
6 is receiving a monthly benefit shall be eligible for the health benefits specified by  
7 the amendments to Section 4 of this Act; and

8 (3) The provisions of this section shall only be construed to provide benefit adjustments  
9 to members, beneficiaries, and dependent children of those members who were  
10 disabled prior to the effective date of this Act and only in situations where the  
11 member's disability was determined by the systems to be a total and permanent  
12 disability that was the direct result of an act in line of duty as defined in subsection  
13 (19) of Section 1 of this Act or was a disability that resulted from a duty-related  
14 injury as defined in Section 3 of this Act.

15 ➔Section 8. The provisions of Sections 1 to 7 of this Act shall not reduce any  
16 benefits payable to any member, beneficiary, or dependent children of a member who  
17 became disabled prior to the effective date of this Act and whose disability was  
18 determined by the systems to either be a total and permanent disability that was the direct  
19 result of an act in line of duty as defined in subsection (19) of Section 1 of this Act or  
20 was a disability that resulted from a duty-related injury as defined in Section 3 of this Act.

21 ➔Section 9. Whereas protecting and honoring the families of public safety  
22 officers and employees who have given their health and their lives in service to the  
23 Commonwealth is a value held by all Kentuckians, an emergency is declared to exist, and  
24 this Act takes effect upon its passage and approval by the Governor or upon its otherwise  
25 becoming a law.