

1 AN ACT relating to the portability of retiree health subsidies.

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

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

- 4 (1) (a) 1. The board of trustees of Kentucky Retirement Systems and the County
5 Employees Retirement System shall arrange by appropriate contract or
6 on a self-insured basis to provide a group hospital and medical insurance
7 plan for present and future recipients of a retirement allowance from the
8 systems the respective boards administer, except as provided in
9 subsection (8) of this section. Each respective board shall also arrange to
10 provide health care coverage through an insurer licensed pursuant to
11 Subtitle 38 of KRS Chapter 304 and offering a managed care plan as
12 defined in KRS 304.17A-500, as an alternative to group hospital and
13 medical insurance for any person eligible for hospital and medical
14 benefits under this section.
- 15 2. Any person who chooses coverage under a hospital and medical
16 insurance plan shall pay, by payroll deduction from the retirement
17 allowance or by another method, the difference in premium between the
18 cost of the hospital and medical insurance plan coverage and the benefits
19 to which he or she would be entitled under this section.
- 20 3. For purposes of this section, "hospital and medical insurance plan" may
21 include, at each respective board's discretion, any one (1) or more of the
22 following:
- 23 a. Any hospital and medical expense policy or certificate, provider-
24 sponsored integrated health delivery network, self-insured medical
25 plan, health maintenance organization contract, or other health
26 benefit plan;
- 27 b. Any health savings account as permitted by 26 U.S.C. sec. 223 or

1 health reimbursement arrangement or a similar account as may be
2 permitted by 26 U.S.C. sec. 105 or 106. Such arrangement or
3 account, in the board's discretion, may reimburse any medical
4 expense permissible under 26 U.S.C. sec. 213; or

5 c. A medical insurance reimbursement program established by the
6 board through the promulgation of administrative regulation under
7 which members purchase individual health insurance coverage
8 through a health insurance exchange established under 42 U.S.C.
9 sec. 18031 or 18041.

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

19 (c) For recipients of a retirement allowance who are not eligible for the same
20 level of hospital and medical benefits as recipients living in Kentucky having
21 the same Medicare hospital and medical insurance eligibility status, each
22 respective board shall provide a medical insurance reimbursement plan as
23 described in subsection (7) of this section.

24 (d) Notwithstanding anything in KRS Chapter 61 to the contrary, each respective
25 board of trustees, in its discretion, may take necessary steps to ensure
26 compliance with 42 U.S.C. secs. 300bb-1 et seq., including but not limited to
27 receiving contributions and premiums from, and providing benefits pursuant

1 to this section to, persons entitled to continuation coverage under 42 U.S.C.
2 secs. 300bb-1 et seq., regardless of whether such persons are recipients of a
3 retirement allowance.

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

15 (b) 1. Each employer described in paragraph (a) of this subsection shall deduct
16 from the creditable compensation of each member having a membership
17 date on or after September 1, 2008, an amount equal to one percent (1%)
18 of the member's creditable compensation. The deducted amounts shall,
19 at the discretion of the board, be credited to accounts established
20 pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS
21 16.510, 61.515, and 78.520, or the insurance trust funds established
22 under KRS 61.701, or partially to one (1) fund with the remainder
23 deposited to the other fund. Notwithstanding the provisions of this
24 paragraph, a transfer of assets between the accounts established pursuant
25 to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510,
26 61.515, and 78.520, and the insurance trust funds established under KRS
27 61.701 shall not be allowed.

- 1 2. The employer shall file the contributions as provided by subparagraph 1.
2 of this paragraph at the retirement office in accordance with KRS 61.675
3 and 78.625. Any interest or penalties paid on any delinquent
4 contributions shall be credited to accounts established pursuant to 26
5 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515,
6 and 78.520, or the insurance trust funds established under KRS 61.701.
7 Notwithstanding any minimum compensation requirements provided by
8 law, the deductions provided by this paragraph shall be made, and the
9 compensation of the member shall be reduced accordingly.
- 10 3. Each employer shall submit payroll reports, contributions lists, and other
11 data as may be required by administrative regulation promulgated by
12 each respective board of trustees pursuant to KRS Chapter 13A.
- 13 4. Every member shall be deemed to consent and agree to the deductions
14 made pursuant to this paragraph, and the payment of salary or
15 compensation less the deductions shall be a full and complete discharge
16 of all claims for services rendered by the person during the period
17 covered by the payment, except as to any benefits provided by KRS
18 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. No member
19 may elect whether to participate in, or choose the contribution amount
20 payable to accounts established pursuant to 26 U.S.C. sec. 401(h) within
21 the funds established in KRS 16.510, 61.515, and 78.520, or the
22 insurance trust funds established under KRS 61.701. The member shall
23 have no option to receive the contribution required by this paragraph
24 directly instead of having the contribution paid to accounts established
25 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS
26 16.510, 61.515, and 78.520, or the insurance trust funds established
27 under KRS 61.701. No member may receive a rebate or refund of

1 contributions. If a member establishes a membership date prior to
2 September 1, 2008, pursuant to KRS 61.552(1) or 61.552(20), then this
3 paragraph shall not apply to the member and all contributions previously
4 deducted in accordance with this paragraph shall be refunded to the
5 member without interest. The contribution made pursuant to this
6 paragraph shall not act as a reduction or offset to any other contribution
7 required of a member or recipient under KRS 16.505 to 16.652, 61.510
8 to 61.705, and 78.510 to 78.852.

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

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

- 17 1. Wholly or partly from funds contributed by the recipient of a retirement
18 allowance, by payroll deduction, or otherwise;
- 19 2. Wholly or partly from funds contributed by the insurance trust funds
20 established under KRS 61.701;
- 21 3. Wholly or partly from funds contributed to accounts established
22 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS
23 16.510, 61.515, and 78.520;
- 24 4. Wholly or partly from funds contributed by another state-administered
25 retirement system under a reciprocal arrangement, except that any
26 portion of the premium paid from the insurance trust funds or accounts
27 established pursuant to 26 U.S.C. sec. 401(h) within the funds

1 established in KRS 16.510, 61.515, and 78.520 under a reciprocal
2 agreement shall not exceed the amount that would be payable under this
3 section if all the member's service were in one (1) of the systems
4 administered by the Kentucky Retirement Systems or County Employees
5 Retirement System;

6 5. Partly from subparagraphs 1. to 4. of this paragraph, except that any
7 premium for hospital and medical insurance over the amount contributed
8 by the insurance trust funds; accounts established pursuant to 26 U.S.C.
9 sec. 401(h) within the funds established in KRS 16.510, 61.515, and
10 78.520; or another state-administered retirement system under a
11 reciprocal agreement shall be paid by the recipient by an automatic
12 electronic transfer of funds. If the board provides for cross-referencing
13 of insurance premiums, the employer's contribution for the working
14 member or spouse shall be applied toward the premium, and the
15 insurance trust funds or 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 shall pay the balance, not to exceed the monthly contribution; or

18 6. In full from the insurance trust funds or accounts established pursuant to
19 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510,
20 61.515, and 78.520 for all recipients of a retirement allowance from any
21 of the three (3) retirement systems administered by the Kentucky
22 Retirement Systems or the County Employees Retirement System where
23 such recipient is a retired former member of one (1) or more of the three
24 (3) retirement systems administered by the Kentucky Retirement
25 Systems or the County Employees Retirement System (not a beneficiary
26 or dependent child receiving benefits) and had two hundred and forty
27 (240) months or more of service upon retirement. Should such recipient

1 have less than two hundred forty (240) months of service but have at
2 least one hundred eighty (180) months of service, seventy-five percent
3 (75%) of such premium shall be paid from the insurance trust fund or
4 accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds
5 established in KRS 16.510, 61.515, and 78.520, provided such recipient
6 agrees to pay the remaining twenty-five percent (25%) by payroll
7 deduction from his or her retirement allowance or by another method.
8 Should such recipient have less than one hundred eighty (180) months of
9 service but have at least one hundred twenty (120) months of service,
10 fifty percent (50%) of such premium shall be paid from the insurance
11 trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h)
12 within the funds established in KRS 16.510, 61.515, and 78.520,
13 provided such recipient agrees to pay the remaining fifty percent (50%)
14 by payroll deduction from his or her retirement allowance or by another
15 method. Should such recipient have less than one hundred twenty (120)
16 months of service but have at least forty-eight (48) months of service,
17 twenty-five percent (25%) of such premium shall be paid from the
18 insurance trust fund or accounts established pursuant to 26 U.S.C. sec.
19 401(h) within the funds established in KRS 16.510, 61.515, and 78.520,
20 provided such recipient agrees to pay the remaining seventy-five percent
21 (75%) by payroll deduction from his or her retirement allowance or by
22 another method. Notwithstanding the foregoing provisions of this
23 subsection, an employee participating in one (1) of the retirement
24 systems administered by the Kentucky Retirement Systems who
25 becomes disabled as a direct result of an act in line of duty as defined in
26 KRS 16.505 or as a result of a duty-related injury as defined in KRS
27 61.621, shall have his or her premium paid in full as if he or she had two

1 hundred forty (240) months or more of service. Further, an employee
2 participating in one (1) of the retirement systems administered by the
3 Kentucky Retirement Systems who is killed as a direct result of an act in
4 line of duty as defined in KRS 16.505 or as a result of a duty-related
5 injury as defined in KRS 61.621, shall have the premium for the
6 beneficiary, if the beneficiary is the member's spouse, and for each
7 dependent child as defined in KRS 16.505, paid so long as they
8 individually remain eligible for a monthly retirement benefit. "Months of
9 service" as used in this section shall mean the total months of combined
10 service used to determine benefits under any or all of the three (3)
11 retirement systems administered by the Kentucky Retirement Systems or
12 the County Employees Retirement System, except service added to
13 determine disability benefits shall not be counted as "months of service."
14 For current and former employees of the Council on Postsecondary
15 Education who were employed prior to January 1, 1993, and who earn at
16 least fifteen (15) years of service credit in the Kentucky Employees
17 Retirement System, "months of service" shall also include vested service
18 in another retirement system other than the Kentucky Teachers'
19 Retirement System sponsored by the Council on Postsecondary
20 Education.

- 21 (b) 1. For a member electing insurance coverage through the Kentucky
22 Retirement Systems or County Employees Retirement System, "months
23 of service" shall include, in addition to service as described in paragraph
24 (a) of this subsection, service credit in one (1) of the other state-
25 administered retirement plans.
- 26 2. Effective August 1, 1998, the Kentucky Retirement Systems or County
27 Employees Retirement System shall compute the member's combined

1 service, including service credit in another state-administered retirement
2 plan, and calculate the portion of the member's premium to be paid by
3 the insurance trust fund accounts established pursuant to 26 U.S.C. sec.
4 401(h) within the funds established in KRS 16.510, 61.515, and 78.520,
5 according to the criteria established in paragraph (a) of this subsection.
6 Each state-administered retirement plan annually shall pay to the
7 insurance trust fund the percentage of the system's cost of the retiree's
8 monthly contribution for single coverage for hospital and medical
9 insurance which shall be equal to the percentage of the member's
10 number of months of service in the other state-administered retirement
11 plan divided by his or her total combined service. The amounts paid by
12 the other state-administered retirement plans and the insurance trust fund
13 or accounts established pursuant to 26 U.S.C. sec. 401(h) within the
14 funds established in KRS 16.510, 61.515, and 78.520 shall not be more
15 than one hundred percent (100%) of the monthly contribution adopted
16 by the respective boards of trustees.

17 3. A member may not elect coverage for hospital and medical benefits
18 under this subsection through more than one (1) of the state-
19 administered retirement plans.

20 4. A state-administered retirement plan shall not pay any portion of a
21 member's monthly contribution for medical insurance unless the member
22 is a recipient or annuitant of the plan.

23 5. The premium paid by the insurance trust funds established by KRS
24 61.701 or accounts established pursuant to 26 U.S.C. sec. 401(h) within
25 the funds established in KRS 16.510, 61.515, and 78.520 shall not
26 exceed one hundred percent (100%) of the monthly contribution rate
27 toward hospital and medical insurance coverage approved by the board

1 of trustees of the Kentucky Retirement Systems or the board of trustees
2 of the County Employees Retirement System.

3 (4) (a) Group rates under the hospital and medical insurance plan shall be made
4 available to the spouse, each dependent child, and each disabled child,
5 regardless of the disabled child's age, of a recipient who is a former member
6 or the beneficiary, if the premium for the hospital and medical insurance for
7 the spouse, each dependent child, and each disabled child, or beneficiary is
8 paid by payroll deduction from the retirement allowance or by another
9 method. For purposes of this subsection only, a child shall be considered
10 disabled if he or she has been determined to be eligible for federal Social
11 Security disability benefits or meets the dependent disability standard
12 established by the Department of Employee Insurance in the Personnel
13 Cabinet.

14 (b) The other provisions of this section notwithstanding, the insurance trust funds
15 or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds
16 established in KRS 16.510, 61.515, and 78.520 shall pay a percentage of the
17 monthly contribution for the spouse and for each dependent child of a
18 recipient who was a member of the General Assembly and is receiving a
19 retirement allowance based on General Assembly service, of the Kentucky
20 Employees Retirement System and determined to be in a hazardous position,
21 of the County Employees Retirement System, and determined to be in a
22 hazardous position or of the State Police Retirement System. The percentage
23 of the monthly contribution paid for the spouse and each dependent child of a
24 recipient who was in a hazardous position shall be based solely on the
25 member's service with the State Police Retirement System or service in a
26 hazardous position using the formula in subsection (3)(a) of this section,
27 except that for any recipient of a retirement allowance from the County

1 Employees Retirement System who was contributing to the system on January
2 1, 1998, for service in a hazardous position, the percentage of the monthly
3 contribution shall be based on the total of hazardous service and any
4 nonhazardous service as a police or firefighter with the same agency, if that
5 agency was participating in the County Employees Retirement System but did
6 not offer hazardous duty coverage for its police and firefighters at the time of
7 initial participation.

8 (c) The insurance trust funds or accounts established pursuant to 26 U.S.C. sec.
9 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall
10 continue the same level of coverage for a recipient who was a member of the
11 County Employees Retirement System after the age of sixty-five (65) as
12 before the age of sixty-five (65), if the recipient is not eligible for Medicare
13 coverage. If the insurance trust funds or accounts established pursuant to 26
14 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and
15 78.520 provides coverage for the spouse or each dependent child of a former
16 member of the County Employees Retirement System, the insurance trust fund
17 or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds
18 established in KRS 16.510, 61.515, and 78.520 shall continue the same level
19 of coverage for the spouse or each dependent child after the age of sixty-five
20 (65) as before the age of sixty-five (65), if the spouse or dependent child is not
21 eligible for Medicare coverage.

22 (5) After July 1, 1998, notwithstanding any other provision to the contrary, a member
23 who holds a judicial office but did not elect to participate in the Judicial Retirement
24 Plan and is participating instead in the Kentucky Employees Retirement System, the
25 County Employees Retirement System, or the State Police Retirement System, as
26 provided in KRS 61.680, and who has at least twenty (20) years of total service,
27 one-half (1/2) of which is in a judicial office, shall receive the same hospital and

1 medical insurance benefits, including paid benefits for spouse and dependents, as
2 provided to persons retiring under the provisions of KRS 21.427. The
3 Administrative Office of the Courts shall pay the cost of the medical insurance
4 benefits provided by this subsection.

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

12 (7) (a) Each respective board shall promulgate an administrative regulation to
13 establish a medical insurance reimbursement plan to provide reimbursement
14 for hospital and medical insurance premiums of recipients of a retirement
15 allowance who:

16 1. Are not eligible for the same level of hospital and medical benefits as
17 recipients living in Kentucky and having the same Medicare hospital and
18 medical insurance eligibility status; or

19 2. *Are eligible for retiree health subsidies as provided by subsection (8)*
20 *of this section, except for those recipients eligible for full premium*
21 *subsidies under subsection (8)(c)3. of this section. The reimbursement*
22 *as provided by this subparagraph shall be available to the recipient*
23 *regardless of the hospital and medical insurance plans offered by the*
24 *systems.*

25 (b) An eligible recipient shall file proof of payment for hospital and medical
26 insurance at the retirement office. Reimbursement to eligible recipients shall
27 be made on a quarterly basis. The recipient shall be eligible for reimbursement

1 of substantiated medical insurance premiums for an amount not to exceed the
2 total monthly premium determined under subsection (3) of this section or the
3 monthly contribution determined under subsection (8) of this section, as
4 applicable.

5 (c) For purposes of recipients described by paragraph (a)1. of this subsection,

6 the plan shall not be made available if all recipients are eligible for the same
7 coverage as recipients living in Kentucky.

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

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

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

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

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

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

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

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

18 3. Notwithstanding the provisions of this section, the minimum service
19 required to participate in benefits as provided by paragraph (a) of this
20 subsection shall be waived for a member who dies as a direct result of an
21 act in line of duty as defined in KRS 16.505 or who dies as a result of a
22 duty-related injury as defined in KRS 61.621, and the premium for the
23 member's spouse and for each dependent child as defined in KRS 16.505
24 shall be paid in full by the systems so long as they individually remain
25 eligible for a monthly retirement benefit.

26 (d) Except as provided by paragraph (c)3. of this subsection, the monthly
27 insurance contribution amount shall be increased July 1 of each year by one

1 and one-half percent (1.5%). The increase shall be cumulative and shall
2 continue to accrue after the member's retirement for as long as a monthly
3 insurance contribution is payable to the retired member or beneficiary.

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

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

16 ➔Section 2. On or before November 15, 2021, the Kentucky Public Pensions
17 Authority shall submit to the Public Pension Oversight Board research and findings on
18 potential health savings options or reimbursement programs or arrangements that may be
19 utilized or established by the systems for recipients who are provided the health benefits
20 established by subsection (8) of Section 1 of this Act, including but not limited to health
21 savings accounts or health reimbursement arrangements that the respective board is
22 authorized to establish under Section 1 of this Act.