

1 AN ACT relating to the Kentucky Employees Retirement System's employers,
2 declaring an emergency, and making an appropriation therefor.

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

4 ➔Section 1. KRS 61.565 (Effective April 1, 2021) is amended to read as follows:

5 (1) (a) Each employer participating in the State Police Retirement System as
6 provided for in KRS 16.505 to 16.652 and the Kentucky Employees
7 Retirement System as provided for in KRS 61.510 to 61.705 shall contribute
8 annually to the respective retirement system an amount determined by the
9 actuarial valuation completed in accordance with KRS 61.670 and as specified
10 by this section. Employer contributions for each respective retirement system
11 shall be equal to the sum of the "normal cost contribution" and the "actuarially
12 accrued liability contribution."

13 (b) For purposes of this section, the normal cost contribution shall be computed as
14 a percentage of pay and shall be an annual amount that is sufficient when
15 combined with employee contributions to fund benefits earned during the year
16 in the respective system. The amount shall be:

- 17 1. Paid as a percentage of creditable compensation reported for each
18 employee participating in the system and accruing benefits; and
- 19 2. The same percentage of pay for all employees who are participating in
20 the same retirement system, except that separate percentage rates shall
21 be developed in each system for those employers whose employees are
22 participating in hazardous duty retirement coverage as provided by KRS
23 61.592.

24 (c) For purposes of this section, the actuarially accrued liability contribution ***for***
25 ***all employers, except for contributions paid by nonhazardous employers in***
26 ***the Kentucky Employees Retirement System on or after July 1, 2021,*** shall
27 be:

- 1 1. Computed by amortizing the total unfunded actuarially accrued liability
2 of each system over a closed period of thirty (30) years beginning with
3 the 2019 actuarial valuation using the level percentage of payroll
4 amortization method, except that any increase or decrease in the
5 unfunded actuarially accrued liability occurring after the completion of
6 the 2019 actuarial valuation shall be amortized over a closed period of
7 twenty (20) years beginning with the actuarial valuation in which the
8 increase or decrease in the unfunded actuarially accrued liability is
9 recognized. An increase or decrease in the unfunded actuarially accrued
10 liability may result from, but not be limited to, legislative changes to
11 benefits, changes in actuarial methods or assumptions, or actuarial gains
12 or losses;
- 13 2. Paid as a percentage of payroll on the creditable compensation reported
14 for each employee participating in the system and accruing benefits; and
- 15 3. The same percentage of pay for all employees who are participating in
16 the same retirement system, except that separate percentage rates shall
17 be developed in each system for those employers whose employees are
18 participating in hazardous duty retirement coverage as provided by KRS
19 61.592.

20 (d) 1. For purposes of this section, the actuarially accrued liability
21 contribution for nonhazardous employers in the Kentucky Employees
22 Retirement System on or after July 1, 2021:

- 23 a. Shall be an annual dollar amount that is sufficient to amortize
24 the total unfunded actuarially accrued liability of the system over
25 a closed period of thirty (30) years beginning with the 2019
26 actuarial valuation using the level percentage of payroll
27 amortization method, except that any increase or decrease in the

1 unfunded actuarially accrued liability occurring after the
2 completion of the 2019 actuarial valuation shall be amortized
3 over a closed period of twenty (20) years beginning with the
4 actuarial valuation in which the increase or decrease in the
5 unfunded actuarially accrued liability is recognized. An increase
6 or decrease in the unfunded actuarially accrued liability may
7 result from, but not be limited to, legislative changes to benefits,
8 changes in actuarial methods or assumptions, or actuarial gains
9 or losses;

10 b. Shall be prorated to each individual nonhazardous employer in
11 the Kentucky Employees Retirement System by multiplying the
12 annual dollar amount of the actuarially accrued liability
13 contribution for the system as determined by subdivision a. of
14 this subparagraph by the individual employer's percentage of the
15 system's total actuarially accrued liability as of the June 30,
16 2019 actuarial valuation which shall be determined solely by the
17 system's consulting actuary and assigned to each employer based
18 upon the last participating employer of the member or retiree as
19 of June 30, 2019. The individual employer's percentage of the
20 system's total actuarially accrued liability as of the June 30,
21 2019, actuarial valuation shall be used to determine the
22 individual employer's prorated dollar amount of the system's
23 actuarially accrued liability contribution in all future fiscal years
24 of the amortization period or periods, except that the employer's
25 percentage shall be adjusted to reflect any employer who
26 voluntarily or involuntarily ceases participation as provided by
27 KRS 61.522 and except as provided by subparagraphs 4. and 5.

1 of this paragraph. For purposes of this subdivision, all executive
2 branch departments, program cabinets and their respective
3 departments, and administrative bodies enumerated in KRS
4 12.020, and any other executive branch agencies
5 administratively attached to a department, program cabinet, or
6 administrative body enumerated in KRS 12.020 shall be
7 considered a single individual employer and only one (1) value
8 shall be computed for these executive branch employers. For
9 purposes of this subdivision, all employers of the legislative
10 branch, including the Legislative Research Commission and the
11 General Assembly that covers legislators and staff who
12 participate in the Kentucky Employees Retirement System, shall
13 be considered a single individual employer and only one (1)
14 value shall be computed for these employers. For purposes of
15 this subdivision, all employers of the judicial branch, including
16 the Administrative Office of the Courts, the Judicial Form
17 Retirement System, and all master commissioners, shall be
18 considered a single individual employer and only one (1) value
19 shall be computed for these employers;

20 c. Shall be payable by an individual employer in equal monthly
21 dollar installments during the fiscal year in accordance with the
22 reporting requirements specified by KRS 61.675 so that the
23 individual employer pays its full prorated dollar amount of the
24 actuarially accrued liability contribution as determined by
25 subdivision b. of this subparagraph; and

26 d. Notwithstanding subdivision b. of this subparagraph for those
27 individual participating employers who are local and district

1 health departments governed by KRS Chapter 212, community
2 mental health centers, and employers whose employees are not
3 subject to KRS 18A.005 to 18A.200, who received or were eligible
4 to receive a distribution of general fund appropriations in the
5 2018-2020 biennial executive branch budget to assist in paying
6 retirement costs under 2018 Ky. Acts ch. 169, Part I, G., 4., (5);
7 2018 Ky. Acts ch. 169, Part I, G., 5., (2); or 2018 Ky. Acts ch.
8 169, Part I, G., 9., (2), shall not, once the initial dollar amounts
9 are established in accordance with this paragraph, be adjusted in
10 terms of dollars paid by the individual employer, except that
11 adjustments shall be made by the system upon completion of an
12 actuarial investigation as provided by KRS 61.670, so long as at
13 least four (4) years have passed since the last adjustment to the
14 actuarially accrued liability contribution for these employers.
15 The provisions of this subdivision shall not be interpreted to
16 mean that employers described by this subdivision may continue
17 paying the dollar value of contributions or employer contribution
18 rates established or paid by the employer in budget periods
19 occurring prior to July 1, 2021.

20 2. Individual employers, solely for purposes of collecting employer
21 contributions from various fund sources during the fiscal year, may
22 convert the actuarially accrued liability contribution established by
23 this paragraph to a percentage of pay and may adjust the percent of
24 pay during the fiscal year in order to pay the required dollar value of
25 actuarially accrued liability contribution required by this paragraph.
26 No provision of this subparagraph shall be construed to reduce an
27 individual employer's actuarially accrued liability contribution as

- 1 otherwise provided by this paragraph.
- 2 3. The provisions of this paragraph shall not apply to those employers
- 3 who cease participation as provided by KRS 61.522.
- 4 4. In the event an individual Kentucky Employees Retirement System
- 5 nonhazardous employer who is required to pay an actuarially accrued
- 6 liability contribution as provided by this paragraph and as calculated
- 7 from the 2019 actuarial valuation or subsequent valuations, merges
- 8 with another employer or entity, forms a new or separate employer or
- 9 entity, or splits or separates operations into multiple employers or
- 10 entities, the system shall, except for those employers or entities who
- 11 pay the costs to cease participation as provided by KRS 61.522, have
- 12 full authority to assign a portion or all of the total actuarially accrued
- 13 liability contribution to the merged, new, split, or separate employers
- 14 or entities, regardless of whether or not the merged, new, split, or
- 15 separate employers or entities participate in the system. In the case of
- 16 a district health department established pursuant to KRS Chapter 212,
- 17 which ceases to operate or which has a county or counties that
- 18 withdraw from the district health department, the systems shall assign
- 19 the total actuarially accrued liability contribution based upon the
- 20 proportion of taxable property of each county as certified by the
- 21 Department for Public Health in the Cabinet for Health and Family
- 22 Services in accordance with Section 6 of this Act. The system shall
- 23 establish by administrative regulations the process of assigning
- 24 actuarially accrued liability contributions as authorized by this
- 25 subparagraph.
- 26 5. a. An employer who is not in the executive, legislative, or judicial
- 27 branch of Kentucky state government as enumerated in

1 subparagraph 1.b. of this paragraph may on or before July 1,
2 2021, appeal to the board regarding any current or former
3 employees or retirees the employer believes should not be used to
4 determine the employer's percentage of the system's total
5 actuarially accrued liability. The only appeals that shall be
6 submitted by the employer or considered by the board shall be
7 potential errors where the last participating employer is in
8 dispute, situations where employees of the employer were hired
9 through a contract between the executive branch and the
10 employer for the employee to provide services to the executive
11 branch, or situations where a community mental health center
12 was contracted to provide services at a facility previously
13 operated by the executive branch. The employer shall submit the
14 information required by the board to verify potential errors or
15 contract employees with employers.

16 b. The board shall review and issue a final determination regarding
17 any appeals by December 31, 2021. In situations where the board
18 determines the last participating employer was incorrect and
19 should be assigned to another employer, the system shall,
20 effective for employer contributions payable on or after July 1,
21 2022, assign the cost to the executive branch until such time
22 ownership of the liability can be determined and assigned to the
23 correct employer. In situations where the board determines
24 certain employees of employers were hired through a contract
25 between the executive branch and the employer for an employee
26 or employees to provide services to the executive branch, those
27 liabilities shall, effective for employer contributions payable on

1 or after July 1, 2022, be assigned to the executive branch. In
 2 situations where the board determines the community mental
 3 health center was contracted to provide services at a facility
 4 previously operated by the executive branch, the liabilities for
 5 employees providing services at that facility shall be assigned to
 6 the executive branch.

7 c. No appeal shall be submitted by the employer or considered by
 8 the board regarding the assumptions or methodology used by the
 9 actuary to determine a particular employer's percentage of the
 10 system's total actuarially accrued liability or the use of the last
 11 participating employer to assign liabilities to an employer, except
 12 as otherwise provided by this subparagraph.

13 d. The board shall within thirty (30) days following the final
 14 determinations submit to the Public Pension Oversight Board
 15 the list of appeals that were approved, the number of employees
 16 involved, and any costs that will be transferred to the executive
 17 branch effective July 1, 2022.

18 (e) The employer contributions computed under this section shall be determined
 19 using:

- 20 1. The entry age normal cost funding method;
- 21 2. An asset smoothing method that smooths investment gains and losses
 22 over a five (5) year period; and
- 23 3. Other funding methods and assumptions established by the board in
 24 accordance with KRS 61.670.

25 (2) (a) Except as limited by subsection (1)(d)1.d. of this section as it relates to the
 26 Kentucky Employees Retirement System, normal cost contribution rates and
 27 the actuarially accrued liability contribution shall be determined by the board

1 on the basis of the annual actuarial valuation last preceding the July 1 of a new
2 biennium.

3 (b) The board may amend contribution rates as of July 1 of the second year of a
4 biennium for the County Employees Retirement System, if it is determined on
5 the basis of a subsequent actuarial valuation that amended contribution rates
6 are necessary to satisfy the requirements of this section.

7 (c) The board shall not have the authority to amend contribution rates as of July 1
8 of the second year of the biennium for the Kentucky Employees Retirement
9 System and the State Police Retirement System.

10 (3) The system shall advise each employer prior to July 1 of any change in the employer
11 contribution rate. Based on the employer contribution rate, each employer shall
12 include in the budget sufficient funds to pay the employer contributions as
13 determined by the board under this section.

14 (4) All employers, including the General Assembly, shall pay the full actuarially
15 required contributions, as prescribed by this section, to the Kentucky Employees
16 Retirement System and the State Police Retirement System in fiscal years occurring
17 on or after July 1, 2020.

18 ➔Section 2. KRS 61.510 (Effective April 1, 2021) is amended to read as follows:

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

20 (1) "System" means the Kentucky Employees Retirement System created by KRS
21 61.510 to 61.705;

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

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

25 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the
26 General Assembly and any other body, entity, or instrumentality designated by
27 executive order by the Governor, shall be deemed to be a department,

1 notwithstanding whether said body, entity, or instrumentality is an integral part of
2 state government;

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

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

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

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

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

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

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

27 (11) "Prior service" means the number of years and completed months, expressed as a

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

10 (12) "Accumulated contributions" at any time means the sum of all amounts deducted
11 from the compensation of a member and credited to his individual account in the
12 members' account, including employee contributions picked up after August 1,
13 1982, pursuant to KRS 61.560(4), together with interest credited, on such amounts
14 and any other amounts the member shall have contributed thereto, including interest
15 credited thereon. For members who begin participating on or after September 1,
16 2008, "accumulated contributions" shall not include employee contributions that are
17 deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the
18 funds established in KRS 16.510 and 78.520, as prescribed by KRS 61.702(2)(b);

19 (13) "Creditable compensation":

20 (a) Means all salary, wages, tips to the extent the tips are reported for income tax
21 purposes, and fees, including payments for compensatory time, paid to the
22 employee as a result of services performed for the employer or for time during
23 which the member is on paid leave, which are includable on the member's
24 federal form W-2 wage and tax statement under the heading "wages, tips,
25 other compensation," including employee contributions picked up after
26 August 1, 1982, pursuant to KRS 61.560(4). For members of the General
27 Assembly, it shall mean all amounts 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 6.505(4) or 61.560(4);

4 (b) Includes:

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

1 available on or after January 1, 2001, for calendar years on or after
2 January 1, 2001, that are not includable in the gross income of the
3 employee by reason of 26 U.S.C. sec. 132(f)(4); and

4 (c) Excludes:

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

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

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

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

1 of months of service credit during that three (3) years period multiplied by
2 twelve (12). The three (3) years may be fractional and need not be
3 consecutive. If the number of months of service credit during the three (3)
4 year period is less than twenty-four (24), one (1) or more additional fiscal
5 years shall be used. Notwithstanding the provision of KRS 61.565, the
6 funding for this paragraph shall be provided from existing funds of the
7 retirement allowance;

8 (c) For a member who begins participating before September 1, 2008, who is
9 employed in a hazardous position, as provided in KRS 61.592, the creditable
10 compensation of the member during the three (3) fiscal years he or she was
11 paid at the highest average monthly rate divided by the number of months of
12 service credit during that three (3) year period multiplied by twelve (12). The
13 three (3) years may be fractional and need not be consecutive. If the number of
14 months of service credit during the three (3) year period is less than twenty-
15 four (24), one (1) or more additional fiscal years 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, including employee contributions picked up
13 after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the
14 system by the employer and the following equivalents shall be used to convert the
15 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
16 workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour
17 workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months,
18 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 that are adopted by the board. In cases of disability
23 retirement, the options authorized by KRS 61.635 shall be computed by adding ten
24 (10) years to the age of the member, unless the member has chosen the Social
25 Security adjustment option as provided for in KRS 61.635(8), in which case the
26 member's actual age shall be used. For members who began participating in the
27 system prior to January 1, 2014, no disability retirement option shall be less than the

1 same option computed under early retirement;

2 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless
3 otherwise provided in KRS 61.510 to 61.705;

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 benefit limits as established by
7 26 U.S.C. sec. 415;

8 (20) "Officers and employees of the General Assembly" means the occupants of those
9 positions enumerated in KRS 6.150. The term shall also apply to assistants who
10 were employed by the General Assembly for at least one (1) regular legislative
11 session prior to July 13, 2004, who elect to participate in the retirement system, and
12 who serve for at least six (6) regular legislative sessions. Assistants hired after July
13 13, 2004, shall be designated as interim employees;

14 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean
15 all positions that average one hundred (100) or more hours per month determined by
16 using the number of months actually worked within a calendar or fiscal year,
17 including all positions 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 which
20 may recur regularly from year to year, the period of time shall not exceed nine
21 (9) months;

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

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

27 (d) Part-time positions which are positions which may be permanent in duration,

1 but which require less than a calendar or fiscal year average of one hundred
2 (100) hours of work per month, determined by using the number of months
3 actually worked within a calendar or fiscal year, in the performance of duty;
4 and

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

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

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

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

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

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

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

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

1 participant, who is designated to be paid retirement benefits in a qualified domestic
2 relations order;

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

6 (41) "Accumulated account balance" means:

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

9 (b) For members who began participating in the system on or after January 1,
10 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,
11 the combined sum of the member's accumulated contributions and the
12 member's accumulated employer credit;

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

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

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

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

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

3 (45) "Monthly average pay" means the higher of the member's monthly final rate of pay
4 or the average monthly creditable compensation earned by the deceased member
5 during his or her last twelve (12) months of employment;

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 3. KRS 61.522 (Effective until April 1, 2021) is amended to read as
11 follows:

12 Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to the
13 contrary:

14 (1) For purposes of this section:

15 (a) "Active member" means a member who is participating in the system;

16 (b) "Employer" means the governing body of a department, as defined by KRS
17 61.510, or a county as defined by KRS 78.510;

18 (c) "Employer's effective cessation date" means:

19 1. The last day of the system's plan year in the year in which the employer
20 has elected to cease participation in the system, provided the employer
21 has met the requirements of this section and has given the Kentucky
22 Retirement Systems sufficient notice as provided by administrative
23 regulations promulgated by the systems; or

24 2. For Kentucky Employees Retirement System employers making an
25 election to cease participating under the provisions of subsection (8) of
26 this section, it shall be June 30, 2021; and

27 (d) "Inactive member" means a member who is not participating with the system;

- 1 (2) Any employer participating in the Kentucky Employees Retirement System or the
2 County Employees Retirement System on July 1, 2015, except as limited by
3 subsection (6) of this section, may:
- 4 (a) Voluntarily cease participation in its respective retirement system subject to
5 the requirements and restrictions of this section;
- 6 (b) Be required to involuntarily cease participation in the system under the
7 provisions of this section if the board has determined the employer is no
8 longer qualified to participate in a governmental plan or has failed to comply
9 with the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852; or
- 10 (c) If the employer is participating in the Kentucky Employees Retirement
11 System, request an estimate of the cost of voluntarily ceasing participation in
12 the system prior to officially making a request to cease participation. For those
13 Kentucky Employees Retirement System nonhazardous employers who are
14 considering ceasing participating in the system under the provisions of
15 subsection (8) of this section on June 30, 2021, the request for an estimate to
16 voluntarily cease participating must be made prior to December 31, 2019, and
17 the estimate shall be provided to that employer within sixty (60) days of the
18 request, except that no estimate shall be required to be provided prior to
19 January 31, 2020;
- 20 (3) (a) If an employer desires to voluntarily cease participation in the Kentucky
21 Employees Retirement System or the County Employees Retirement System
22 as provided by subsection (2)(a) of this section:
- 23 1. The employer shall adopt a resolution requesting to cease participation
24 in the system and shall submit the resolution to the board for its
25 approval. The board shall not be able to deny a resolution to cease
26 participation in the Kentucky Employees Retirement System for any
27 employer who seeks to voluntarily cease participation in the system as

- 1 provided by subsection (8) of this section;
- 2 2. Except as provided by subsection (8)(d) of this section, the cessation of
3 participation in the system shall apply to all employees of the employer;
- 4 3. The employer shall pay for all administrative costs of an actuarial study
5 to be completed by the Kentucky Retirement Systems' consulting actuary
6 and for any other administrative costs for discontinuing participation in
7 the system as determined by the board and as provided by this section;
- 8 4. The employer shall provide an alternative retirement program for
9 employees who will no longer be covered by the system, which may
10 include a voluntary defined contribution plan but, for Kentucky
11 Employees Retirement System employers with effective cessation dates
12 occurring on or after June 30, 2020, the alternative retirement program
13 shall not include a defined benefit plan which by its nature can have an
14 unfunded liability;
- 15 5. If the alternative retirement program established by the employer meets
16 the qualification requirements under 26 U.S.C. sec. 401(a) or 26 U.S.C.
17 sec. 403(b) and is capable of accepting trustee-to-trustee transfers of
18 both pre-tax and post-tax contributions, employees of the employer
19 ceasing participation may, except for those employees continuing to
20 participate in the system as provided by subsection (8)(d)2. of this
21 section, seek to transfer his or her account balance to the employer's
22 qualified alternate retirement program within sixty (60) days of the
23 employer's effective cessation date. An employee's election to transfer
24 his or her account balance within sixty (60) days of the employer's
25 effective cessation date is an irrevocable waiver of the right to obtain
26 service credits in the system for the time worked for the employer
27 ceasing participation;

- 1 6. The employer shall pay to the system by lump sum or in installments as
2 provided by subsection (8) of this section, if eligible, the full actuarial
3 cost, except as provided by subsection (8)(g)4. of this section, of the
4 benefits accrued by its current and former employees in the system as
5 determined separately for the pension fund and the insurance fund by the
6 actuarial study required by subparagraph 3. of this paragraph. If the
7 employer makes an election for employees to continue to participate in
8 the system as provided by subsection (8)(d)2. of this section, the cost
9 shall also include the present value of future normal costs of those
10 employees who will continue to participate in the system after the
11 employer's effective cessation date. The full actuarial cost shall not
12 include any employee who seeks a transfer of his or her account balance
13 within sixty (60) days of the employer's effective cessation date as
14 provided by subparagraph 5. of this paragraph. The actuarial cost shall
15 be fixed, and the employer shall not be subject to any increases or
16 subsequent adjustments, once the lump sum is paid or the installment
17 payments have commenced; and
- 18 7. Kentucky Employees Retirement System employers ceasing
19 participating under the provisions of subsection (8) of this section who
20 elect to pay their actuarial costs by a lump sum shall make the full lump-
21 sum payment by June 30, 2022, and shall pay interest on the principal
22 amount beginning on July 1, 2021, equal to a rate of five and one-quarter
23 percent (5.25%) per annum for pension costs and at a rate of six and
24 one-quarter percent (6.25%) per annum for retiree health costs until the
25 lump-sum payment is made. If the ceasing employer fails to make the
26 full lump-sum payment by June 30, 2022, the ceasing employer shall
27 make installments as provided by subsection (8)(g) of this section, and

1 the ceasing employer shall have the costs recalculated based upon
2 making installment payments as provided by this section and shall be
3 required to make up any missed installment payments as determined by
4 the system.

5 (b) If the board determines an employer must involuntarily cease participation in
6 the system as provided by subsection (2)(b) of this section:

- 7 1. The cessation of participation in the system shall apply to all employees
8 of the employer;
- 9 2. The employer shall pay for all administrative costs of an actuarial study
10 to be completed by the Kentucky Retirement Systems' consulting actuary
11 and for any other administrative costs for discontinuing participation in
12 the system as determined by the board and as provided by this section;
13 and
- 14 3. The employer shall pay by lump sum to the system the full actuarial cost
15 of the benefits accrued by its current and former employees in the
16 system as determined separately for the pension fund and the insurance
17 fund by the actuarial study required by subparagraph 2. of this
18 paragraph. The actuarial cost shall be fixed, and the employer shall not
19 be subject to any increases or subsequent adjustments, once the lump
20 sum is paid.

21 A Kentucky Employees Retirement System employer who ceases participation
22 in the systems under this paragraph shall not establish or contribute to on
23 behalf of its employees a defined benefit plan which by its nature can have an
24 unfunded liability;

25 (4) Any employee hired on or after the employer's effective cessation date by an
26 employer who has ceased participation in the system as provided by this section
27 shall not, regardless of his or her membership date in the systems administered by

1 Kentucky Retirement Systems, be eligible to participate in the Kentucky Employees
2 Retirement System or the County Employees Retirement System through the
3 employer that ceased participation for the duration of his or her employment with
4 that employer;

5 (5) If an employer has ceased participation in the system as provided by this section:

6 (a) The rights of recipients and the vested rights of inactive members accrued as
7 of the employer's effective cessation date shall not be impaired or reduced in
8 any manner as a result of the employer ceasing participation in the system; and

9 (b) Except as provided by subsection (8)(d)2. of this section, employees of the
10 employer ceasing participation shall accrue benefits through the employer's
11 effective cessation date but shall not accrue any additional benefits in the
12 Kentucky Employees Retirement System or the County Employees Retirement
13 System, including earning years of service credit through the ceased employer,
14 after the employer's effective cessation date for as long as they remain
15 employed by the employer. The day after the employer's effective cessation
16 date, each employee described by this paragraph, except as provided by
17 subsection (8)(d)2. of this section, shall be considered an inactive member
18 with respect to his or her employment with the employer that ceased
19 participation and, subject to the provisions and limitations of KRS 61.510 to
20 61.705 and 78.510 to 78.852, shall:

21 1. Retain his or her accounts with the Kentucky Employees Retirement
22 System or the County Employees Retirement System and have those
23 accounts credited with interest in accordance with KRS 61.510 to
24 61.705 and 78.510 to 78.852;

25 2. Retain his or her vested rights in accordance with paragraph (a) of this
26 subsection; and

27 3. Be eligible to take a refund of his or her accumulated account balance in

1 accordance with KRS 61.625 or any other available distribution if
2 eligible;

3 (6) (a) Kentucky Employees Retirement System employers who are county attorney
4 offices, Commonwealth's attorney offices, local and district health
5 departments governed by KRS Chapter 212, master commissioners, executive
6 branch agencies whose employees are subject to KRS 18A.005 to 18A.200,
7 state-administered retirement systems, state-supported universities and
8 community colleges, property valuation administration offices, or employers
9 in the legislative or judicial branch of Kentucky state government, shall not be
10 eligible to voluntarily discontinue participation in the Kentucky Employees
11 Retirement System, except that:

12 1. Any employer who is a nonstock nonprofit corporation organized under
13 KRS Chapter 273 may voluntarily cease participation; and
14 2. Local and district health departments governed by KRS Chapter 212,
15 state-supported universities and community colleges, and the Kentucky
16 Higher Education Student Loan Corporation may voluntarily cease
17 participation in the Kentucky Employees Retirement System solely
18 under the provisions and requirements of subsection (8) of this section.

19 (b) Only the employers in the County Employees Retirement System who are a
20 nonstock nonprofit corporation organized under KRS Chapter 273 may
21 voluntarily cease participation in the County Employees Retirement System;

22 (7) For purposes of this section, the full actuarial cost shall be determined by the
23 Kentucky Retirement Systems' consulting actuary separately for the pension fund
24 and the insurance fund using the assumptions and methodology established by the
25 system specifically for determining the full actuarial cost of ceasing participation as
26 of the employer's effective cessation date. For purposes of determining the full
27 actuarial cost, the assumed rate of return used to calculate the cost shall be the lesser

1 of the assumed rate of return utilized in the system's most recent actuarial valuation
2 or the yield on a thirty (30) year United States treasury bond as of the employer's
3 effective cessation date, but shall in no case be lower than:

4 (a) Except as provided by paragraphs (b) to (e) of this subsection, the assumed
5 rate of return utilized in the system's most recent actuarial valuation minus
6 three and one-half percent (3.5%);

7 (b) Four and one-half percent (4.5%) for those Kentucky Employees Retirement
8 System employers who voluntarily cease participation under the provisions of
9 subsection (8) of this section who pay the costs of ceasing participation by
10 lump-sum payment by June 30, 2022, and who do not make an election for
11 their employees to continue to participate in the system after the employer's
12 effective cessation date as provided by subsection (8)(d)3. of this section;

13 (c) **Five and-one quarter percent (5.25%) for university and community college**
14 **employers or** three and one-half percent (3.5%) for **all other**~~[those]~~ Kentucky
15 Employees Retirement System employers, who voluntarily cease participation
16 under the provisions of subsection (8) of this section who pay the costs of
17 ceasing participation by lump-sum payment by June 30, 2022, and who do
18 make an election for employees to continue to participate in the system after
19 the employer's effective cessation date as provided by subsection (8)(d)2. of
20 this section;

21 (d) Three and one-half percent (3.5%) for those Kentucky Employees Retirement
22 System employers who voluntarily cease participation under the provisions of
23 subsection (8) of this section who pay the costs of ceasing participation by
24 installment payments and who do not make an election for employees to
25 continue to participate in the system after the employer's effective cessation
26 date as provided by subsection (8)(d)3. of this section; or

27 (e) Three percent (3%) for those Kentucky Employees Retirement System

1 employers who voluntarily cease participation under the provisions of
2 subsection (8) of this section who pay the costs of ceasing participation by
3 installment payments and who do make an election for employees to continue
4 to participate in the system after the employer's effective cessation date as
5 provided by subsection (8)(d)2. of this section;

6 (8) Notwithstanding the provisions of this section, any Kentucky Employees
7 Retirement System employer who is eligible to voluntarily cease participating as
8 provided by subsection (6) of this section may, on or after April 1, 2020, but prior to
9 May 1, 2021, except that in the case of university or community college employers
10 it shall be prior to January 1, 2021, elect to voluntarily cease participating in the
11 systems for its nonhazardous employees by submitting a resolution in accordance
12 with subsection (3)(a)1. of this section. If an employer makes an election to
13 voluntarily cease participation by submitting a resolution as provided by this
14 subsection:

15 (a) The board shall accept any election to cease participation on or before June
16 30, 2021, and the employer's effective cessation date shall be June 30, 2021.
17 Prior to May 1, 2021, or January 1, 2021, in the case of university or
18 community college employers, the employer may rescind a previously
19 submitted election to cease participation;

20 (b) Nonhazardous employees hired on or after the employer's effective cessation
21 date by an employer who has ceased participation in the system as provided by
22 this section shall not, regardless of his or her membership date in the systems
23 administered by Kentucky Retirement Systems, be eligible to participate in the
24 Kentucky Employees Retirement System through the employer that ceased
25 participation for the duration of his or her employment with that ceasing
26 employer;

27 (c) Nonhazardous employees hired prior to the employer's effective cessation

1 date, who began participating in the systems administered by Kentucky
2 Retirement Systems on or after January 1, 2014, and who are participating in
3 the hybrid cash balance plan as provided by KRS 61.597, shall continue to
4 contribute and earn service credit in the systems through the employer's
5 effective cessation date. After the employer's effective cessation date, the
6 employee shall participate in the alternative retirement plan established by the
7 employer as provided by subsection (3)(a)4. of this section. A nonhazardous
8 employee covered by this paragraph who elects to transfer his or her account
9 balance within sixty (60) days of the employer's effective cessation date as
10 provided by subsection (3)(a)5. of this section, shall, notwithstanding KRS
11 61.597, receive a transfer of the employee's accumulated account balance,
12 including the entire accumulated employer credit, regardless of the employee's
13 years of service credit;

- 14 (d) 1. The employer shall, in the resolution submitted in accordance with
15 subsection (3)(a)1. of this section, make an election as to whether or not
16 nonhazardous employees hired prior to the employer's effective
17 cessation date, who began participating in the systems administered by
18 Kentucky Retirement Systems prior to January 1, 2014, who are
19 participating in the systems administered by Kentucky Retirement
20 Systems through the employer, will continue to participate in the system
21 after the employer's effective cessation date.
- 22 2. If the employer makes an election for the employees described by this
23 paragraph to continue participating in the system after the employer's
24 effective cessation date, these employees will continue to contribute and
25 earn service credit in the systems for as long as they remain employed by
26 the employer in a regular full-time position that is eligible to participate
27 in the systems, except in the event the employer fails to make

1 installment payments as provided by KRS 61.675(4). Any costs for the
2 present value of future normal costs of the employees covered by this
3 subparagraph who will contribute and earn service in the system after
4 the employer's effective cessation date shall be included in the cost
5 calculation established by subsection (7) of this section.

6 3. If the employer does not make an election for the employees described
7 by this paragraph to continue participating in the system after the
8 employer's effective cessation date, these employees shall continue to
9 contribute and earn service credit in the systems through the employer's
10 effective cessation date. After the employer's effective cessation date,
11 these employees shall participate in the alternative retirement plan
12 established by the employer as provided by subsection (3)(a)4. of this
13 section;

14 (e) The cost of ceasing participating to an individual employer shall be equal to
15 the cost determined under subsection (7) of this section and shall include the
16 costs of those employees who continue to participate in the system as
17 provided by paragraph (d)2. of this subsection;

18 (f) The employer may pay the full actuarial cost of ceasing participation by lump-
19 sum payment or in installments as provided by paragraph (g) of this
20 subsection;

21 (g) If the employer elects to pay the costs in installment payments, the cost of
22 ceasing participation as provided by this subsection shall be financed by the
23 systems using the following method:

24 1. Annual payments occurring on or after July 1, 2021, shall be a set dollar
25 value and shall be paid in monthly installments. In fiscal year 2021-
26 2022, the set dollar value shall be equal to the higher of the actual
27 contributions paid by the employer in fiscal year 2020-2021 or the

1 annualized average of the creditable compensation reported to the
2 systems by the ceasing employer over the last sixty (60) months
3 occurring prior to July 1, 2019, for which contributions were paid by the
4 ceasing employer, and multiplied by an employer rate of forty-nine and
5 forty-seven one-hundredths percent (49.47%). Annual payments, for
6 fiscal years occurring on or after July 1, 2022, which shall be paid
7 monthly, shall be increased by one and one-half percent (1.5%) annually
8 and shall be paid until the cost as provided by subsection (7) of this
9 section and as adjusted annually by subparagraphs 2. and 3. of this
10 paragraph are paid in full or until an employer as described by
11 subparagraph 4. of this paragraph has paid for thirty (30) years from the
12 effective cessation date;

13 2. Interest shall be assigned to the principal amount annually beginning on
14 July 1, 2021, and for each July 1 thereafter, that is equal to a rate of five
15 and one-quarter percent (5.25%) per annum for pension costs and at a
16 rate of six and one-quarter percent (6.25%) per annum for retiree health
17 costs;

18 3. If an employer is not projected by the systems to pay off the full
19 actuarial costs to cease participation with interest as provided by
20 subparagraph 2. of this paragraph at the conclusion of the thirty (30) year
21 installment period from the employer's effective cessation date, and the
22 employer makes an election for employees to continue to participate in
23 the system after the employer's effective cessation date as provided by
24 paragraph (d)2. of this subsection, then the systems shall adjust the base
25 value for the first annual payments occurring on or after July 1, 2021, in
26 order to keep the maximum period of installments to thirty (30) years;
27 and

1 4. If an employer is not projected by the systems to pay off the full
2 actuarial costs to cease participation with interest as provided by
3 subparagraph 2. of this paragraph at the conclusion of the thirty (30) year
4 installment period from the employer's effective cessation date, and the
5 employer does not make an election for employees to continue to
6 participate in the system after the employer's effective cessation date as
7 provided by paragraph (d)3. of this subsection, the employer shall pay
8 the amount determined by subparagraph 1. of this paragraph for thirty
9 (30) years from the effective cessation date and no additional costs shall
10 be billed to a ceasing employer after the conclusion of the thirty (30)
11 year period nor shall the employer be subject to adjustments under
12 subparagraph 3. of this paragraph. The system may request in future
13 biennial executive branch budgets the additional funding needed on an
14 annual basis to fully pay off the installments at the conclusion of the
15 thirty (30) year period for the employers described by this paragraph,
16 and it is the intent of the General Assembly to pay the additional funding
17 needed by appropriation in the biennial executive branch budget.

18 An employer ceasing participation who is making installment payments as
19 provided by this paragraph may at any time pay off a portion of the remaining
20 balance or the entire remaining balance and shall not be charged any interest
21 for periods beyond the pay-off date for the balance that is paid off;

22 (h) Kentucky Employees Retirement System employers eligible to cease
23 participation under the provisions of this subsection who do not make an
24 election to cease participation in the system prior to May 1, 2021, or prior to
25 January 1, 2021, in the case of university and community college employers,
26 shall be required to pay the full actuarially determined contributions
27 established by KRS 61.565 and 61.702 for fiscal years occurring on or after

- 1 July 1, 2021; and
- 2 (i) Kentucky Employees Retirement System employers who elect to cease
3 participation in the system as provided by this subsection who are currently
4 receiving a distribution of general fund appropriations in the biennial
5 executive branch budget under the provisions of 2018 Ky. Acts ch. 169, Part I,
6 G., 4., (5), 2018 Ky. Acts ch. 169, Part I, G., 5., (2), or 2018 Ky. Acts ch. 169,
7 Part I, G., 9., (2) to help pay employer contributions to the system shall
8 continue to receive the same level of distribution of general fund
9 appropriations to help pay the costs of ceasing participation until such time
10 that the employer's full actuarial costs of ceasing participation are paid off;
- 11 (9) The Kentucky Retirement Systems shall promulgate administrative regulations
12 pursuant to KRS Chapter 13A to administer this section;
- 13 (10) (a) Any employer who voluntarily ceases participation, or who is required to
14 involuntarily cease participation as provided in this section, shall hold the
15 Commonwealth and the Kentucky Retirement Systems, including board
16 members and employees of the Kentucky Retirement Systems, harmless from
17 damages, attorney's fees and costs from legal claims for any cause of action
18 brought by any member or retired member of the departing employer related
19 to the employer's cessation of participation as set forth in this section.
- 20 (b) Any employer who is voluntarily ceasing participation under the provisions of
21 subsection (8) of this section shall be required to pledge any security in any
22 relevant real estate, chattel paper, deposit accounts, documents, goods covered
23 by documents, instruments, investment property, letters of credit rights, and
24 money to the costs of ceasing participation until all costs of ceasing
25 participation are paid in full; and
- 26 (11) Notwithstanding any other provision of statute to the contrary, the provisions of
27 KRS 61.510 to 61.705 and 78.510 to 78.852, and the administrative regulations

1 promulgated thereunder, shall prevail regarding any question of participation in the
2 systems of any employer or any employee of an employer who ceases participation
3 in the Kentucky Employees Retirement System.

4 ➔Section 4. KRS 61.522 (Effective April 1, 2021) is amended to read as follows:
5 Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to the
6 contrary:

7 (1) For purposes of this section:

8 (a) "Active member" means a member who is participating in the system;

9 (b) "Employer" means the governing body of a department, as defined by KRS
10 61.510;

11 (c) "Employer's effective cessation date" means:

12 1. The last day of the system's plan year in the year in which the employer
13 has elected to cease participation in the system, provided the employer
14 has met the requirements of this section and has given the Kentucky
15 Retirement Systems sufficient notice as provided by administrative
16 regulations promulgated by the systems; or

17 2. For Kentucky Employees Retirement System employers making an
18 election to cease participating under the provisions of subsection (8) of
19 this section, it shall be June 30, 2021; and

20 (d) "Inactive member" means a member who is not participating with the system;

21 (2) Any employer participating in the Kentucky Employees Retirement System on July
22 1, 2015, except as limited by subsection (6) of this section, may:

23 (a) Voluntarily cease participation in its respective retirement system subject to
24 the requirements and restrictions of this section;

25 (b) Be required to involuntarily cease participation in the system under the
26 provisions of this section if the board has determined the employer is no
27 longer qualified to participate in a governmental plan or has failed to comply

1 with the provisions of KRS 61.510 to 61.705; or

2 (c) If the employer is participating in the Kentucky Employees Retirement
3 System, request an estimate of the cost of voluntarily ceasing participation in
4 the system prior to officially making a request to cease participation. For those
5 Kentucky Employees Retirement System nonhazardous employers who are
6 considering ceasing participating in the system under the provisions of
7 subsection (8) of this section on June 30, 2021, the request for an estimate to
8 voluntarily cease participating must be made prior to December 31, 2019, and
9 the estimate shall be provided to that employer within sixty (60) days of the
10 request, except that no estimate shall be required to be provided prior to
11 January 31, 2020;

12 (3) (a) If an employer desires to voluntarily cease participation in the Kentucky
13 Employees Retirement System as provided by subsection (2)(a) of this
14 section:

15 1. The employer shall adopt a resolution requesting to cease participation
16 in the system and shall submit the resolution to the board for its
17 approval. The board shall not be able to deny a resolution to cease
18 participation in the Kentucky Employees Retirement System for any
19 employer who seeks to voluntarily cease participation in the system as
20 provided by subsection (8) of this section;

21 2. Except as provided by subsection (8)(d) of this section, the cessation of
22 participation in the system shall apply to all employees of the employer;

23 3. The employer shall pay for all administrative costs of an actuarial study
24 to be completed by the Kentucky Retirement Systems' consulting actuary
25 and for any other administrative costs for discontinuing participation in
26 the system as determined by the board and as provided by this section;

27 4. The employer shall provide an alternative retirement program for

1 employees who will no longer be covered by the system, which may
2 include a voluntary defined contribution plan but, for Kentucky
3 Employees Retirement System employers with effective cessation dates
4 occurring on or after June 30, 2020, the alternative retirement program
5 shall not include a defined benefit plan which by its nature can have an
6 unfunded liability;

7 5. If the alternative retirement program established by the employer meets
8 the qualification requirements under 26 U.S.C. sec. 401(a) or 26 U.S.C.
9 sec. 403(b) and is capable of accepting trustee-to-trustee transfers of
10 both pre-tax and post-tax contributions, employees of the employer
11 ceasing participation may, except for those employees continuing to
12 participate in the system as provided by subsection (8)(d)2. of this
13 section, seek to transfer his or her account balance to the employer's
14 qualified alternate retirement program within sixty (60) days of the
15 employer's effective cessation date. An employee's election to transfer
16 his or her account balance within sixty (60) days of the employer's
17 effective cessation date is an irrevocable waiver of the right to obtain
18 service credits in the system for the time worked for the employer
19 ceasing participation;

20 6. The employer shall pay to the system by lump sum or in installments as
21 provided by subsection (8) of this section, if eligible, the full actuarial
22 cost, except as provided by subsection (8)(g)4. of this section, of the
23 benefits accrued by its current and former employees in the system as
24 determined separately for the pension fund and the insurance fund by the
25 actuarial study required by subparagraph 3. of this paragraph. If the
26 employer makes an election for employees to continue to participate in
27 the system as provided by subsection (8)(d)2. of this section, the cost

1 shall also include the present value of future normal costs of those
2 employees who will continue to participate in the system after the
3 employer's effective cessation date. The full actuarial cost shall not
4 include any employee who seeks a transfer of his or her account balance
5 within sixty (60) days of the employer's effective cessation date as
6 provided by subparagraph 5. of this paragraph. The actuarial cost shall
7 be fixed, and the employer shall not be subject to any increases or
8 subsequent adjustments, once the lump sum is paid or the installment
9 payments have commenced; and

- 10 7. Kentucky Employees Retirement System employers ceasing
11 participating under the provisions of subsection (8) of this section who
12 elect to pay their actuarial costs by a lump sum shall make the full lump-
13 sum payment by June 30, 2022, and shall pay interest on the principal
14 amount beginning on July 1, 2021, equal to a rate of five and one-quarter
15 percent (5.25%) per annum for pension costs and at a rate of six and
16 one-quarter percent (6.25%) per annum for retiree health costs until the
17 lump-sum payment is made. If the ceasing employer fails to make the
18 full lump-sum payment by June 30, 2022, the ceasing employer shall
19 make installments as provided by subsection (8)(g) of this section, and
20 the ceasing employer shall have the costs recalculated based upon
21 making installment payments as provided by this section and shall be
22 required to make up any missed installment payments as determined by
23 the system.

- 24 (b) If the board determines an employer must involuntarily cease participation in
25 the system as provided by subsection (2)(b) of this section:

- 26 1. The cessation of participation in the system shall apply to all employees
27 of the employer;

- 1 2. The employer shall pay for all administrative costs of an actuarial study
2 to be completed by the Kentucky Retirement Systems' consulting actuary
3 and for any other administrative costs for discontinuing participation in
4 the system as determined by the board and as provided by this section;
5 and
- 6 3. The employer shall pay by lump sum to the system the full actuarial cost
7 of the benefits accrued by its current and former employees in the
8 system as determined separately for the pension fund and the insurance
9 fund by the actuarial study required by subparagraph 2. of this
10 paragraph. The actuarial cost shall be fixed, and the employer shall not
11 be subject to any increases or subsequent adjustments, once the lump
12 sum is paid.

13 A Kentucky Employees Retirement System employer who ceases participation
14 in the systems under this paragraph shall not establish or contribute to on
15 behalf of its employees a defined benefit plan which by its nature can have an
16 unfunded liability;

17 (4) Any employee hired on or after the employer's effective cessation date by an
18 employer who has ceased participation in the system as provided by this section
19 shall not, regardless of his or her membership date in the systems administered by
20 Kentucky Retirement Systems, be eligible to participate in the Kentucky Employees
21 Retirement System through the employer that ceased participation for the duration
22 of his or her employment with that employer;

23 (5) If an employer has ceased participation in the system as provided by this section:
24 (a) The rights of recipients and the vested rights of inactive members accrued as
25 of the employer's effective cessation date shall not be impaired or reduced in
26 any manner as a result of the employer ceasing participation in the system; and
27 (b) Except as provided by subsection (8)(d)2. of this section, employees of the

1 employer ceasing participation shall accrue benefits through the employer's
2 effective cessation date but shall not accrue any additional benefits in the
3 Kentucky Employees Retirement System, including earning years of service
4 credit through the ceased employer, after the employer's effective cessation
5 date for as long as they remain employed by the employer. The day after the
6 employer's effective cessation date, each employee described by this
7 paragraph, except as provided by subsection (8)(d)2. of this section, shall be
8 considered an inactive member with respect to his or her employment with the
9 employer that ceased participation and, subject to the provisions and
10 limitations of KRS 61.510 to 61.705, shall:

- 11 1. Retain his or her accounts with the Kentucky Employees Retirement
12 System and have those accounts credited with interest in accordance
13 with KRS 61.510 to 61.705;
- 14 2. Retain his or her vested rights in accordance with paragraph (a) of this
15 subsection; and
- 16 3. Be eligible to take a refund of his or her accumulated account balance in
17 accordance with KRS 61.625 or any other available distribution if
18 eligible;

19 (6) Kentucky Employees Retirement System employers who are county attorney
20 offices, Commonwealth's attorney offices, local and district health departments
21 governed by KRS Chapter 212, master commissioners, executive branch agencies
22 whose employees are subject to KRS 18A.005 to 18A.200, state-administered
23 retirement systems, state-supported universities and community colleges, property
24 valuation administration offices, or employers in the legislative or judicial branch of
25 Kentucky state government, shall not be eligible to voluntarily discontinue
26 participation in the Kentucky Employees Retirement System, except that:

- 27 (a) Any employer who is a nonstock nonprofit corporation organized under KRS

- 1 Chapter 273 may voluntarily cease participation; and
- 2 (b) Local and district health departments governed by KRS Chapter 212, state-
- 3 supported universities and community colleges, and the Kentucky Higher
- 4 Education Student Loan Corporation may voluntarily cease participation in
- 5 the Kentucky Employees Retirement System solely under the provisions and
- 6 requirements of subsection (8) of this section;
- 7 (7) For purposes of this section, the full actuarial cost shall be determined by the
- 8 Kentucky Retirement Systems' consulting actuary separately for the pension fund
- 9 and the insurance fund using the assumptions and methodology established by the
- 10 system specifically for determining the full actuarial cost of ceasing participation as
- 11 of the employer's effective cessation date. For purposes of determining the full
- 12 actuarial cost, the assumed rate of return used to calculate the cost shall be the lesser
- 13 of the assumed rate of return utilized in the system's most recent actuarial valuation
- 14 or the yield on a thirty (30) year United States treasury bond as of the employer's
- 15 effective cessation date, but shall in no case be lower than:
- 16 (a) Except as provided by paragraphs (b) to (e) of this subsection, the assumed
- 17 rate of return utilized in the system's most recent actuarial valuation minus
- 18 three and one-half percent (3.5%);
- 19 (b) Four and one-half percent (4.5%) for those Kentucky Employees Retirement
- 20 System employers who voluntarily cease participation under the provisions of
- 21 subsection (8) of this section who pay the costs of ceasing participation by
- 22 lump-sum payment by June 30, 2022, and who do not make an election for
- 23 their employees to continue to participate in the system after the employer's
- 24 effective cessation date as provided by subsection (8)(d)3. of this section;
- 25 (c) **Five and one-quarter percent (5.25%) for university and community college**
- 26 **employers or** three and one-half percent (3.5%) for **all other**~~[those]~~ Kentucky
- 27 Employees Retirement System employers who voluntarily cease participation

1 under the provisions of subsection (8) of this section who pay the costs of
2 ceasing participation by lump-sum payment by June 30, 2022, and who do
3 make an election for employees to continue to participate in the system after
4 the employer's effective cessation date as provided by subsection (8)(d)2. of
5 this section;

6 (d) Three and one-half percent (3.5%) for those Kentucky Employees Retirement
7 System employers who voluntarily cease participation under the provisions of
8 subsection (8) of this section who pay the costs of ceasing participation by
9 installment payments and who do not make an election for employees to
10 continue to participate in the system after the employer's effective cessation
11 date as provided by subsection (8)(d)3. of this section; or

12 (e) Three percent (3%) for those Kentucky Employees Retirement System
13 employers who voluntarily cease participation under the provisions of
14 subsection (8) of this section who pay the costs of ceasing participation by
15 installment payments and who do make an election for employees to continue
16 to participate in the system after the employer's effective cessation date as
17 provided by subsection (8)(d)2. of this section;

18 (8) Notwithstanding the provisions of this section, any Kentucky Employees
19 Retirement System employer who is eligible to voluntarily cease participating as
20 provided by subsection (6) of this section may, on or after April 1, 2020, but prior to
21 May 1, 2021, except in the case of university or community college employers it
22 shall be prior to January 1, 2021, elect to voluntarily cease participating in the
23 systems for its nonhazardous employees by submitting a resolution in accordance
24 with subsection (3)(a)1. of this section. If an employer makes an election to
25 voluntarily cease participation by submitting a resolution as provided by this
26 subsection:

27 (a) The board shall accept any election to cease participation on or before June

1 30, 2021, and the employer's effective cessation date shall be June 30, 2021.
2 Prior to May 1, 2021, or January 1, 2021, in the case of university or
3 community college employers, the employer may rescind a previously
4 submitted election to cease participation;

5 (b) Nonhazardous employees hired on or after the employer's effective cessation
6 date by an employer who has ceased participation in the system as provided by
7 this section shall not, regardless of his or her membership date in the systems
8 administered by Kentucky Retirement Systems, be eligible to participate in the
9 Kentucky Employees Retirement System through the employer that ceased
10 participation for the duration of his or her employment with that ceasing
11 employer;

12 (c) Nonhazardous employees hired prior to the employer's effective cessation
13 date, who began participating in the systems administered by Kentucky
14 Retirement Systems on or after January 1, 2014, and who are participating in
15 the hybrid cash balance plan as provided by KRS 61.597, shall continue to
16 contribute and earn service credit in the systems through the employer's
17 effective cessation date. After the employer's effective cessation date, the
18 employee shall participate in the alternative retirement plan established by the
19 employer as provided by subsection (3)(a)4. of this section. A nonhazardous
20 employee covered by this paragraph who elects to transfer his or her account
21 balance within sixty (60) days of the employer's effective cessation date as
22 provided by subsection (3)(a)5. of this section, shall, notwithstanding KRS
23 61.597, receive a transfer of the employee's accumulated account balance,
24 including the entire accumulated employer credit, regardless of the employee's
25 years of service credit;

26 (d) 1. The employer shall, in the resolution submitted in accordance with
27 subsection (3)(a)1. of this section, make an election as to whether or not

1 nonhazardous employees hired prior to the employer's effective
2 cessation date, who began participating in the systems administered by
3 Kentucky Retirement Systems prior to January 1, 2014, who are
4 participating in the systems administered by Kentucky Retirement
5 Systems through the employer, will continue to participate in the system
6 after the employer's effective cessation date.

7 2. If the employer makes an election for the employees described by this
8 paragraph to continue participating in the system after the employer's
9 effective cessation date, these employees will continue to contribute and
10 earn service credit in the systems for as long as they remain employed by
11 the employer in a regular full-time position that is eligible to participate
12 in the systems, except in the event the employer fails to make
13 installment payments as provided by KRS 61.675(4). Any costs for the
14 present value of future normal costs of the employees covered by this
15 subparagraph who will contribute and earn service in the system after
16 the employer's effective cessation date shall be included in the cost
17 calculation established by subsection (7) of this section.

18 3. If the employer does not make an election for the employees described
19 by this paragraph to continue participating in the system after the
20 employer's effective cessation date, these employees shall continue to
21 contribute and earn service credit in the systems through the employer's
22 effective cessation date. After the employer's effective cessation date,
23 these employees shall participate in the alternative retirement plan
24 established by the employer as provided by subsection (3)(a)4. of this
25 section;

26 (e) The cost of ceasing participating to an individual employer shall be equal to
27 the cost determined under subsection (7) of this section and shall include the

1 costs of those employees who continue to participate in the system as
2 provided by paragraph (d)2. of this subsection;

3 (f) The employer may pay the full actuarial cost of ceasing participation by lump-
4 sum payment or in installments as provided by paragraph (g) of this
5 subsection;

6 (g) If the employer elects to pay the costs in installment payments, the cost of
7 ceasing participation as provided by this subsection shall be financed by the
8 systems using the following method:

9 1. Annual payments occurring on or after July 1, 2021, shall be a set dollar
10 value and shall be paid in monthly installments. In fiscal year 2021-
11 2022, the set dollar value shall be equal to the higher of the actual
12 contributions paid by the employer in fiscal year 2020-2021 or the
13 annualized average of the creditable compensation reported to the
14 systems by the ceasing employer over the last sixty (60) months
15 occurring prior to July 1, 2019, for which contributions were paid by the
16 ceasing employer, and multiplied by an employer rate of forty-nine and
17 forty-seven one-hundredths percent (49.47%). Annual payments, for
18 fiscal years occurring on or after July 1, 2022, which shall be paid
19 monthly, shall be increased by one and one-half percent (1.5%) annually
20 and shall be paid until the cost as provided by subsection (7) of this
21 section and as adjusted annually by subparagraphs 2. and 3. of this
22 paragraph are paid in full or until an employer as described by
23 subparagraph 4. of this paragraph has paid for thirty (30) years from the
24 effective cessation date;

25 2. Interest shall be assigned to the principal amount annually beginning on
26 July 1, 2021, and for each July 1 thereafter, that is equal to a rate of five
27 and one-quarter percent (5.25%) per annum for pension costs and at a

- 1 rate of six and one-quarter percent (6.25%) per annum for retiree health
2 costs;
- 3 3. If an employer is not projected by the systems to pay off the full
4 actuarial costs to cease participation with interest as provided by
5 subparagraph 2. of this paragraph at the conclusion of the thirty (30) year
6 installment period from the employer's effective cessation date, and the
7 employer makes an election for employees to continue to participate in
8 the system after the employer's effective cessation date as provided by
9 paragraph (d)2. of this subsection, then the systems shall adjust the base
10 value for the first annual payments occurring on or after July 1, 2021, in
11 order to keep the maximum period of installments to thirty (30) years;
12 and
- 13 4. If an employer is not projected by the systems to pay off the full
14 actuarial costs to cease participation with interest as provided by
15 subparagraph 2. of this paragraph at the conclusion of the thirty (30) year
16 installment period from the employer's effective cessation date, and the
17 employer does not make an election for employees to continue to
18 participate in the system after the employer's effective cessation date as
19 provided by paragraph (d)3. of this subsection, the employer shall pay
20 the amount determined by subparagraph 1. of this paragraph for thirty
21 (30) years from the effective cessation date and no additional costs shall
22 be billed to a ceasing employer after the conclusion of the thirty (30)
23 year period nor shall the employer be subject to adjustments under
24 subparagraph 3. of this paragraph. The system may request in future
25 biennial executive branch budgets the additional funding needed on an
26 annual basis to fully pay off the installments at the conclusion of the
27 thirty (30) year period for the employers described by this paragraph,

1 and it is the intent of the General Assembly to pay the additional funding
2 needed by appropriation in the biennial executive branch budget.

3 An employer ceasing participation who is making installment payments as
4 provided by this paragraph may at any time pay off a portion of the remaining
5 balance or the entire remaining balance and shall not be charged any interest
6 for periods beyond the pay-off date for the balance that is paid off;

7 (h) Kentucky Employees Retirement System employers eligible to cease
8 participation under the provisions of this subsection who do not make an
9 election to cease participation in the system prior to May 1, 2021, or prior to
10 January 1, 2021, in the case of university and community college employers,
11 shall be required to pay the full actuarially determined contributions
12 established by KRS 61.565 and 61.702 for fiscal years occurring on or after
13 July 1, 2021; and

14 (i) Kentucky Employees Retirement System employers who elect to cease
15 participation in the system as provided by this subsection who are currently
16 receiving a distribution of general fund appropriations in the biennial
17 executive branch budget under the provisions of 2018 Ky. Acts ch. 169, Part I,
18 G., 4., (5), 2018 Ky. Acts ch. 169, Part I, G., 5., (2), or 2018 Ky. Acts ch. 169,
19 Part I, G., 9., (2) to help pay employer contributions to the system shall
20 continue to receive the same level of distribution of general fund
21 appropriations to help pay the costs of ceasing participation until such time
22 that the employer's full actuarial costs of ceasing participation are paid off;

23 (9) The Kentucky Retirement Systems shall promulgate administrative regulations
24 pursuant to KRS Chapter 13A to administer this section;

25 (10) (a) Any employer who voluntarily ceases participation, or who is required to
26 involuntarily cease participation as provided in this section, shall hold the
27 Commonwealth and the Kentucky Retirement Systems, including board

1 members and employees of the Kentucky Retirement Systems, harmless from
2 damages, attorney's fees and costs from legal claims for any cause of action
3 brought by any member or retired member of the departing employer related
4 to the employer's cessation of participation as set forth in this section.

5 (b) Any employer who is voluntarily ceasing participation under the provisions of
6 subsection (8) of this section shall be required to pledge any security in any
7 relevant real estate, chattel paper, deposit accounts, documents, goods covered
8 by documents, instruments, investment property, letters of credit rights, and
9 money to the costs of ceasing participation until all costs of ceasing
10 participation are paid in full; and

11 (11) Notwithstanding any other provision of statute to the contrary, the provisions of
12 KRS 61.510 to 61.705, and the administrative regulations promulgated thereunder,
13 shall prevail regarding any question of participation in the systems of any employer
14 or any employee of an employer who ceases participation in the Kentucky
15 Employees Retirement System.

16 ➔Section 5. KRS 61.675 is amended to read as follows:

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

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

1 system.

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

- 6 1. The employer and employee contributions required under KRS 61.560,
7 61.565, and 61.702;
- 8 2. The employer contributions and reimbursements for retiree health
9 insurance premiums required under KRS 61.637; and
- 10 3. A record of all contributions to the system on the forms prescribed by
11 the board.

12 (b) If the agency fails to file all contributions and reports on or before the tenth
13 day of the month following the period being reported, interest on the
14 delinquent contributions at the actuarial rate adopted by the board
15 compounded annually, but not less than one thousand dollars (\$1,000), may be
16 added to the amount due the system.

17 (4) If *a nonhazardous employer in the Kentucky Employees Retirement System is*
18 *delinquent in paying the employer contributions required by Section 1 of this Act*
19 *for a period of ninety (90) days or more for those contributions payable on or*
20 *after July 1, 2021, or if* an employer who voluntarily ceases participation in the
21 Kentucky Employees Retirement System as provided by KRS 61.522(8) elects to
22 pay off the costs of ceasing participation by installment payments as provided by
23 KRS 61.522(8)(g) and subsequently is delinquent in making installment payments
24 for *a period of* ninety (90) days or more:

25 (a) Employees of the employer *who are participating in the system or* who are
26 continuing to participate in the system after the employer's effective cessation
27 date as provided by KRS 61.522(8)(d)2. shall not accrue any additional

1 service credit or benefits in the system through the employer or ceasing
 2 employer until such time as the employer has satisfied the required employer
 3 contributions or installment payments to the system;

4 (b) The board may file an action in the Franklin Circuit Court to collect any
 5 delinquent employer contributions or installment payments owed by the
 6 employer and to attach so much of the general fund appropriations of the
 7 delinquent employer as is necessary to achieve full compliance with the
 8 provisions of Section 1 of this Act or KRS 61.522(8); and

9 (c) The systems shall notify the Finance and Administration Cabinet, and the
 10 Finance and Administration Cabinet may withhold or intercept from the
 11 employer or ceasing employer a sufficient portion of any appropriated state
 12 funds not yet disbursed to the employer or ceasing employer to satisfy the
 13 required employer contributions or installment payments to the system.

14 ➔SECTION 6. A NEW SECTION OF KRS 212.010 TO 212.275 IS CREATED
 15 TO READ AS FOLLOWS:

16 *(1) If a district health department established pursuant to this chapter ceases to*
 17 *operate or has a county or counties withdraw from the district health department,*
 18 *the Department for Public Health in the Cabinet for Health and Family Services*
 19 *shall, if the district health department participated in the Kentucky Employees*
 20 *Retirement System, certify the following to the Kentucky Retirement Systems:*

21 *(a) 1. In the case of a district health department that ceases to operate, the*
 22 *proportion of taxable property of each county of the ceasing district*
 23 *health department as determined by respective county assessments and*
 24 *in accordance with revenues generated pursuant to authority under*
 25 *this chapter; or*

26 *2. In the case of a county or counties that withdraw from a district health*
 27 *department, the proportion of taxable property of the withdrawing*

1 county as determined by respective county's assessment and in
 2 accordance with revenues generated pursuant to authority under this
 3 chapter; and

4 (b) The local board of health, local government agency, or entity responsible
 5 for paying retirement costs of the county that is no longer participating with
 6 the current or ceased district health department.

7 (2) The Cabinet for Health and Family Services may promulgate administrative
 8 regulations to carry out this section.

9 ➔SECTION 7. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO
 10 READ AS FOLLOWS:

11 Except as otherwise provided by this section, the following shall apply to nonhazardous
 12 employers in the Kentucky Employees Retirement System, who contributed to the
 13 system in fiscal year 2019-2020 except in the case of county attorneys, who are local
 14 and district health departments governed by KRS Chapter 212, state supported
 15 universities and community colleges, county attorneys, mental health/mental
 16 retardation boards, domestic violence shelters, rape crisis centers, child advocacy
 17 centers, or any other agency that is eligible to voluntarily cease participation in the
 18 Kentucky Employees Retirement System as provided by KRS 61.522:

19 (1) (a) Each employer, except for county attorneys, shall report to the Authority for
 20 each fiscal year occurring on or after July 1, 2021, the following persons
 21 for which no employer contributions were paid by the employer to the
 22 system during the fiscal year for services provided to the employer:

23 1. Persons employed as an independent contractor, a leased employee, or
 24 via any other employment arrangement as determined by the
 25 Authority, who if employed directly by the employer would qualify as a
 26 regular full-time employee in accordance with KRS 61.510(21); and

27 2. Persons employed directly by the employer who meet the definition of

1 *a regular full-time employee in accordance with KRS 61.510(21), who*
2 *are not being reported to the system in accordance with KRS 61.675;*

3 *(b) The reporting required by this paragraph shall:*

4 *1. Be reported in a format, detail, and frequency as determined solely by*
5 *the Authority;*

6 *2. Include persons provided services to the employer as an independent*
7 *contractor, a leased employee, or via any other employment*
8 *arrangement as determined by the Authority, and those services have*
9 *historically been provided or are currently being provided by*
10 *employees eligible to participate in the system through the employer;*

11 *3. Exclude:*

12 *a. Contracts for professional services that have not historically*
13 *been provided by employees of the employer; and*

14 *b. Any contracts entered into prior to January 1, 2021, with a*
15 *person or company to provide services as an independent*
16 *contractor, a leased employee, or other employment arrangement*
17 *as determined by the Authority, but only for the duration of the*
18 *original contract, excluding any renewal periods, and only for*
19 *those services and persons included in the original contract;*

20 *(c) In any case of doubt, the Authority shall determine whether data should be*
21 *reported on a specific person providing services to the employer and the*
22 *Authority may by promulgation of administrative regulation provide*
23 *guidance on which persons should be included for reporting purposes; and*

24 *(d) If KRS determines a person who was not reported to the system under this*
25 *subsection should be reported to the system as a regular full-time employee,*
26 *the system shall require the employer covered by this section to report the*
27 *employee on or after July 1, 2021, and pay employer contributions*

1 prospectively but shall not, notwithstanding any other statute to the
2 contrary, bill the employer for any contributions or penalties for any service
3 occurring prior to July 1, 2021 for that specific employee;

4 (2) (a) Notwithstanding any other provision of statute to the contrary, the
5 Authority shall have full power, including any authority under KRS 61.685,
6 to audit an employer who is subject to the provisions of this section to
7 ensure compliance and accuracy of the data required to be reported by the
8 employer in accordance with this section.

9 (b) If the Authority determines an employer has knowingly falsified data
10 required to be reported under this section:

11 1. The Authority shall indicate in the annual report submitted in
12 accordance with subsection (3) of this section that the employer has
13 knowingly falsified data and shall include a brief summary of the
14 reasons for the Authority's determination;

15 2. The employer shall no longer be eligible to receive any future
16 appropriations or subsidies from the state to assist in paying employer
17 contributions to the system; and

18 3. The employer shall be required to pay back to the state any
19 appropriations or subsidies provided in the biennial executive branch
20 budget that were used to directly assist the employer in paying
21 employer contributions to the system on or after July 1, 2021.

22 (c) If an employer fails to submit the information required by this section or
23 does not comply with requests from the Authority regarding subsections (1)
24 and (2) of this section to verify or audit the employer's information:

25 1. The Authority shall indicate in the annual report submitted in
26 accordance with subsection (3) of this section that the employer is
27 noncompliant with the Authority's requests and shall include a brief

- 1 summary of the reasons for the Authority's determination; and
- 2 2. The employer may lose eligibility to receive any future appropriations
- 3 or subsidies from the state to assist in paying employer contributions
- 4 to the system;
- 5 (3) The Authority shall within sixty (60) days following the close of each fiscal year
- 6 occurring on or after July 1, 2021, determine and report the following to the state
- 7 budget director's office and the Legislative Research Commission for each
- 8 employer subject to this section, except for county attorneys:
- 9 (a) The number of regular full-time employees of the employer who were
- 10 reported to the system during the prior fiscal year for which contributions
- 11 were reported in accordance with KRS 61.675;
- 12 (b) The number of persons providing services to the employer under subsection
- 13 (1) of this section during the prior fiscal year who were not reported to the
- 14 system and for which no contributions were reported;
- 15 (c) A percentage computed by dividing the number of employees reported in
- 16 paragraph (a) of this subsection by the combined sum of the number of
- 17 employees and persons reported in paragraph (a) and (b) of this subsection
- 18 and multiplying by one hundred; and
- 19 (d) The information required by subsection (2) of this section for any employer
- 20 who has been determined by the Authority to have knowingly falsified data
- 21 or is noncompliant in submitting the data required by this section to the
- 22 Authority;
- 23 (4) It is the intent of the General Assembly in fiscal years occurring on or after July
- 24 1, 2021, to provide appropriations for county attorneys for retirement costs in the
- 25 Kentucky Employees Retirement System that is equal to the difference between
- 26 the dollar value of actual contributions paid by the employer in fiscal year 2019-
- 27 2020 to the system and the dollar value of contributions projected to be paid by

1 the employer to the system in fiscal year 2021-2022;

2 (5) For fiscal year 2021-2022, it is the intent of the General Assembly to provide a
3 subsidy towards the retirement costs of employers covered by this section, except
4 for county attorneys who are provided a subsidy by subsection (4) of this section,
5 that is equal to the difference between the dollar value of actual contributions
6 paid by the employer to the system in fiscal year 2019-2020 and the dollar value
7 of contributions projected to be paid by the employer to the system in fiscal year
8 2021-2022;

9 (6) It is the intent of the General Assembly that for fiscal years occurring on or after
10 July 1, 2022, to:

11 (a) Provide a subsidy towards the retirement costs of each employer subject to
12 this section, except for county attorneys who are provided a subsidy by
13 subsection (4) of this section, who has made efforts to increase or maintain
14 the number of employees reported to the system. Specifically, it is the intent
15 of the General Assembly to provide subsidies only to those employers who
16 have a percentage of employees reported to the system as specified by
17 subsection (3)(c) of this section, equal to or greater than:

18 1. Sixty percent (60%) for any subsidies provided in fiscal years
19 occurring on or after July 1, 2022, to June 30, 2024; and

20 2. Eighty percent (80%) for any subsidies provided in fiscal years
21 occurring on or after July 1, 2024.

22 Eligibility for a subsidy provided in each fiscal year of the budget shall be
23 based upon the most recent percentage of employees reported by the
24 Authority;

25 (b) For those employers eligible for a subsidy under paragraph (a) of this
26 subsection, provide a subsidy that is equal to the dollar value of subsidy
27 provided to the employer in fiscal year 2021-2022 multiplied by the

1 following percentage:

2 1. For local and district health departments governed by KRS Chapter
3 212, state supported universities and community colleges, and any
4 other employer subject to this section that has taxing or fee authority:

5 a. Ninety percent (90%) in fiscal year 2022-2023;

6 b. Eighty percent (80%) in fiscal year 2023-2024;

7 c. Seventy percent (70%) in fiscal year 2024-2025;

8 d. Sixty percent (60%) in fiscal year 2025-2026; and

9 e. Fifty percent (50%) in fiscal years occurring on or after July 1,
10 2026; and

11 2. For any other employer who does not have taxing or fee authority:

12 a. Ninety percent (90%) in fiscal years 2022-2024; and

13 b. Seventy-five percent (75%) in fiscal years occurring on or after
14 July 1, 2024;

15 (c) The subsidy provided by this subsection shall be adjusted to reflect the
16 assignment of liabilities based upon the appeal process in subsection
17 (1)(d)5. of Section 1 of this Act.

18 (7) The Council on State Governments (CSG), the Kentucky Educational Television
19 (KET) Foundation, Association of Commonwealth's Attorneys, the Kentucky
20 High School Athletic Association (KHSAA), the Municipal Power Association of
21 Kentucky, the Kentucky Office of Bar Admissions, the Nursing Home
22 Ombudsman, the Kentucky Association of Regional Programs (KARP), and the
23 Kentucky Association of Sexual Assault Programs, are, notwithstanding the
24 provisions of subsections (1) to (6) of this section, exempt from the reporting
25 requirements and from receiving a subsidy to assist in paying employer
26 contribution rates; and

27 (8) The provisions of this section shall not obligate the General Assembly to provide

1 *any specific level of subsidy to assist in paying employer contributions of any*
2 *employer covered by this section, and employers shall be responsible for any and*
3 *all future retirement contributions payable by the employer regardless of the*
4 *actual amount of subsidy included in future executive branch budgets.*

5 ➔Section 8. The Kentucky Retirement Systems board of trustees shall amend the
6 actuarial valuation for the Kentucky Employees Retirement System in accordance with
7 the provisions of Section 1 of this Act so that employer costs can be determined for fiscal
8 year 2021-2022 and shall provide the information to the Governor and General Assembly
9 for purposes of the fiscal year 2021-2022 budgeting process.

10 ➔Section 9. For any district health department that has ceased to exist prior to the
11 effective date of this Act, Kentucky Retirement Systems shall have the authority to assign
12 liabilities and employer costs to the county health departments which comprised that
13 ceasing district health department in order to carry out the provisions of Section 1 of this
14 Act.

15 ➔Section 10. Whereas ensuring the financial health of the Kentucky Employees
16 Retirement System is critical to the Commonwealth of Kentucky and to members,
17 retirees, and employers of the system, an emergency is declared to exist, and this Act
18 takes effect upon its passage and approval by the Governor or upon its otherwise
19 becoming law.