

# Teachers' Retirement System of the State of Kentucky



## LAW BOOK 2023 Edition

Unofficial text of statutes as required by KRS 161.250

# **TRS Law Book**

## **2023 Edition**

### **Unofficial text**

Under KRS 161.250, TRS is required to publish a law book. These are unofficial copies of statutes. The official law prevails in the event of a conflict with this publication.

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**161.220 Definitions for KRS 161.220 to 161.716 and 161.990.**

As used in KRS 161.220 to 161.716 and 161.990:

- (1) “Retirement system” means the arrangement provided for in KRS 161.220 to 161.716 and 161.990 for payment of allowances to members;
- (2) “Retirement allowance” means the amount annually payable during the course of his or her natural life to a member who has been retired by reason of service;
- (3) “Disability allowance” means the amount annually payable to a member retired by reason of disability;
- (4) “Member” means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, employees participating in the system pursuant to KRS 196.167(3)(b)1., and any full-time teacher or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:
  - (a) Local boards of education and public charter schools if the public charter school satisfies the criteria set by the Internal Revenue Service to participate in a governmental retirement plan;
  - (b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;
  - (c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;
  - (d) Other public education agencies as created by the General Assembly and those members of the administrative staff of the Teachers’ Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;
  - (e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;
  - (f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers’ Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the

respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

- (g) Employees of the Council on Postsecondary Education who were employees of the Department for Adult Education and Literacy and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600;
- (h) The Office of Career and Technical Education;
- (i) The Office of Vocational Rehabilitation;
- (j) The Kentucky Educational Collaborative for State Agency Children;
- (k) The Governor's Scholars Program;
- (l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member, except that any person who becomes a member on or after January 1, 2022, and subsequently draws a monthly lifetime retirement allowance, shall upon reemployment after retirement not earn a second retirement account;
- (m) Employees of the former Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the former Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;
- (n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance, and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included



in the former Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620;

- (o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the former Cabinet for Workforce Development and the commissioners of the former Department for Adult Education and Literacy and the former Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000;
  - (p) Employees of the Kentucky Department of Education only who are graduates of a four (4) year college or university, notwithstanding a substitution clause within a job classification, and who are serving in a professional job classification as defined by the department;
  - (q) The Governor's School for Entrepreneurs Program;
  - (r) Employees of the Office of Adult Education within the Department of Workforce Development in the Education and Labor Cabinet who were employees of the Council on Postsecondary Education, Kentucky Adult Education Program and who were members of the Kentucky Teachers' Retirement System at the time the Program was transferred to the cabinet pursuant to Executive Orders 2019-0026 and 2019-0027; and
  - (s) Employees of the Education Professional Standards Board who were members of the Kentucky Teachers' Retirement System at the time the employees were transferred to the Kentucky Department of Education pursuant to Executive Order 2020-590;
- (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he or she, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);
- (6) "New teacher" means any member not a present teacher;
- (7) "Prior service" means the number of years during which the member

was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

- (8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;
- (9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up member contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up member contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for individuals who become members prior to January 1, 2022, who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement for individuals who become members prior to January 1, 2022, or within the five (5) years immediately prior to the date of the member's retirement for individuals who become members on or after January 1, 2022, the amount of salary to be included for each of those three (3) years or five (5) years, as applicable, for the purpose of calculating the final average salary shall be limited to the lesser of:
  - (a) The member's actual salary; or
  - (b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years or five (5) years, as applicable, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for members of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes. The board of trustees may promulgate an administrative regulation in accordance with KRS Chapter 13A to establish a methodology for measuring the limitation so that the combined increases in salary for each of the last three (3) full years of salary prior to retirement shall not exceed the total permissible percentage increase received by other members of the employer for the same three (3) year period.

For individuals who became members of the retirement system prior to July 1, 2021, this limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other

members, and this increase was accompanied by a corresponding change in position or in length of employment. The board of trustees may promulgate an administrative regulation in accordance with KRS Chapter 13A to provide definitions for a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave if the individual becomes a member before July 1, 2008, or accrued sick leave which is authorized by statute and which shall, for individuals subject to KRS 161.155(10) who became nonuniversity members of the system prior to January 1, 2022, be included as part of a retiring member's annual compensation for the member's last year of active service;

- (10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation. For an individual who becomes a member on or after July 1, 2008, annual compensation shall not include lump-sum payments upon termination of employment for accumulated annual or compensatory leave;
- (11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;
- (12) "Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are

provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section;

- (13) "Regular interest" means:
- (a) For an individual who becomes a member prior to July 1, 2008, interest at three percent (3%) per annum;:
  - (b) For an individual who becomes a member on or after July 1, 2008, but prior to January 1, 2022, interest at two and one-half percent (2.5%) per annum for purposes of crediting interest to the teacher savings account or any other contributions made by the employee that are refundable to the employee upon termination of employment; and
  - (c) For an individual who becomes a member on or after January 1, 2022, the rolling five (5) year yield on a thirty (30) year United States Treasury bond as of the end of May prior to the most recently completed fiscal year, except that:
    1. Once the member has at least sixty (60) months of service in the system it shall mean interest at two and one-half percent (2.5%) per annum for purposes of crediting interest to employee contributions in the foundational benefit component or any other contributions made by the employee to the foundational benefit component that are refundable to the employee upon termination of employment; and
    2. The board shall have the authority to adjust the regular interest rate for individuals who become members on or after January 1, 2022, in accordance with KRS 161.633 and 161.634;
- (14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up member contributions as described in KRS 161.540(2), plus accrued regular interest;
- (15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;
- (16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;
- (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The retirement plan year is concurrent with this fiscal year. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;
- (18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;
- (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-

half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

- (20) “Active contributing member” means a member currently making contributions to the Teachers’ Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up member contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;
- (21) “Full-time” means employment in a position that requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year basis;
- (22) “Full actuarial cost,” when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member’s benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400;
- (23) “Last annual compensation” means the annual compensation, as defined by subsection (10) of this section and as limited by subsection (9) of this section, earned by the member during the most recent period of contributing service, either consecutive or nonconsecutive, that is sufficient to provide the member with one (1) full year of service credit in the Kentucky Teachers’ Retirement System, and which compensation is used in calculating the member’s initial retirement allowance, excluding bonuses, retirement incentives, payments for accumulated sick leave, annual, personal, and compensatory leave, and any other lump-sum payment. For an individual who becomes a member on or after July 1, 2008, payments for annual or compensatory leave shall not be included in determining the member’s last annual compensation;
- (24) “Participant” means a member, as defined by subsection (4) of this section, or an annuitant, as defined by subsection (15) of this section;
- (25) “Qualified domestic relations order” means any judgment, decree, or order, including approval of a property settlement agreement, that:
  - (a) Is issued by a court or administrative agency; and
  - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (26) “Alternate payee” means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (27) “University member” means an individual who becomes a member through employment with an employer specified in subsection (4)(b) and (n) of this section;
- (28) “Nonuniversity member” means an individual who becomes a member through employment with an employer specified under subsection (4) of this section, except for those members employed by an employer

- specified in subsection (4)(b) and (n) of this section;
- (29) “Accumulated employer contribution” means the employer contribution deposited to a member’s account through the supplemental benefit component and regular interest credited on such amounts as provided by KRS 161.635 for nonuniversity members and KRS 161.636 for university members;
- (30) “Accumulated account balance” means:
- (a) For members who began participating in the system prior to January 1, 2022, the member’s accumulated contributions; or
  - (b) For members who began participating in the system on or after January 1, 2022, the combined sum of the member’s accumulated contributions and the member’s accumulated employer contributions;
- (31) “Foundational benefit component” means the benefits provided by KRS 161.220 to 161.716 to individuals who become members on or after January 1, 2022, except for the supplemental benefit component and retiree health benefits set forth in KRS 161.675; and
- (32) “Supplemental benefit component” means:
- (a) The benefit established pursuant to KRS 161.635 for individuals who become nonuniversity members on or after January 1, 2022; or
  - (b) The benefit established pursuant to KRS 161.636 for individuals who become university members on or after January 1, 2022.

**161.230 Retirement system – Purpose – Name.**

The Teachers’ Retirement System is established as of July 1, 1940, for the purpose of providing retirement allowances for teachers, their beneficiaries, and survivors under the provisions of KRS 161.155 and 161.220 to 161.714. The Teachers’ Retirement System of the State of Kentucky shall be an independent agency and instrumentality of the Commonwealth and this status shall only be amended or changed by the General Assembly. It shall have the powers and the privileges of a corporation and shall be known as the “Teachers’ Retirement System of the State of Kentucky.” Its business shall be transacted, its funds invested, and its cash and securities held in that name, or in the name of its nominee provided that its nominee is authorized by board of trustees’ resolution solely for the purpose of facilitating the transfer of securities. The board of trustees may designate a nominee as provided in KRS 286.3-225; or it may name as nominee a partnership composed of selected trustees and employees of the system, and formed for the sole purpose of holding legal or registered title of such securities, and for the transfer of securities in accordance with directions of the board of trustees.

**161.250 Board of trustees to control retirement – Membership – Appeals – Trustee education program – Public disclosure of meeting notices and agendas and Annual Comprehensive Financial Report – Administrative regulations for authorized benefit improvements.**

- (1) (a) The general administration and management of the retirement system, and the responsibility for its proper operation and for making effective provisions of KRS 161.155 and 161.220 to 161.714 are vested in a board of trustees to be known as the “Board of Trustees of the Teachers’ Retirement System of the State of Kentucky.”
- (b) The board of trustees shall consist of the following:
  1. The chief state school officer;
  2. The State Treasurer;
  3. Two (2) trustees, appointed by the Governor of the Commonwealth, subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment. These two (2) trustees shall have investment experience. For purposes of this subparagraph, a trustee with “investment experience” means an individual who does not have a conflict of interest, as provided by KRS 161.460, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:
    - a. A portfolio manager acting in a fiduciary capacity;
    - b. A professional securities analyst or investment consultant;
    - c. A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity;
    - d. A chartered financial analyst in good standing as determined by the CFA Institute; or
    - e. A university professor, teaching investment-related studies; and
  4. Seven (7) other trustees elected as provided in KRS 161.260. Four (4) of the elective trustees shall be members of the retirement system, to be known as teacher trustees, two (2) shall be persons who are not members of the teaching profession, to be known as the lay trustees, and one (1) shall be an annuitant of the retirement system to be known as the retired teacher trustee. One (1) teacher trustee shall be elected annually for a four-year term. The retired teacher trustee shall be elected every four (4) years. The chief state school officer and the State Treasurer are considered ex officio members of the board of trustees and may designate in writing a person to represent them at board meetings.
- (c) 1. Elective trustees shall not serve more than three (3) consecutive four (4) year terms. An elective trustee who has served three (3) consecutive terms may be elected

- again after an absence of four (4) years from the board of trustees.
2. The term limits established by subparagraph 1. of this paragraph shall apply to elective trustees serving on or after July 1, 2012, and all terms of office served prior to July 1, 2012, shall be used to determine if the elective trustee has exceeded the term limits provided by subparagraph 1 of this paragraph.
- (d)
1. Each appointed trustee shall serve a term of four (4) years. An appointed trustee shall not serve more than three (3) consecutive four (4) year terms. An appointed trustee who has served three (3) consecutive terms may be appointed again after an absence of four (4) years from the board of trustees.
  2. Any vacancy that occurs in an appointed position shall be filled in the same manner that provides for the selection of the trustee; however, any vacancy shall be filled only for the duration of the unexpired term.
- (2) A member, retired member, or designated beneficiary may appeal the retirement system's decisions that materially affect the amount of service retirement allowance, amount of service credit, eligibility for service retirement, or eligibility for survivorship benefits to which that member, retired member, or designated beneficiary claims to be entitled. All appeals must be in writing and filed with the retirement system within thirty (30) days of the claimant's first notice of the retirement system's decision. For purposes of this section, notice shall be complete and effective upon the date of mailing of the retirement system's decision to the claimant at the claimant's last known address. Failure by the claimant to file a written appeal with the retirement system within the thirty (30) day period shall result in the decision of the retirement system becoming permanent with the effect of a final and unappealable order. Appeals may include a request for an administrative hearing which shall be conducted in accordance with the provisions of KRS Chapter 13B. The board of trustees may establish an appeals committee whose members shall be appointed by the chairperson and who shall have the authority to act upon the report and recommendation of the hearing officer by issuing a final order on behalf of the full board of trustees. A member, retired member, or designated beneficiary who has filed a timely, written appeal of a decision of the retirement system may, following the administrative hearing and issuance of the final order by the board of trustees, appeal the final order of the board of trustees to the Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.
- (3) The board of trustees shall establish a formal trustee education program for all trustees of the board. The program shall include but not be limited to the following:



- (a) A required orientation program for all new trustees to the board. The orientation program shall include training on:
    1. Benefits and benefits administration;
    2. Investment concepts, policies, and current composition and administration of retirement system investments;
    3. Laws, bylaws, and administrative regulations pertaining to the retirement system and to fiduciaries; and
    4. Actuarial and financial concepts pertaining to the retirement system.

If a trustee fails to complete the orientation program within one (1) year from the beginning of his or her first term on the board, the retirement system shall withhold payment of the per diem and travel expenses due to the board member under KRS 161.290 until the trustee has completed the orientation program;
  - (b) Annual required training for trustees on the administration, benefits, financing, and investing of the retirement system. If a trustee fails to complete the annual required training during the calendar or fiscal year, the retirement system shall withhold payment of the per diem and travel expenses due to the board member under KRS 161.290 until the board member has met the annual training requirements; and
  - (c) The retirement system shall incorporate by reference in an administrative regulation, pursuant to KRS 13A.2251, the trustee education program.
- (4) In order to improve public transparency regarding the administration of the system, the board of trustees shall adopt a best practices model by posting the following information to the retirement system's website and shall make available to the public:
- (a) Meeting notices and agendas for all meetings of the board. Notices and agendas shall be posted to the retirement system's website at least seventy-two (72) hours in advance of the board or committee meetings, except in the case of special or emergency meetings as provided by KRS 61.823;
  - (b) The Annual Comprehensive Financial Report with the information as follows:
    1. A general overview and update on the retirement system by the executive secretary;
    2. A listing of the board of trustees;
    3. A listing of key staff;
    4. An organizational chart;
    5. Financial information, including a statement of plan net assets, a statement of changes in plan net assets, an actuarial value of assets, a schedule of investments, a statement of funded status and funding progress, and other supporting data;
    6. Investment information, including a general overview, a

- list of the retirement system's professional consultants, a total net return on retirement system investments over a historical period, an investment summary, contracted investment management expenses, transaction commissions, and a schedule of investments;
7. The annual actuarial valuation report on the pension benefit and the medical insurance benefit; and
  8. A general statistical section, including information on contributions, benefit payouts, and retirement system demographic data;
- (c) All external audits;
  - (d) All board minutes or other materials that require adoption or ratification by the board of trustees. The items listed in this paragraph shall be posted within seventy-two (72) hours of adoption or ratification of the board;
  - (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;
  - (f) The retirement system's summary plan description;
  - (g) The retirement system's law book;
  - (h) A listing of the members of the board of trustees and membership on each committee established by the board, including any investment committees;
  - (i) All investment holdings in aggregate, fees, and commissions for each fund administered by the board, which shall be updated on a quarterly basis for fiscal years beginning on or after July 1, 2017. The system shall request from all managers, partnerships, and any other available sources all information regarding fees and commissions and shall, based on the requested information received:
    1. Disclose the dollar value of fees or commissions paid to each individual manager or partnership;
    2. Disclose the dollar value of any profit sharing, carried interest, or any other partnership incentive arrangements, partnership agreements, or any other partnership expenses received by or paid to each manager or partnership; and
    3. As applicable, report each fee or commission by manager or partnership consistent with standards established by the Institutional Limited Partners Association (ILPA).

In addition to the requirements of this paragraph, the system shall also disclose the name and address of all individual underlying managers or partners in any fund of funds in which system assets are invested;
  - (j) An update of net of fees investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each fund, for each asset class administered by

the board, and for each manager. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2017;

- (k) All contracts or offering documents for services, goods, or property purchased or utilized by the system;
  - (l) A searchable database of the system's expenditures and a listing of each individual employed by the system along with the employee's salary or wages. In lieu of posting the information required by this paragraph to the system's website, the system may provide the information through a website established by the executive branch to inform the public about executive branch agency expenditures and public employee salaries and wages; and
  - (m) All proxy vote reports as provided by KRS 161.430(8).
- (5) Notwithstanding the requirements of subsection (4) of this section, the retirement system shall not be required to furnish information that is protected under KRS 161.585, exempt under KRS 61.878, or that, if disclosed, would compromise the retirement system's ability to competitively invest in real estate or other asset classes, except that no provision of this section or KRS 61.878 shall exclude disclosure and review of all contracts, including investment contracts, by the board, the Auditor of Public Accounts, and the Government Contract Review Committee established pursuant to KRS 45A.705 or the disclosure of investment fees and commissions as provided by this section. If any public record contains material which is not excepted under this section, the system shall separate the excepted material by removal, segregation, or redaction, and make the nonexcepted material available for examination.
- (6) For any benefit improvements the General Assembly has authorized the board of trustees to establish under KRS 161.220 to 161.716 and that require formal adoption by the board, the board shall establish the benefits by promulgation of administrative regulations in accordance with KRS Chapter 13A.

### **161.260 Election of members of board of trustees.**

An election shall be held on or before June 1 of each year to elect trustees. The trustees to be elected each year shall depend upon the respective terms of the trustees elected under Acts 1938 (1st Ex. Sess.), Ch. 1, paragraph 7 and Acts 1940, Ch. 192, paragraph 7a, and KRS 161.250. Each trustee shall assume office on July 1 following his election and shall serve for a term of four (4) years. The elections shall be conducted by ballot under the supervision of the chief state school officer. Each person who is a contributing member as a result of full-time employment in a position covered by the retirement system or who is an annuitant of the retirement system shall have the right to vote. Each person who is a contributing member as a result of part-time or substitute employment in a position covered by the retirement system shall be permitted

to vote as provided in KRS 161.612. Nominations for trustees shall be made by a nominating committee consisting of one (1) committee member selected by the retirement system membership of each of the districts of the Kentucky Education Association, and one (1) committee member to be selected by retired teachers, on a statewide basis, from among the annuitants of the retirement system. No person may be a member of the nominating committee who is not a member of the system, except for the committee member to be selected from among the annuitants of the system. The president of the Kentucky Education Association shall preside over the meeting of the nominating committee and the secretary of the Teachers' Retirement System shall act as secretary to the committee. Two (2) persons shall be nominated by the nominating committee for each position to be filled. All expenses of the election shall be paid by the board of trustees out of its general expense fund.

**161.270 Vacancies, how filled.**

Vacancies occurring during the terms of the elective members shall be filled by the remaining members of the board of trustees by election for the unexpired terms.

**161.280 Oath of board members.**

Each member of the board of trustees shall, within ten (10) days after his appointment or election, take an oath that he will support the Constitution of the United States and the Constitution of Kentucky, that he will diligently and honestly administer the affairs of the board, and that he will not knowingly violate or willingly permit to be violated any provisions of the law applicable to the retirement system. The oath of office shall be subscribed to by the member making it and certified to by the officer before whom it is taken, and shall be immediately filed in the office of the Secretary of State.

**161.290 Meetings, compensation, and expenses of board members.**

- (1) The board of trustees shall meet on the third Monday during the months of March, June, September, and December of each year. Special meetings may be called by the chairperson upon giving adequate notice to each member of the board of trustees. The business to be transacted at special meetings shall be specified in the notice of the meeting.
- (2) The members of the board of trustees shall serve without compensation, except that elective trustees shall receive ninety dollars (\$90) for each day the board is in session and all elected trustees shall be reimbursed from the expense fund for all necessary expenses they incur through service to the board without limitation of the provisions of KRS Chapters 44 and 45.
- (3) The board of trustees may authorize a per diem, not to exceed ninety dollars (\$90) per day, for trustees representing the system on committees or commissions established by statute or for service as an official representative of the board of trustees.

- (4) The school district or other public agency or entity of the state which employs a teacher trustee who is required to attend regular or special meetings of the board of trustees, represent the system on committees or commissions, or serve as an official representative of the board of trustees shall provide the teacher trustee with special leave with pay and pay the compensation for a substitute for the teacher trustee during periods of absence upon certification by the teacher trustee that the trustee is performing these duties for the system.

### **161.300 Quorum.**

Seven (7) members of the board of trustees shall constitute a quorum. Each trustee shall be entitled to one (1) vote. Four (4) votes or a majority of the trustees present whichever is the larger number shall be necessary for a decision by the trustees at any meeting of the board.

### **161.310 Administrative regulations – Rules, regulations, and policies of participating employers to conform to chapter – Retirement incentives.**

- (1) The board of trustees shall from time to time promulgate administrative regulations for the administration of the funds of the retirement system and for the transaction of business.
- (2) All rules, regulations, or policies adopted by school districts, universities, or other employers participating in the Teachers' Retirement System that pertain to the retirement system shall conform to this chapter.
- (3) All rules, regulations, or policies adopted, or decisions made, by school districts, universities, or other employers participating in the Teachers' Retirement System that pertain to retirement incentives for members as defined in KRS 161.220(4) shall contain provisions for the school district, university, or other employer to make full payment to the retirement system at the time a member retires for all actuarial obligations that occur to the retirement system as a result of retirement incentive payments with no resulting financial obligation for the state. Any retirement incentive provided by the employer to a member on the condition that the member terminate employment with the employer shall be deemed a retirement incentive for purposes of this subsection if the member retires within six (6) months following the member's termination in employment. Retirement incentives include remuneration of any kind and any tangible or intangible benefit provided to or on behalf of the member before, after, or at the member's date of retirement. Retirement incentives do not include lump-sum payments for accumulated sick, annual, or compensatory leave that are generally available to members upon termination of employment. Notwithstanding any provision of KRS 161.220 to 161.716 to the contrary, retirement incentives shall not be included in a member's final average salary or annual compensation as defined under KRS 161.220(9) and (10), respectively. This subsection shall not

apply to retirement incentive plans adopted by local boards of education prior to December 31, 1997, and to those employees of local school districts who retired on or before July 1, 1998.

**161.320 Record of proceedings – Annual report.**

The board of trustees shall keep a record of all its proceedings which shall be open to public inspection. It shall publish on or before January 1 of each year a report giving an account of the operation of the system, showing the fiscal transactions of the system for the preceding year and the amount of the accumulated cash and securities of the system, and containing the last balance sheet showing the financial condition of the system.

**161.330 Cost of administration, how paid – Office space.**

The cost of administration of the retirement system shall be paid out of the expense fund established for that purpose by the board of trustees. The board of trustees shall be responsible for the approval and administration of the expense fund budget, subject to the limitations imposed by KRS 161.420(1). Expenses for the operation of the retirement system shall be in such amounts as the board of trustees approves. The board of trustees is authorized to purchase or lease suitable office quarters for the operation of the retirement system.

**161.340 Officers of board – Personnel of system – Contracting for services and commodities – Liability insurance – Leave balances.**

- (1) (a) The board of trustees shall elect from its membership a chairperson and a vice chairperson on an annual basis as prescribed by the administrative regulations of the board of trustees. The chairperson shall not serve more than four (4) consecutive years as chairperson or vice chairperson of the board. The vice chairperson shall not serve more than four (4) consecutive years as chairperson or vice chairperson of the board. A trustee who has served four (4) consecutive years as chairperson or vice chairperson of the board may be elected chairperson or vice chairperson of the board after an absence of two (2) years from the position.
  - (b) The board of trustees shall employ an executive secretary by means of a contract not to exceed a period of four (4) years and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A, 45A, 56, and KRS 64.640. The executive secretary shall be the chief administrative officer of the board. The executive secretary, at the time of employment, shall be a graduate of a four (4) year college or university, and shall possess qualifications as the board of trustees may require. The executive secretary shall not have held by appointment or election an elective public office within the five (5) year period next preceding the date of employment.
- (2) The board shall employ clerical, administrative, and other personnel as

are required to transact the business of the retirement system. The compensation of all persons employed by the board shall be paid at the rates and in amounts as the board approves. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and the control of determining and maintaining an adequate complement of employees in the system shall be under the exclusive jurisdiction of the board of trustees.

- (3) (a) Except as provided by KRS 161.430(7), the board shall contract for actuarial, auditing, legal, medical, investment counseling, and other professional or technical services, insurance, and commodities, as are required to carry out the obligations of the board in accordance with the provisions of this chapter, subject to KRS Chapters 45, 45A, 56, and 57 but without the limitations provided by KRS Chapters 12 and 13B.
- (b) The board shall provide for legal counsel and other legal services as may be required in defense of trustees, officers, and employees of the system who may be subjected to civil action arising from the performance of their legally assigned duties if counsel and services are not provided by the Attorney General. The hourly rate of reimbursement for any contract for legal services under this paragraph shall not exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.
- (4) The board of trustees may expend funds from the expense fund as necessary to insure the trustees, employees, and officials of the Teachers' Retirement System against any liability arising out of an act or omission committed in the scope and course of performing legal duties. Insurance may be obtained or provided by contracting with an insurance carrier, by self-insurance, by indemnification, or by any combination thereof.
- (5) Notwithstanding any statute to the contrary, employees shall not be considered legislative agents as defined in KRS 6.611.
- (6) Notwithstanding any statute to the contrary, the executive branch of government shall accept from the Teachers' Retirement System all accrued annual and sick leave balances and service credits of employees leaving the Teachers' Retirement System and accepting appointments within the executive branch. These leave balances shall be attested to by the Teachers' Retirement System and shall not exceed those limits established by statute or administrative regulation for employees of the executive branch.

**161.370 Treasurer, auditor, and legal adviser of board – Annual audit of Teachers' Retirement System.**

- (1) The State Treasurer, the Auditor of Public Accounts, and the Attorney General shall be treasurer, auditor, and legal adviser, respectively, of the board of trustees, and shall be liable upon their official bonds for the faithful performance of such duties. They shall serve without compensation except as provided by subsection (2)(b) of this section. When the board of trustees deems it for the best interests of the retirement system, it may employ attorneys and pay reasonable fees for the services rendered.
- (2)
  - (a) The board shall annually procure an audit of the Teachers' Retirement System. The audit shall be conducted in accordance with generally accepted auditing standards. Except as provided by paragraph (b) of this subsection, the board may select an independent certified public accountant to perform the audit and pay reasonable fees for the services rendered. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion.
  - (b) At least once every five (5) years, the Auditor of Public Accounts shall perform the audit described by this subsection, and the system shall reimburse the Auditor of Public Accounts for all costs of the audit. The Auditor of Public Accounts shall determine which fiscal year during the five (5) year period the audit prescribed by this paragraph will be completed.
- (3) The board shall make copies of the audit required by this section available for examination by any active contributing member or annuitant in the office of the executive secretary of the Teachers' Retirement System and in such other places as may be necessary to make the audit available to all active contributing members and annuitants. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

**161.380 Duties of treasurer – Custodian of securities.**

- (1) The State Treasurer is the custodian of all cash funds of the retirement system. He shall honor and pay all vouchers drawn on the retirement funds. The Treasurer shall honor and pay all vouchers drawn on the retirement funds for payment of securities purchased upon order of the board. All payments from the several funds of the retirement system shall be made only upon vouchers signed by the executive secretary, the chairman of the board of trustees of the retirement system, or persons delegated in writing by the board.
- (2) The board of trustees shall appoint a custodian or custodians of the securities acquired under authority of KRS 161.430 and the custodian or custodians shall be responsible for the safekeeping of all securities placed in his custody. The custodian shall collect dividends, interests,



and payments on principal as they become due, and deposit such funds with the State Treasurer for credit to the guarantee fund of the system. The custodian shall, upon delivery of the securities to him, make payment for same as authorized by the board of trustees. When securities are sold by the board of trustees, the custodian shall deliver such securities to the purchaser upon receipt of payment from said purchaser.

- (3) The board of trustees may require such surety from the custodian as they deem necessary for the protection of securities held by such custodian.

#### **161.390 Actuarial data to be kept.**

The board of trustees shall keep in convenient form the data necessary for the actuarial valuation of the various funds of the retirement system and for determining the administrative costs of the system.

#### **161.400 Duties of actuary – Actuarial investigations, valuations, and analyses.**

- (1) (a) The board of trustees shall designate as actuary a competent person who shall be a fellow of the Conference of Consulting Actuaries or a member of the American Academy of Actuaries. He or she shall be the technical adviser of the board on matters regarding the operation of the funds of the system and shall perform such other duties as are required in connection therewith.
- (b)
  1. At least once in each two (2) year period, the board shall cause an actuarial investigation to be made of all of the economic experience under the retirement system, including but not limited to the inflation rate, investment return, and payroll growth assumptions, relative to the economic assumptions and funding methods previously adopted by the board.
  2. At least once in each five (5) year period, the actuary shall make an actuarial investigation into all of the demographic actuarial assumptions used, including but not limited to mortality tables, withdrawal rates, and retirement rate assumptions, relative to the demographic actuarial assumptions previously adopted by the board.
  3. Each actuarial investigation shall include at a minimum a summary of the changes in actuarial assumptions and funding methods recommended in the investigation and the projected impact of the recommended changes on funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers over a thirty (30) year period.
- (c) At least annually the actuary shall make an actuarial valuation of

the retirement system. The valuation shall include:

1. A description of the actuarial assumptions used, and the assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience;
  2. A description of any funding methods utilized or required by state law in the development of the actuarial valuation results;
  3. A description of any changes in actuarial assumptions and methods from the previous year's actuarial valuation;
  4. The actuarially recommended contribution rate for employers for the upcoming budget periods;
  5. A thirty (30) year projection of the funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers based upon the actuarial assumptions, funding methods, and experience of the system as of the valuation date; and
  6. A sensitivity analysis that evaluates the impact of changes in system assumptions, including but not limited to the investment return assumption, payroll growth assumption, and medical inflation rates, on employer contribution rates, funding levels, and unfunded liabilities.
  7. On the basis of the results of the valuations, the board of trustees shall make necessary changes in the retirement system within the provisions of law and shall establish the contributions payable by employers and the state specified in KRS 161.550, including changes prescribed by KRS 161.633, 161.634, 161.635, and 161.636, as applicable.
- (d) For any change in actuarial assumptions, funding methods, retiree health insurance premiums and subsidies, or any other decisions made by the board that impact system liabilities and actuarially recommended contribution rates for employers and that are not made in conjunction with the actuarial investigations required by paragraph (b) of this subsection, an actuarial analysis shall be completed showing the projected impact of the changes on funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers over a thirty (30) year period.
- (2) Actuarial factors and actuarial cost factor tables in use by the retirement system for all purposes shall be determined by the actuary of the retirement system and approved by the board of trustees by resolution and implemented without the necessity of an administrative regulation.
  - (3) A copy of each actuarial investigation, actuarial analysis, and valuation required by subsection (1) of this section shall be forwarded electronically to the Legislative Research Commission no later than ten (10) days after receipt by the board, and the Legislative Research

Commission shall distribute the information received to the committee staff and co-chairs of any committee that has jurisdiction over the Teachers' Retirement System. The actuarial valuation required by subsection (1)(c) of this section shall be submitted no later than November 15 following the close of the fiscal year.

**161.420 Funds and accounts of retirement system.**

All of the assets of the retirement system are for the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system. The board of trustees shall be the trustee of all funds of the system and shall have full power and responsibility for administering the funds. All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

- (1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four percent (4%) of the dividends and interest income earned from investments during the immediate past fiscal year shall be set aside into the expense fund or expended for the administration of the retirement system;
- (2) (a) The teachers' savings fund shall consist of:
  1. The contributions paid by members of the retirement system into this fund and regular interest assigned by the board of trustees from the guarantee fund; and
  2. For individuals who become members of the Teachers' Retirement System on or after January 1, 2022, who are participating in the supplemental benefit component, the employer contributions paid into the supplemental benefit component and regular interest on those contributions as provided by KRS 161.635 and 161.636 that is assigned by the board of trustees from the guarantee fund.

For individuals who become members on or after January 1, 2022, the system shall account for funds in the teachers' savings fund attributable to the nonuniversity members foundational benefit component, nonuniversity members supplemental benefit component, university members foundational benefit component, and university members supplemental benefit component.

- (b) A member may not borrow any amount of his or her accumulated account balance in the teachers' savings fund, or any regular interest earned thereon.
- (c) The accumulated contributions or accumulated account balance of a member which are returned to him or her upon his or her withdrawal or paid to his or her estate or designated beneficiary

in the event of his or her death shall be paid from the teachers' savings fund.

- (d) Any accumulated account balance in the teachers' savings fund forfeited by a failure of a teacher or his or her estate to claim these contributions shall be transferred from this fund to the guarantee fund.
  - (e) Except as provided by paragraph (f) of this subsection, the accumulated account balance of a member in the teachers' savings fund shall be transferred from this fund to the allowance reserve fund in the event of retirement by reason of service or disability.
  - (f) For an individual who becomes a member of the Teachers' Retirement System on or after January 1, 2022, who is participating in the supplemental benefit component who elects to annuitize his or her accumulated account balance in the supplemental benefit component as prescribed by KRS 161.635(5)(a) or (b) or 161.636(5)(a) or (b), the member's accumulated account balance in the supplemental benefit component shall be transferred from this fund to the allowance reserve fund;
- (3) The state accumulation fund shall consist of funds paid by employers and appropriated by the state for the purpose of providing annuities and survivor benefits, including any sums appropriated for meeting unfunded liabilities, together with regular interest assigned by the board of trustees from the guarantee fund. At the time of retirement or death of a member there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance and provide for benefits under KRS 161.520 and 161.525. There shall also be transferred from the state accumulation fund to the teachers' savings fund, the amount needed to fund the mandatory employer contributions required by KRS 161.635 and 161.636;
- (4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances and benefits provided under KRS 161.520 and 161.525. In addition, whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund and the state accumulation fund, the amounts as may be held in those funds for the account or benefit of the member;
- (5) (a) The medical insurance fund, which is an account established according to 26 U.S.C. sec. 401(h), shall consist of amounts accumulated for the purpose of providing benefits as provided in KRS 161.675, including:

1. The member contributions required by KRS 161.540(1)(a)2., (b)2., (c)3., and (d)3.;
  2. The employer contribution required by KRS 161.550(1)(a)2., (b)2., (c)2., (d)3., and (e)3. and (3);
  3. State appropriations as set forth in KRS 161.550(2), unless the contributions are made to a trust fund under 26 U.S.C. sec. 115 established by the board for this purpose; and
  4. Interest income from the investments of the fund from contributions received by the fund under subparagraphs 1. to 3. of this paragraph, and from income earned on those investments.
- (b) All claims for benefits under KRS 161.675 shall be paid from this fund or from any trust fund under 26 U.S.C. sec. 115 as established by the board for this purpose. Any amounts deposited to the fund that are not required to meet current costs shall be maintained as a reserve in the fund for these benefits. The board shall take the necessary and appropriate steps, including promulgating administrative regulations and procedures to maintain the status of the medical insurance fund as an account subject to 26 U.S.C. sec. 401(h);
- (6) The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, to finance operating expenses directly related to investment management services, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest, and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept and expend without limitation in a manner either expressed by the donor or deemed to be in the best interest of the membership, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to these funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund;
- (7) The school employee annuity fund shall consist of those funds voluntarily contributed under the provisions of Section 403(b) of the Internal Revenue Code by a member of the Teachers' Retirement System with accounts that existed on or after July 1, 1996. The contributions shall not be picked up as provided in KRS 161.540(2). Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant

- to KRS Chapter 13A to manage this program;
- (8) The supplemental retirement benefit fund shall consist of those funds contributed by the employer for the purpose of constituting a qualified government excess benefit plan as described in Section 415 of the Internal Revenue Code for accounts that existed on or after July 1, 1996. The board of trustees shall promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program;
  - (9) The life insurance benefit fund shall consist of amounts accumulated for the purpose of providing benefits provided under KRS 161.655. The board of trustees may allocate to this fund a percentage of the employer and state contributions as provided under KRS 161.550. The allocation to this fund will be in an amount that the actuary determines necessary to fund the obligation of providing the benefits provided under KRS 161.655; and
  - (10) The stabilization reserve account shall consist of amounts in two (2) separate accounts:
    - (a) One (1) that includes employer contributions as provided by KRS 161.550(1)(d)1. and 2. that exceeds the combined actuarially required employer contribution for the foundational benefit component and the mandatory employer contribution to the supplemental benefit component as provided by KRS 161.633 and 161.635 for those individuals who become nonuniversity members on or after January 1, 2022; and
    - (b) One (1) that includes employer contributions as provided by KRS 161.550(1)(e)1. and 2. that exceeds the combined actuarially required employer contribution for the foundational benefit component and the mandatory employer contribution to the supplemental benefit component as provided by KRS 161.634 and 161.636 for those individuals who become university members on or after January 1, 2022.

Notwithstanding any other statute to the contrary, funds in these accounts shall only be used to pay off the unfunded liability of the pension and life insurance funds.

**161.430 Investment of funds – Standards of conduct – Investment procurement policy – Proxy voting guidelines.**

- (1) (a) The board of trustees shall be the trustee of the funds of the retirement system and shall have full power and responsibility for the purchase, sale, exchange, transfer, or other disposition of the investments and moneys of the retirement system. The board shall, by administrative regulation, establish investment policies and procedures to carry out their responsibilities.
- (b) 1. The board shall contract with experienced competent investment managers to invest and manage assets of the system. The board may also employ qualified investment staff to advise it on investment matters and to invest and

manage assets of the system not to exceed fifty percent (50%) of the system's assets. The board may contract with one (1) or more general investment consultants, as well as specialized investment consultants, to advise it on investment matters.

2. All internal investment staff and investment consultants shall adhere to the Code of Ethics and Standards of Professional Conduct, and all board trustees shall adhere to the Code of Conduct for Members of a Pension Scheme Governing Body, promulgated by the CFA Institute. Investment managers shall comply with the federal Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder and shall comply with all other applicable federal securities statutes and related rules and regulations that apply to investment managers.
3. No investment manager shall manage more than forty percent (40%) of the funds of the retirement system.

(c) The board may appoint an investment committee to act for the board in all matters of investment, subject to the approval of the board of trustees. The board of trustees, in keeping with their responsibilities as trustees and wherever consistent with their fiduciary responsibilities, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth. Toward this end, the board shall develop procedures for informing the business community of the potential for in-state investments by the retirement fund, accepting and evaluating applications for the in-state investment of funds, and working with members of the business community in executing in-state investments which are consistent with the board's fiduciary responsibilities. The board shall include in the criteria it uses to evaluate in-state investments their potential for creating new employment opportunities and adding to the total job pool in Kentucky. The board may cooperate with the board of trustees of Kentucky Retirement Systems in developing its program and procedures, and shall report to the Legislative Research Commission annually on its progress in placing in-state investments. The first report shall be submitted by October 1, 1991, and subsequent reports shall be submitted by October 1 of each year thereafter. The report shall include the number of applications for in-state investment received, the nature of the investments proposed, the amount requested, the amount invested, and the percentage of applications which resulted in investments.

- (2) (a) For the purposes of this subsection:

1. “Solely in the interest of the members and beneficiaries” shall be determined using only pecuniary factors and shall not include any purpose to further a nonpecuniary interest;
  2. “Pecuniary factor” means a consideration having a direct and material connection to the financial risk or financial return of an investment;
  3. A “material connection” is established if there is a substantial likelihood that a reasonable investor would consider it important in determining the financial risk or the financial return of an investment;
  4. “Nonpecuniary interest” includes but is not limited to an environmental, social, political, or ideological interest which does not have a direct and material connection to the financial risk or financial return of an investment; and
  5. “Investment manager” and “investment consultant” shall have the same definition attributed to “investment adviser” under the federal Investment Advisers Act of 1940, 15 U.S.C. sec. 80b-2.
- (b) The board members, investment managers, investment consultants, or other fiduciaries, and proxy advisers shall discharge their duties with respect to the assets of the system solely in the interests of the active contributing members and annuitants and:
1. For the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system;
  2. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims;
  3. By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and
  4. In accordance with the federal, state, and common laws, administrative regulations, and other instruments governing the system and fiduciaries.
- (c) Evidence that a fiduciary has considered or acted on a nonpecuniary interest shall include but is not limited to:
1. Statements, explanations, reports, or correspondence;
  2. Communications with portfolio companies;
  3. Statements of principles or policies, whether made individually or jointly;
  4. Votes of shares or proxies; or
  5. Coalitions, initiatives, agreements, or commitments to



- which the fiduciary is a participant, affiliate, or signatory.
- (3) (a) In choosing and contracting for professional investment management and consulting services, the board shall do so prudently and in the interest of the members and annuitants. Any contract that the board makes with an investment manager shall set forth policies and guidelines of the board with reference to standard rating services and specific criteria for determining the quality of investments. Expenses directly related to investment management and consulting services shall be financed from the guarantee fund in amounts approved by the board.
  - (b) An investment manager or consultant appointed under this section shall acknowledge in writing his or her fiduciary responsibilities to the fund. To be eligible for appointment, an investment manager, consultant, or an affiliate, shall be:
    - 1. Registered under the Federal Investment Advisers Act of 1940; or
    - 2. A bank as defined by that Act; or
    - 3. An insurance company qualified to perform investment services under the laws of more than one (1) state.
  - (c) Proxy advisers and proxy voting services shall comply with all applicable provisions of the Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder, and shall comply with all other federal statutes and related rules and regulations that apply to proxy advisers and proxy voting services.
  - (d) No contract or agreement, whether made in writing or not, shall in any manner waive, restrict, or limit a fiduciary's liability as to any of the duties imposed by this section. Any agreement shall specify that it is made in the Commonwealth and governed by the laws of the Commonwealth.
- (4) No investment or disbursement of funds shall be made unless authorized by the board of trustees, except that the board, in order to ensure timely market transactions, shall establish investment guidelines and may permit its staff and investment managers who are employed or under contract with the board pursuant to this section to execute purchases and sales of investment instruments within those guidelines without prior board approval.
  - (5) In discharging his or her administrative duties under this section, a trustee shall strive to administer the retirement system in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky.
  - (6) Notwithstanding any other provision of KRS 161.220 to 161.716, no funds of the Teachers' Retirement System, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to placement agents. For purposes of this

subsection, “placement agent” means a third-party individual, who is not an employee, or firm, wholly or partially owned by the entity being hired, who solicits investments on behalf of an investment manager, private fund, or company issuing securities.

- (7) All contracts for the investment or management of assets of the system shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the system shall comply:
- (a) On or before July 1, 2017, the board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;
  - (b) Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;
  - (c) Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;
  - (d) Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;
  - (e) No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board’s investment procurement policy meets or does not meet best practices for investment management procurement; and
  - (f) Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.
- (8)
- (a) The board shall adopt written proxy voting guidelines which are consistent with the fiduciary duties and other requirements of this section.
  - (b) The board shall not adopt the recommendations of a proxy adviser or proxy voting service and shall not allow such proxy adviser or proxy voting service to vote on behalf of the system, unless the proxy adviser or proxy voting service acknowledges in writing and accepts under contract its duties under this section and commits to follow the board-adopted proxy voting guidelines when voting the system’s shares in order to comply with the board’s fiduciary duties and other responsibilities under this section.
  - (c) All shares held by or on behalf of the system, and which the system is entitled to vote under state, federal, or common laws,

shall be voted according to the proxy voting guidelines adopted by the board and subject to the fiduciary duties and other requirements of this section by:

1. The board, the investment committee of the board, or an employee or employees of the system who are fiduciaries under this section and are appointed or otherwise authorized by the board; or
  2. A proxy adviser or proxy voting service that acknowledges in writing and accepts under contract its duties under this section and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.
- (d) All proxy votes shall be reported at least quarterly to the board. For each vote, the report shall provide:
1. The vote caption;
  2. The date of the vote;
  3. The company's name;
  4. The vote cast for the system;
  5. The recommendation of the company's management; and
  6. If applicable, the recommendation of the proxy adviser or proxy voting service.

#### **161.440 Assignment of interest to funds.**

At the end of each fiscal year the board of trustees shall assign from the guarantee fund interest at the regular interest rate to the teachers' savings fund, the state accumulation fund, and the allowance reserve fund. The amounts so allowed shall be due and payable to the funds and shall be annually credited thereto by the board of trustees from interest and other earnings on money of the retirement system.

#### **161.460 Conflict of interest – Trustees, employees, members of General Assembly, public servants.**

- (1) No trustee or employee of the board of trustees shall:
  - (a) Have any interest, direct or indirect, in the gain or profits of any investment or any other legal, business, or financial transaction made by the board, except that any such trustee or employee may be a member, employee, or beneficiary of the plans administered by the board or authority;
  - (b) Directly or indirectly for himself or as an agent for another, use any of the assets of the retirement system in any manner except to make current and necessary payments authorized by the board;
  - (c) Become an endorser, surety, or obligor for moneys loaned to or borrowed from the board;

- (d) Have a contract or agreement with the retirement system, individually or through a business owned by the trustee or the employee;
  - (e) Use his or her official position with the retirement system to obtain a financial gain or benefit or advantage for himself or herself or a family member;
  - (f) Use confidential information acquired during his or her tenure with the retirement system to further his or her own economic interests or that of another person; or
  - (g) Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the retirement system. The provisions of this subsection shall not prohibit a trustee from serving as an employee of an agency participating in the Kentucky Teachers' Retirement System.
- (2) No trustee or employee of the board of trustees, who has served as a trustee or employee of the board on or after July 1, 2017, shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board of trustees for a period of five (5) years following termination of his or her position, except that any such trustee or employee may be a member, employee, or beneficiary of the Teachers' Retirement System.
- (3) (a) No person who is serving as a member of the General Assembly or is a public servant as defined by KRS 11A.010(9) shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board of trustees, except that any such member or public servant may be a member, employee, or beneficiary of the Teachers' Retirement System.
- (b) No person who was serving as a member of the General Assembly on or after July 1, 2017, or was serving as a public servant as defined by KRS 11A.010(9) on or after July 1, 2017, shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board of trustees for a period of five (5) years following termination of his or her position, except that any such member or public servant may be a member, employee, or beneficiary of the Teachers' Retirement System.

**161.470 Membership – Forfeiture of service credit – Termination of membership – Forfeiture of benefits – Reinstatement – Payment of accumulated account balance.**

- (1) The membership of the retirement system shall consist of all new members, all present teachers, and all persons participating under the retirement system as of June 30, 1986, except as provided in Acts 1938

(1st Ex. Sess.), Ch. 1, paragraph 29. The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership.

- (2) Service credit shall be forfeited upon withdrawal. If a member again enters service it shall be as a new member, except that any teacher who withdraws by claiming his or her deposits may repay the system the amount withdrawn plus interest and reestablish his or her service credit as provided in subsection (3) of this section.
- (3) Effective July 1, 1988, and thereafter, an active contributing member of the retirement system with contributing service equal to one (1) year may regain service credit by depositing in the teachers' savings fund the amount withdrawn with interest at the rate to be set by the board of trustees, and computed from the first of the month of withdrawal and including the month of redeposit.
- (4) Effective July 1, 1974, any active contributing member with at least two (2) years of contributing service credit who declined membership as provided in Acts 1938 (1st Ex. Sess.), Ch. 1, paragraph 29, may secure service credit for prior service, and for any subsequent service prior to date of membership, by depositing in the teachers' savings fund contributions for each year of subsequent service prior to date of membership, with interest at the rate of eight percent (8%) compounded annually to the date of deposit.
- (5) Membership in the retirement system shall be terminated:
  - (a) By retirement for service;
  - (b) By death;
  - (c) By withdrawal of the member's accumulated account balance;
  - (d) When a member, having less than five (5) years of Kentucky service is absent from service for more than three (3) consecutive years; or
  - (e) For persons whose membership begins on or after August 1, 2000, when a member is convicted, in any state or federal court of competent jurisdiction, of a felony related to his or her employment as provided in subparagraphs 1. and 2. of this paragraph.
    1. Notwithstanding any provision of law to the contrary, a person whose membership begins on or after August 1, 2000, who is convicted, in any state or federal court of competent jurisdiction, of a felony related to his or her employment shall forfeit rights and benefits earned under the retirement system, except for the return of his or her accumulated contributions and interest credited on those contributions.
    2. The payment of retirement benefits ordered forfeited shall be stayed pending any appeal of the conviction. If

the conviction is reversed on final judgment, no retirement benefits shall be forfeited.

Except for paragraph (e) of this subsection, upon termination of member accounts under this subsection, funds in the account shall be transferred to the guarantee fund. Inactive members may apply for refunds of these funds at any time. The terminated service shall be reinstated, if not withdrawn by the member, in the event that the member returns to active contributing service.

- (6) In case of withdrawal from service prior to eligibility for retirement, the board of trustees shall on request of the member return all of his or her accumulated account balance, including any payments made by the member to the state accumulation fund, but the member shall have no claim on any contributions made by the state or employer with a view to his or her retirement, except as provided by KRS 161.635 and 161.636, or to contributions made to the medical insurance fund. A member who is withdrawing from service prior to retirement eligibility shall be entitled to a refund following sixty (60) days after his or her last day of employment. If the member is eligible for an immediate service retirement allowance as provided in KRS 161.600, no withdrawal and refund shall be permitted, unless the allowance would prohibit the member from qualifying for Social Security benefits or the member elects to withdraw part or all of his or her service for the purpose of obtaining service credit in another retirement plan. Requests for refund of contributions by the member must be filed on forms prescribed by the Teachers' Retirement System and the employer shall be financially responsible for all information that is certified on the prescribed form. A member may not withdraw any part of his or her accumulated account balance in the retirement system except as provided by this subsection.
- (7) Except as provided in KRS 161.520 and 161.525, in case of death prior to retirement, the board of trustees shall pay to the estate of the deceased member, unless a beneficiary was otherwise applicably designated by the deceased member, then to the beneficiary, all of his or her accumulated account balance, including any payments made by the member to the state accumulation fund, but the estate or beneficiary shall have no claim on any contributions made by the state or employer with a view to the retirement of the member, except as provided by KRS 161.635 and 161.636, or to contributions made to the medical insurance fund.
- (8) Any active contributing member of the Kentucky Employees Retirement System, the County Employees Retirement System, the State Police Retirement System, or the Judicial Retirement System may use service, under that retirement system for the purpose of meeting the service requirement of subsections (3) and (4) of this section.

**161.480 Statement of member – Designation of beneficiaries.**

- (1)
  - (a) Each person, upon becoming a member of the retirement system, shall file a detailed statement as required by the board of trustees and shall designate a primary beneficiary or two (2) or more cobeneficiaries to receive any benefits accruing from the death of the member.
  - (b) A contingent beneficiary may be designated in addition to the primary beneficiary or cobeneficiaries. The member may name more than one (1) contingent beneficiary.
  - (c) Any beneficiary designation made by the member, including the estate should the estate become the beneficiary by default, shall remain in effect until changed by the member on forms prescribed by the Teachers' Retirement System, except in the event of subsequent marriage or divorce. Subsequent marriage by the member shall void the primary beneficiary and any cobeneficiary designation, even that of a trust, and the spouse of the member at death shall be considered as the primary beneficiary, unless the member subsequent to marriage designates another beneficiary. An individual who is married prior to becoming a member of the retirement system and remains married at the time of becoming a member shall have his or her spouse considered the primary beneficiary, unless the member designates another beneficiary. A final divorce decree shall terminate an ex-spouse's status as either primary beneficiary, cobeneficiary, or contingent beneficiary, unless subsequent to divorce the member redesignates the former spouse as primary beneficiary, cobeneficiary, or contingent beneficiary.
  - (d) To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of a member's accumulated account balance in the retirement system as provided under KRS 161.470(7). A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust.
  - (e) In the event that a member fails to designate a beneficiary, or all designated beneficiaries predecease the member, the member's estate shall be deemed to be the beneficiary, unless the member is married at the time of his or her death, in which case the spouse shall be deemed the beneficiary.
  - (f) Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system.
- (2) The provisions of this section shall be retroactive as they relate to election of beneficiaries by members still in active status on the effective date of this section. The provisions of this section shall not

apply to any account from which a member is drawing a retirement allowance or to the life insurance benefit available under KRS 161.655.

**161.490 Investigation of statement.**

To the extent to which it is used in determining the liability of any fund of the retirement system, the board of trustees shall ascertain the correctness of the statement filed under KRS 161.480 by the best evidence it is able to obtain. If official records are not available as to length of service, age, salary, or other information required for the administration of the retirement system, the board may use its discretion as to the evidence to be accepted.

**161.500 Service credit.**

- (1) At the close of each fiscal year, the retirement system shall add service credit to the account of each member who made contributions to his or her account during the year. Nonuniversity members are entitled to a full year of service credit if they have no more than five (5) unpaid days in a school or fiscal year under a contract requiring a work schedule of one hundred eighty-five (185) days or greater. University members are entitled to a full year of service credit if they have no more than five (5) unpaid days in a school or fiscal year under a contract requiring a work schedule of one hundred eighty (180) days or greater. In the event a member is paid for less than the required number of days for a full year of service credit, the member may purchase credit according to administrative regulations established by the board of trustees. In no case shall more than one (1) year of service be credited for all service performed in one (1) fiscal year. Members who complete their employment contract prior to the close of a fiscal year and elect to retire prior to the close of a fiscal year shall have their service credit reduced by eight percent (8%) for each calendar month that the retirement becomes effective prior to July 1.
- (2) Members who are employed and paid for less than the number of days required in their normal employment year shall be entitled to pro rata service credit for the fractional service. Such credit shall be based upon the number of days employed and the number of days in the member's annual employment agreement or normal employment year.
- (3) Service credit may not exceed the ratio between the school or fiscal year and the number of months or fraction of a month the member is employed during that year.
- (4) No service credit shall be granted in the Teachers' Retirement System for service that has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

**161.507 Prior service credit for veterans – Credit for military service and uniformed service by active contributing member.**



- (1) An active contributing member of the Teachers' Retirement System may receive service credit for active service rendered in the uniformed services of the Armed Forces of the United States, including the commissioned corps of the Public Health Service, subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 and the administrative regulations promulgated by the board of trustees. Military service includes service in the uniformed services that occurs before the employment of a member in a position covered by the retirement system or where a member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services. Service in the uniformed services also includes uniformed service that occurs after employment in a position covered by the retirement system where the member has given advance written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment. Military service may be credited only if discharge was honorable or was not terminated upon the occurrence of any of the events listed in 38 U.S.C. sec. 4304. Service shall be considered as Kentucky teaching service, except that service may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or (2) or 161.661(1) unless the service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returned directly from uniformed services to covered employment. A maximum of six (6) years of military service may be credited, but in no case a greater number of years than the actual years of contributing service in Kentucky.
- (2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.
- (3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.
- (4) (a) A member receiving retirement credit for active duty in the armed services of the United States prior to employment in a position covered by the retirement system or where the member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services shall pay to the retirement system the full actuarial cost of the service credit purchased as provided under KRS 161.220(22). These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services, the latest years of service shall be considered first in allowing credit toward retirement. The board

of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service.

- (b) If military service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment, the member shall contribute the regular member contribution required by KRS 161.540. The member may make the payment of delayed contributions in a lump sum payment or in installments not to exceed five (5) years beginning with the member's date of reemployment. Interest at the rate of eight percent (8%) per annum shall be charged for delayed contributions beginning with the member's date of reemployment until paid. Members participating in the supplemental benefit component who make the regular member contribution required by this paragraph, shall also receive the mandatory employer contributions in the supplemental benefit component for the period of service purchased.
- (5) An active contributing member of the Teachers' Retirement System may receive service credit for service in the military reserves of the United States or the National Guard. The member may purchase one (1) month of service for each six (6) months of service in the reserves or the National Guard. Notwithstanding any other statute, regulation, or policy to the contrary, the system shall provide a member, upon request, the estimated actuarial cost of the National Guard or military reserves service purchase based upon the information available at the time of the request. The member shall be entitled to enter into a contract with the system at the time of the request to purchase the National Guard or military reserve service by paying to the system the estimated actuarial cost, either by installments or in lump sum. The member shall pay the full actuarial cost of this service in the military reserves or the National Guard as provided in KRS 161.220(22). Service in the military reserves or the National Guard shall be treated as service earned prior to participation in the system and shall not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or (2) or 161.661(1). The payment shall not be picked up by the employer, as described in KRS 161.540(2).

**161.515 Out-of-state service credit – Contribution – Kentucky Peace Corps and federal Peace Corps service credit – Retirement factor.**

- (1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position on a full-time basis, which would be covered if in Kentucky.
- (2) (a) An active contributing member who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may

present for credit service rendered out of state, not to exceed ten (10) years actually taught as a certified or licensed teacher. All members who elect to purchase this service shall pay to the retirement system the full actuarial cost as provided under KRS 161.220(22). For each year of which the retirement system shall accept payment, one (1) year of service credit shall be given. For members who purchased this service under the cost formula as it existed under this subsection on June 30, 2005, this credit may not be used to meet the service requirements of KRS 161.525, 161.600, or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

- (b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky, may present this service for credit in the retirement system on the same basis as provided above for out-of- state service credit; however, no service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by a public institution or governmental agency. This service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit.
  - (c) A member having service referred to in subsection (2)(a) or (2)(b) of this section who purchased this service under the cost formula as it existed under those subsections on June 30, 2005, may elect to use this service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of eight percent (8%) for each year so used. These payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.
- (3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and after this date, shall not receive credit for service defined in subsections (2)(a) or (2)(b) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.
  - (4) A member, having completed service as a volunteer in the Kentucky Peace Corps created by KRS 154.1-720, may purchase service credit for the time served in the corps on the same basis as provided in this section for the purchase of out-of-state service credit. A member, having

completed service as a federal Peace Corps volunteer, may purchase up to two (2) years of service credit for time served in the Peace Corps on the same basis as provided in this section for the purchase of out-of-state service credit.

- (5) Service purchased under this section by members shall be credited based upon the retirement factor established by KRS 161.620, as applicable.

**161.520 Payment of survivor's benefit on death.**

Upon the death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

- (1) Where there is a surviving widow or widower who is named as the primary beneficiary of the member's retirement account, the benefit shall be:
  - (a) One hundred eighty dollars (\$180) per month with no restriction on other income;
  - (b) Two hundred forty dollars (\$240) per month when the surviving widow or widower's total income from all sources does not exceed six thousand six hundred dollars (\$6,600) per year or five hundred fifty dollars (\$550) per month; or
  - (c) If the deceased member has a minimum of ten (10) years of service credit with the Teachers' Retirement System, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1) or (2), as applicable. In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower of a member who dies after July 1, 1978, shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision;
- (2) (a) Where there are surviving unmarried children under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be two hundred dollars (\$200) per month in the case of one (1) child, three hundred forty dollars (\$340) per month in the case of two (2) children, four hundred dollars (\$400) per month in the case of three (3) children, and four hundred forty dollars (\$440) per month in the case of four (4) or more children. Benefits under this subsection shall apply in addition to benefits which may be payable under subsections

(1) and (3) of this section.

- (b) Notwithstanding any provision of law to the contrary, the surviving spouse may elect to receive a lump-sum refund of the member's accumulated account balance in lieu of the survivorship benefits payable under this subsection and subsection (1) of this section only if the surviving spouse is designated as the primary beneficiary and:

1. Is a biological or adoptive parent of all children eligible for a benefit under this subsection and has not had his or her parental rights terminated; or
2. Has been appointed as legal guardian of all of the children eligible under paragraph (a) of this subsection.

- (c) To elect a lump-sum refund of the member's accumulated account balance under paragraph (b) of this subsection, the surviving spouse who is designated as the primary beneficiary must sign a waiver on forms prescribed by the retirement system of his or her rights and the member's children's rights to the survivorship benefits payable under this subsection and subsection (1) of this section. The surviving spouse shall not waive the survivorship benefits available under this subsection or subsections (1) and (6) of this section if any of the member's children have attained age eighteen (18) or older unless all of those children consent in writing on forms prescribed by the retirement system to waive their survivorship benefits available under this subsection;

- (3) (a) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his or her dependency on the deceased member at the time of the member's death, the benefit shall be two hundred dollars (\$200) per month, payable for the life of the child or until the time as the mental or physical condition creating the dependency no longer exists or the child marries. The mental or physical condition of the adult child shall be revealed by a competent examination by a licensed physician and shall be approved by a majority of a medical review committee as defined in KRS 161.661(14). Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (2) of this section.

- (b) Notwithstanding any provision of law to the contrary, the surviving spouse shall not elect to receive a lump-sum refund of the member's accumulated account balance in lieu of the survivorship benefits payable under this subsection and subsection (1) of this section unless:

1. The surviving spouse is designated as the primary beneficiary;
2. The surviving spouse has been appointed by the court as

guardian, conservator, or other fiduciary with sufficient general or specific authority to waive the survivorship benefits available under this subsection for any child or children age eighteen (18) or older who have been adjudicated incompetent to make decisions on their own behalf by a court of law; and

3. Any child or children age eighteen (18) or older who are mentally competent to make decisions on their own behalf consent in writing on forms prescribed by the retirement system to waive their survivorship benefits available under this subsection.
- (c) If eligible to elect a lump-sum refund of the member's accumulated account balance, the surviving spouse shall sign a waiver on forms prescribed by the retirement system of his or her rights and the member's children's rights to the survivorship benefits payable under this subsection and subsections (1) and (2) of this section;
- (4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars (\$200) per month for one (1) parent or two hundred ninety dollars (\$290) per month for two (2) parents. Dependency of a parent shall be established as of the date of the death of the member;
- (5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars (\$165) per month. In order to qualify, the brother or sister must have been a resident of the deceased member's household for at least one (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home, or other institution at the member's expense for same period;
- (6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19), if a full-time student in high school, or upon marriage, except that benefits shall continue until the attainment of age twenty-three (23) for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a dependent parent or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon marriage, or upon termination of the condition creating the dependency;
- (7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating to eligibility or dependency, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems this action necessary;
- (8) No payment of benefits shall be made unless the board of trustees

authorizes the payment. The board shall promulgate administrative regulations for the administration of the provisions in this section and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amount of benefits payable;

- (9) In the event that there are no eligible survivors as defined in subsections (1) to (5) of this section, or in the event that the surviving spouse elects not to receive survivorship benefits on his or her own behalf or on behalf of any of the member's children as permitted under subsections (2) and (3) of this section, the board of trustees shall pay to the estate or the designated beneficiaries of the deceased member a refund of his or her accumulated account balance as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1) to (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated account balance at the time of death, the board of trustees shall pay to the estate or designated beneficiaries of the deceased member the balance of the accumulated account balance;
- (10) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits; and
- (11) Benefits under subsections (2) and (3) of this section shall apply to a child who is a legally adopted survivor at the time of the death of the member. This provision shall be retroactive to include a child who was born after January 1, 1990, and is a legally adopted survivor of a member whose death occurred prior to July 15, 2008.

**161.522 Survivors of certain members retired for disability may elect annuity.**

Upon the death of a member retired for disability who had a minimum of twenty-seven (27) years of service at the time of death, except as provided in KRS 161.661(6), the spouse, if named as the primary beneficiary of the member's account, shall be entitled to elect, in lieu of a refund of the member's account, an annuity actuarially equivalent to the annuity that would have been paid to the deceased member had retirement for service been effective on the day immediately preceding the member's death. This option shall be available only during the entitlement period described under KRS 161.661(3) and (4) prior to the recalculation of the member's disability allowance under KRS 161.661(5). In selecting this right, the spouse shall be limited to selecting an

option providing a straight life annuity with refundable balance or a term certain option. There shall be a monthly minimum allowance of three hundred dollars (\$300) as the basic straight life annuity. This section applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1988, and to surviving spouses of members who die on or after July 1, 1984, except that the member shall have been retired for disability with a minimum of thirty (30) years of service if either of these two (2) conditions were met prior to July 1, 1990.

**161.525 Death of member eligible to retire – Options of beneficiary – Monthly minimum allowance to surviving spouse.**

- (1) Upon death of a member in active contributing status at the time of death, who was eligible to retire by reason of service, the spouse, if named as the primary beneficiary of the member's retirement account, or in the absence of an eligible spouse a legal dependent of the member, if named as the primary beneficiary, shall be entitled to elect, in lieu of a refund of the member's accumulated account balance or benefits provided in KRS 161.520, an annuity actuarially equivalent at the attained age of the beneficiary to the annuity that would have been paid to the deceased member had retirement been effective on the day immediately preceding the member's death. Under the provisions of KRS 61.680, benefits shall be processed as if the member retired for service. In exercising this right the spouse or legal dependent shall be limited to selecting an option providing either a straight life annuity with refundable balance or a term certain option. A spouse may receive the annuity provided by this section at the same time as children are qualifying for survivors' benefits under the provisions of KRS 161.520; however, a legal dependent, other than a spouse, may not receive these payments if children have qualified for benefits under that section.
- (2) A spouse qualifying for an annuity under subsection (1) of this section may defer the payments in order to reduce the actuarial discounts to be applied due to age.
- (3) Upon death of a member in active contributing status at the time of his or her death, who had a minimum of twenty-seven (27) years of service, the spouse, if named as the primary beneficiary of the member's account shall be entitled to a monthly minimum allowance of three hundred dollars (\$300) as the basic straight life annuity. This provision applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1986, and to surviving spouses of members who die on or after July 1, 1986.

**161.530 Restoration of forfeited account – Exception.**

Except as provided in KRS 6.696, if a member, whose account has been forfeited under previous provisions of this section, shall return to teaching in a covered position in Kentucky, and reinstates the lost service credit as provided



in KRS 161.470(3), the funds transferred from the member's account shall be restored to his account, without interest, and shall be credited against the payment required for reinstatement of service credit.

**161.540 Members' contributions – Picked-up contributions.**

- (1) (a) Each individual who becomes a contributing nonuniversity member prior to January 1, 2022, shall contribute to the retirement system twelve and eight hundred fifty-five thousandths percent (12.855%) of annual compensation, of which:
  1. Nine and one hundred five thousandths percent (9.105%) of annual compensation shall be used to fund pension benefits; and
  2. Three and three-quarters percent (3.75%) of annual compensation shall be used to fund retiree health benefits.
- (b) Each individual who becomes a contributing university member prior to January 1, 2022, shall contribute to the retirement system ten and four-tenths percent (10.4%) of annual compensation, of which:
  1. Seven and six hundred twenty-five thousandths percent (7.625%) of annual compensation shall be used to fund pension benefits; and
  2. Two and seven hundred seventy-five thousandths percent (2.775%) of annual compensation shall be used to fund retiree health benefits.
- (c) Each individual who becomes a contributing nonuniversity member on or after January 1, 2022, shall contribute to the retirement system fourteen and three-quarters percent (14.75%) of annual compensation, of which:
  1. Nine percent (9%) of annual compensation shall be used to fund pension benefits in the foundational benefit component as described by KRS 161.633. The contribution provided by this subparagraph shall not be used to fund the supplemental benefit account as provided by KRS 161.635;
  2. Two percent (2%) of annual compensation shall fund the required employee contribution in the supplemental benefit component in KRS 161.635, except that the board may direct these contributions on a prospective basis into the pension and life insurance funds to contain costs of the foundational benefit component within the provisions of KRS 161.633; and
  3. Three and three-quarters percent (3.75%) of annual compensation shall be used to fund retiree health benefits.

- (d) Each individual who becomes a contributing university member on or after January 1, 2022, shall contribute to the retirement system nine and seven hundred seventy-five thousandths percent (9.775%) of annual compensation, of which:
  - 1. Five percent (5%) of annual compensation shall be used to fund pension benefits in the foundational benefit component as described by KRS 161.634. The contribution provided by this subparagraph shall not be used to fund the supplemental benefit account as provided by KRS 161.636;
  - 2. Two percent (2%) of annual compensation shall fund the required employee contribution in the supplemental benefit component in KRS 161.636, except that the board may direct these contributions on a prospective basis into the pension and life insurance funds to contain costs of the foundational benefit component within the provisions of KRS 161.634; and
  - 3. Two and seven hundred and seventy-five thousandths percent (2.775%) of annual compensation shall be used to fund retiree health benefits.
- (e) When the medical insurance fund established under KRS 161.420(5) achieves a sufficient prefunded status as determined by the retirement system's actuary, the board of trustees shall recommend to the General Assembly that the contributions required under paragraph (a)2., (b)2., (c)3., or (d)3. of this subsection shall, in an actuarially accountable manner, be either decreased, suspended, or eliminated.
- (f) Payments authorized by statute that are made to retiring members, who became members of the system before July 1, 2008, for not more than sixty (60) days of unused accrued annual leave shall, subject to KRS 161.220(10), be considered as part of the member's annual compensation, and shall be used only for the member's final year of active service. Notwithstanding the provisions of this subsection or any other statute to the contrary, for retirement calculation purposes, members may only be credited for payment of annual leave under the following conditions:
  - 1. Payment by an employer for annual leave shall be equally available to all members serving under contracts requiring the same number of worked days and greater; and
  - 2. At least two (2) members of the employer shall receive payment for annual leave.
- (g) The contribution of members shall not exceed the applicable percentages on annual compensation as set forth in this section or as where otherwise limited by statute. When a member

retires, if it is determined that he or she has made contributions on a salary in excess of the amount to be included for the purpose of calculating his or her final average salary, any excess contribution shall be refunded in a lump sum to the member's employer for distribution to the member.

- (2) Each public board, institution, or agency listed in KRS 161.220(4) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the member contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010. The picked-up member contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the member contribution, and the picked-up member contribution shall be in lieu of a member contribution. Each employer shall pay these picked-up member contributions from the same source of funds which is used to pay earnings to the member. The member shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Member contributions picked-up after August 1, 1982, shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as member contributions made prior to August 1, 1982.

**161.545 Contributions and service credit for substitute service, part-time service, or leave of absence – Contributions not to be picked up – Purchases of service credit for leaves of absence for health, child-rearing, and educational improvement reasons.**

- (1)
  - (a) Members may make contributions and receive service credit for substitute, part-time, or any service other than regular full-time teaching as provided in the administrative regulations of the board of trustees if contributions were not otherwise made as a result of the service.
  - (b) Members placed on leave of absence during a period of full-time employment as defined in KRS 161.220(21) may make contributions and receive service credit for this leave only if contributions are made by the end of the fiscal year next succeeding the year in which the leave was effective as provided in administrative regulations promulgated by the board of trustees. Contributions permitted after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).
- (2) Active contributing members of the Teachers' Retirement System, or former members who are currently participating in a state-administered retirement system, who were granted leaves of absence during a period of full-time employment as defined in KRS 161.220(21) since July 1, 1964, for reasons of health as defined under the Federal Family

Medical Leave Act of 1993, 29 U.S.C. secs. 2601 et seq., child rearing, or to improve their educational qualifications, and did not purchase the leave of absence as provided in subsection (1) of this section may obtain credit for the leave of absence as provided under the administrative regulations of the board of trustees and under the following conditions:

- (a) The leave of absence shall be verified by a copy of the board of education minutes which granted the leave of absence or by other documentation that was generated contemporaneously with the leave that is determined by the retirement system to reasonably establish that a leave of absence was granted;
  - (b) The member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence plus interest at the rate of eight percent (8%) compounded annually from the beginning of the school year following the year of the leave of absence, and by depositing the appropriate contributions in the state accumulation fund and medical insurance fund; and
  - (c) The member shall receive credit for no more than two (2) years under the provisions of this subsection.
- (3) Sabbatical leaves of absence granted by any one (1) of the five (5) universities identified in KRS 161.220(4)(b) for which the university employee is provided full pay at the rate he or she was provided as a full-time employee immediately preceding the sabbatical leave shall be deemed as full-time employment provided for the university, and employee and employer contributions shall be made in accordance with KRS 161.540 and 161.550.
  - (4) Contributions permitted under this section after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).
  - (5) Notwithstanding any other provisions of this section to the contrary, purchase of service credit under subsection (2) of this section for individuals who become members on or after July 1, 2008, shall be purchasable only at the full actuarial cost.

**161.5461 Purchase of service credit with rolled-over or transferred retirement funds.**

- (1) Any active contributing member may purchase service credit as authorized under KRS Chapter 161 by rolling over funds from a previous plan to the extent that rollovers are permitted by the rules set forth in the Internal Revenue Code. The rollovers may be made directly from a previous qualified plan or through a conduit individual retirement account as permitted by the rules set forth in the Internal Revenue Code.
- (2) Any active contributing member may purchase service credit as authorized under KRS Chapter 161 by transferring funds directly from a retirement plan maintained by the Commonwealth of Kentucky to the

extent that transfers are permitted by the rules set forth in the Internal Revenue Code.

- (3) The amount of any transfer or rollover purchase as permitted under subsections (1) and (2) of this section, excluding that portion credited to the medical insurance fund under KRS 161.420(5), shall be credited to the individual member's account and shall be considered accumulated contributions of the member.

**161.5465 Member with twenty years' service credit may purchase five years' service credit – Exceptions.**

On or after August 1, 1998, a member of the Teachers' Retirement System in active contributing status who has a minimum of twenty (20) years of service credit may purchase up to a maximum of five (5) years of service credit that is not otherwise purchasable under any of the provisions of KRS 161.220 to 161.716 and that meets the definition of nonqualified service as provided in Section 1526 of the Federal Taxpayer Relief Act of 1997. The member shall pay the full actuarial cost of the service credit as provided in KRS 161.220(22). The payment shall not be picked up by the employer as described in KRS 161.540(2), and the member's payment shall be credited to the member's contribution account and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by installment payments as provided in KRS 161.597. Notwithstanding any other statute to the contrary, the Kentucky Teachers' Retirement System shall recognize nonqualified service credit purchased with another retirement system only to the extent that the member had an equivalent number of full months of active employment in the position covered by the other retirement system during the period that the nonqualified service was purchased. This section shall not apply to individuals who become members on or after July 1, 2008, except that a teacher of a local school board may purchase up to ten (10) months of service under this section if the teacher is retiring and has completed the prior school year with at least twenty-six (26) years and two (2) months of service but less than twenty- seven (27) years of service.

**161.547 Member having service as legislator may purchase four years' credit in the retirement system.**

A member of the retirement system having service as a Kentucky legislator which is not credited by any retirement system administered by the Commonwealth of Kentucky may present such service, not to exceed four (4) years, for credit in the retirement system by paying the full actuarial cost of the service as determined by the system actuary. The member may purchase all or part of his or her service as a legislator, but no less than one (1) year of service. The entire payment shall be placed in the teachers' saving fund.

**161.548 Purchase of service credit by individual who served in a regional community program for mental health and individuals with an intellectual disability.**

A member of the Teachers' Retirement System who is in an active contributing status with the system, and who was formerly employed in a regional community service program for mental health and individuals with an intellectual disability, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system, may obtain credit for the period of his or her service in the regional community program for mental health and individuals with an intellectual disability by paying to the Teachers' Retirement System the full actuarial cost of the service credit purchased, as provided in KRS 161.220(22). The service credit purchased may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or (2) or 161.661(1). The payment shall not be picked up, as described in KRS 161.540(2), and the entire payment shall be placed in the teachers' savings fund.

**161.549 Purchase of service credit by individual who was employed at a Federal Head Start agency.**

A member of the Teachers' Retirement System who is in an active contributing status with the system, and who was formerly employed by a Federal Head Start agency, operated under 42 U.S.C. secs. 9831 et seq., which does not participate in a state-administered retirement system, may obtain credit for the period of the member's service in the Head Start program by purchasing this service credit under the same conditions that out-of-state service credit may be purchased under KRS 161.515. The service credit purchased may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or (2) or 161.661(1). Payment for the service credit purchased may be made in installments in lieu of a lump-sum payment. The payment shall not be picked up, as described in KRS 161.540(2), and the entire payment shall be placed in the teachers' savings fund.

**161.550 Contribution to system by employers and state – Contributions to pension, medical insurance, and life insurance funds.**

- (1) Each employer, except as provided under KRS 161.555, shall contribute annually to the Teachers' Retirement System a permanent employer contribution rate on behalf of each employee it employs equal to:
  - (a) Thirteen and one hundred five thousandths percent (13.105%) of the total annual compensation of nonuniversity members who become members prior to July 1, 2008. Of this permanent employer contribution rate:
    1. Twelve and three hundred fifty-five thousandths percent (12.355%) of the total annual compensation shall be used to fund pension and life insurance benefits; and
    2. Three-quarters of a percent (0.75%) of annual compensation shall be used to provide funding to the medical insurance fund as provided under KRS 161.420(5). If the board of trustees establishes a trust

- fund under 26 U.S.C. sec. 115, the board may deposit the employer contribution provided in this subparagraph in that trust fund;
- (b) Fourteen and one hundred five thousandths percent (14.105%) of the total annual compensation of nonuniversity members who become members on or after July 1, 2008, but prior to January 1, 2022. Of this permanent employer contribution rate:
    - 1. Thirteen and three hundred fifty-five thousandths percent (13.355%) of the total annual compensation shall be used to fund pension and life insurance benefits; and
    - 2. Three-quarters of a percent (0.75%) of annual compensation shall be used to provide funding to the medical insurance fund as provided under KRS 161.420(5). If the board of trustees establishes a trust fund under 26 U.S.C. sec. 115, the board may deposit the employer contribution provided in this subparagraph in that trust fund;
  - (c) Thirteen and sixty-five hundredths percent (13.65%) of the total annual compensation of university members who become members prior to January 1, 2022. Of this permanent employer contribution rate:
    - 1. Ten and eight hundred seventy-five thousandths percent (10.875%) of the total annual compensation shall be used to fund pension and life insurance benefits; and
    - 2. Two and seven hundred seventy-five thousandths percent (2.775%) of annual compensation shall be used to provide funding to the medical insurance fund as provided under KRS 161.420(5). If the board of trustees establishes a trust fund under 26 U.S.C. sec. 115, the board may deposit the employer contribution provided in this subparagraph in that trust fund;
  - (d) Ten and three-quarters percent (10.75%) of the total annual compensation of nonuniversity members who become members on or after January 1, 2022. Of this permanent employer contribution rate:
    - 1. Eight percent (8%) of the total annual compensation shall be used to fund pension and life insurance benefits. The contribution provided by this subparagraph shall not be used to fund the supplemental benefit account as provided by KRS 161.635;
    - 2. Two percent (2%) of the total annual compensation shall be used to fund the mandatory employer contribution of the supplemental benefit component, except that the board may direct these contributions on a prospective basis into the pension and life insurance funds to contain costs within the provisions of KRS 161.633; and

3. Three-quarters of one percent (0.75%) of annual compensation shall be used to provide funding to the medical insurance fund as provided under KRS 161.420(5). If the board of trustees establishes a trust fund under 26 U.S.C. sec. 115, the board may deposit the employer contribution provided in this subdivision in that trust fund; and
- (e) Nine and seven hundred seventy-five thousandths percent (9.775%) of total annual compensation of university members who become members on or after January 1, 2022. Of this permanent employer contribution rate:
1. Five and seven hundred seventy-five thousandths percent (5.775%) of the total annual compensation shall be used to fund pension and life insurance benefits. The contribution provided by this subparagraph shall not be used to fund the supplemental benefit account as provided by KRS 161.636;
  2. Two percent (2%) of the total annual compensation shall be used to fund the mandatory employer contribution of the supplemental benefit component, except that the board may direct these contributions on a prospective basis into the pension and life insurance funds to contain costs within the provisions of KRS 161.634; and
  3. Two percent (2%) of annual compensation shall be used to provide funding to the medical insurance fund as provided under KRS 161.420(5). If the board of trustees establishes a trust fund under 26 U.S.C. sec. 115, the board may deposit the employer contribution provided in this subparagraph in that trust fund.
- (2) In addition to the required contributions in subsection (1) of this section, the state shall contribute annually to the Teachers' Retirement System a percentage of the total salaries of the state-funded and federally funded members it employs to pay the cost of health insurance coverage for retirees who are not eligible for Medicare and who retire on or after July 1, 2010, less the amounts that are otherwise required to be paid by the retirees under KRS 161.675. The board shall deposit funds in the medical insurance fund unless the board of trustees has established a trust fund under 26 U.S.C. sec. 115 for this purpose. In this case, the board may deposit the employer contribution in that trust fund. This contribution shall be known as the state medical insurance fund stabilization contribution. The percentage to be contributed by the state under this subsection:
- (a) Shall be determined by the retirement system's actuary for each biennial budget period;
  - (b) May be suspended or adjusted by the General Assembly if in its judgment the welfare of the Commonwealth so demands; and



- (c) Shall not exceed the lesser of the actual benefit cost for retirees not eligible for Medicare who retire on or after July 1, 2010, or the amount contributed by employers under subsection (3) of this section.
- (3) All employers who employ nonuniversity members shall make a contribution for each payroll on behalf of their active employees who participate in the Teachers' Retirement System in an amount equal to three percent (3%) of payroll of those active employees. The contribution specified by this subsection shall be used to fund retiree health benefits.
- (4) When the medical insurance fund established under KRS 161.420(5) achieves a sufficient prefunded status as determined by the Teachers' Retirement System's actuary, the board of trustees shall recommend to the General Assembly that the contributions required under subsections (1)(c)2. and (e)3. and (3) of this section shall, in an actuarially accountable manner, be either decreased, suspended, or eliminated. The decrease, suspension, or elimination in contributions required under subsection (1)(c)2. of this section shall not exceed two and twenty-five thousandths percent (2.025%) of annual compensation. The decrease, suspension, or elimination in contributions required under subsection (1)(e)3. of this section shall not exceed one and twenty-five hundredths percent (1.25%) of annual compensation.
- (5) Each employer shall remit the required employer contributions to the retirement system under the terms and conditions specified for member contributions under KRS 161.560. The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.155, 161.168, 161.507(4), 161.515, 161.545, 161.553, 161.605, 161.612, and 161.620(1), (3), (5), (6), and (7). In the event an annual appropriation is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system. Employer contributions to the retirement system are for the exclusive purpose of providing benefits to members and annuitants and these contributions shall be considered deferred compensation to the members. This subsection shall not apply to costs applicable to individuals who become members on or after January 1, 2022.

**161.553 Funding of past statutory benefit improvements – Schedules for appropriations – Cost-of-living increases.**

- (1) The cost of providing statutory benefit improvements for annuitants may be funded by annual appropriations from the state on an actuarial amortized basis over the lifetime of the annuitants. The schedules in paragraphs (a) and (b) of this subsection are the annual appropriations which shall be made by the state for benefit improvements approved in the respective fiscal years or biennia prior to July 1, 2021:

(a) Cost-of-Living	2021-2022	Each Succeeding Fiscal Year
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	Allowance		
	2002-2004	\$21,405,700	\$11,204,100 in 2022-2023
	2004-2006	\$15,413,700	\$15,413,700 through 2023-2024 and \$7,421,400 in 2024-2025
	2006-2008	\$15,730,200	\$15,730,200 through 2025-2026 and \$7,104,600 in 2026-2027;
(b)	Sick Leave Allowance	2021-2022	Each Succeeding Fiscal Year
	2002-2004	\$5,337,000	\$3,022,800 in 2022-2023
	2004-2006	\$5,480,300	\$5,480,300 through 2023-2024 and \$2,558,700 in 2024-2025
	2006-2008	\$5,646,400	\$5,646,400 through and \$3,331,200 in 2026-2027;
	2008-2010	\$4,926,000	\$4,926,000 through 2027-2028 and \$2,355,000 in 2028-2029
	2010-2012	\$5,198,100	\$5,198,100 through 2029-2030 and \$2,723,900 in 2030-2031
	2012-2014	\$6,726,200	\$6,726,200 through 2031-2032 and \$3,357,900 in 2032-2033
	2014-2016	\$7,206,200	\$7,206,200 through 2033-2034 and \$3,279,700 in 2034-2035
	2016-2018	\$6,129,500	\$6,129,500 through 2035-2036 and \$3,054,200 in 2036-2037
	2018-2020	\$5,229,200	\$5,229,200 through 2037-2038 and \$2,477,900 in 2038-2039
	2020-2022	\$9,266,200	\$9,266,200 through 2039-2040 and \$4,633,100 in 2040-2041

- (2) The cost of providing the transitional funding for the state medical insurance fund stabilization contribution as provided by KRS 160.550(2) may be funded by annual appropriations from the state on an amortized basis. The schedule in this subsection is the annual appropriation which shall be made by the state in the respective fiscal

years or bienna prior to July 1, 2021:

Amortization of Medical Subsidy 2010-2012	2021-2022 \$1,798,700	Each Succeeding Fiscal Year
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- (3) The present values of providing statutory cost-of-living increases for annuitants not included in subsection (1) of this section are to be assigned to the unfunded obligations of the retirement system and are identified as follows:

1986-1988	\$34,689,893
1990-1992	\$68,107,473
1992-1994	\$15,749,976

**161.555 Employer contributions for members employed in positions established under federal educational acts.**

Each employer employing members of the Teachers' Retirement System in positions established under educational acts adopted by the federal Congress shall contribute to the Teachers' Retirement System an amount equal to that contributed by the members of that employer plus an additional two and forty-five hundredths percent (2.45%) for fiscal years 2003 and 2004. Beginning fiscal year 2005 and each year thereafter, each employer shall contribute an amount equal to the employer contribution provided under KRS 161.550.

**161.556 Employer contributions for members employed by regional educational cooperatives.**

Each regional educational cooperative referred to in KRS 161.220(4)(e) employing members of the Teachers' Retirement System shall have the employer contributions provided in the same manner as for members employed by local boards of education.

**161.560 Deduction and forwarding of teachers' contributions – Reporting requirements – Picked-up employee contributions – Correction of omitted member contributions.**

- (1) (a) Each agency, school district, and institution employing members of the retirement system shall deduct from the compensation of each member for each payroll period subsequent to the date the individual became a member, the percentage of his or her compensation due under the rates prescribed in KRS 161.540. No later than fifteen (15) days following each pay date, the employer shall have on deposit with the retirement system all required deductions. The retirement system may charge the employer interest at an annual rate not to exceed eight percent (8%) for deductions not deposited within the specified fifteen (15) days.

- (b) Each employer employing members of the retirement system shall have on file at the retirement system's office no later than fifteen (15) days following each pay date payroll reports, contributions lists, and other data required by administrative regulation of the board. The retirement system may impose a penalty on the employer not to exceed one thousand dollars (\$1,000) when the employer does not meet the reporting date. However, the retirement system may waive the penalty for good cause.
  - (c) Each employer employing members of the retirement system shall have on file at the retirement system's office an annual summary report of member contributions and periods employed no later than August 1 following the completion of each fiscal year. The retirement system may impose a penalty on the employer not to exceed one thousand dollars (\$1,000) when the employer does not meet the August 1 reporting date. However, the retirement system may waive the penalty for good cause.
  - (d) The deductions described by paragraph (a) of this subsection shall be made notwithstanding the fact that the salary as a result may be less than the minimum compensation provided by law. Every member shall be deemed to consent and agree to the deductions, and the deductions shall be considered as having been paid to the member. After August 1, 1982, member contributions shall be picked up by the agency pursuant to KRS 161.540(2).
- (2) If an employer fails to deduct the correct retirement contribution from a member's compensation, the member may make the contribution that should have been deducted by the employer and receive retirement credit for the payment. For correction of omitted member contributions that occur more than one (1) year after the year in which the error was made, the employer shall be responsible for paying interest to the retirement system at a rate of eight percent (8%) from the end of the year in which the service was performed to the date of payment.

**161.565 Reduction and pick-up of contributions by university faculty members.**

Notwithstanding any other provisions of KRS Chapter 161, the contribution of university faculty members may be reduced by amounts up to two and two hundred fifteen thousandths percent (2.215%) if amounts sufficient to replace the reduction are authorized and contributed to the Teachers' Retirement System by the board of regents of the employing university. After August 1, 1982, any contribution by a university faculty member shall be picked up by the employing university pursuant to KRS 161.540(2).

**161.567 Authorization for optional retirement plan for designated employees of certain public universities.**

- (1) An optional retirement plan is hereby authorized for designated employees of public postsecondary education institutions who are also eligible for membership in the Kentucky Teachers' Retirement System under KRS 161.220(4)(b) and 161.470(1). The purpose of the optional retirement plan shall be to provide suitable retirement and death benefits, while affording the maximum portability of these benefits to the eligible employees as an alternative to membership in the retirement system. Benefits shall be provided by the purchase of annuity contracts, mutual fund accounts, or similar investment products, or a combination thereof, collectively referred to as contracts or annuity contracts, at the option of the participant and offered by the selected provider for plans established under Section 403(b) of the Internal Revenue Code. The specific provisions of provider contracts with respect to the benefits payable to members and their beneficiaries shall prevail over specific provisions relating to the same subjects found in KRS 161.220 to 161.716, other than this section.
- (2) The boards of regents of those institutions identified in KRS 161.220(4)(b) shall select no less than two (2) but no more than four (4) companies from which to purchase contracts under the optional retirement plan. As criteria for this selection, the boards of regents shall consider, among other things, and as appropriate for the type of contract provider, the following:
  - (a) The portability of the contracts offered or to be offered by a company, based on the number of states in which the company provides contracts under similar plans;
  - (b) The efficacy of the contracts in the recruitment and retention of employees for the various state public postsecondary education institutions;
  - (c) The nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;
  - (d) The relation of the rights and benefits to the amount of contributions required;
  - (e) The suitability of the rights and benefits to the needs and interests of eligible employees and the various state public postsecondary education institutions; and
  - (f) The ability of the designated companies to provide the rights and benefits under those contracts.

**161.568 Eligibility to participate in optional retirement plan – Election to change from optional retirement plan to Kentucky Teachers' Retirement System.**

- (1) Eligibility to participate in the optional retirement plan shall be determined by the board of regents of each of the state public postsecondary education institutions identified in KRS 161.220(4)(b). The employees of these institutions of higher education who are

initially employed on or after the implementation date of the optional retirement plan may make an election to participate in the optional retirement plan within thirty (30) days after their employment date. This election shall be irrevocable except as otherwise provided in this subsection. No member of the Kentucky Teachers' Retirement System who terminates employment and is subsequently reemployed by the same or another public postsecondary education institution which participates in the Kentucky Teachers' Retirement System may be eligible to elect to participate in the optional retirement plan unless the date of reemployment is at least six (6) months after the date of termination. All elections made under this subsection shall be in writing and shall be filed with the appropriate officer of the employer institution. Persons who originally elected to participate in the optional retirement plan may later change their elections only as follows:

- (a) Any person otherwise eligible for membership in the Kentucky Teachers' Retirement System may irrevocably elect one (1) time during his or her lifetime to change his or her election and to prospectively participate in the Kentucky Teachers' Retirement System. This election to change from the optional retirement plan to Kentucky Teachers' Retirement System shall be effective beginning on the first day of the first month immediately following the date that written application for the election is received in the retirement system's office on forms prescribed by the system. Any person exercising this election shall not be entitled to purchase as service credit in the Kentucky Teachers' Retirement System any prior service with his or her postsecondary education institution employer;
- (b) Any person otherwise eligible for membership in the Kentucky Teachers' Retirement System who previously elected to participate in the optional retirement plan may irrevocably elect one (1) time within his or her first six (6) years and six (6) months of continuous service in any one (1) or more of the institutions identified in KRS 161.220(4)(b), to change his or her election and to prospectively participate in the Kentucky Teachers' Retirement System and also become eligible to purchase as service credit his or her prior service with his or her postsecondary education employer. This election to change from the optional retirement plan to the Kentucky Teachers' Retirement System shall be effective beginning on the first day of the first month immediately following the date that written application for the election is received in the retirement system's office on forms prescribed by the retirement system. Persons electing to change from the optional retirement plan to the Kentucky Teachers' Retirement System may purchase service credit only for their prior years of service for a postsecondary education institution identified in KRS

161.220(4)(b) during which they participated in the optional retirement plan. The election to purchase prior service as service credit shall be received in the retirement system's office on forms prescribed by the retirement system within the six (6) year and six (6) month period provided to make the election to begin participation in the Kentucky Teachers' Retirement System. The cost of purchasing this service shall be calculated by adding both the employer and member contributions that would have been paid to the Kentucky Teachers' Retirement System had the individual purchasing this service participated in the Kentucky Teachers' Retirement System instead of the optional retirement plan, less the amount contributed to the Kentucky Teachers' Retirement System by the postsecondary education institution as provided by KRS 161.569(5), or KRS 161.569(5)(a)2. as it existed on June 30, 2007. Interest at Kentucky Teachers' Retirement System's actuarially assumed rate shall be paid on these net contributions by the person electing to change to the Kentucky Teachers' Retirement System from the optional retirement plan. These payments shall not be picked up as described in KRS 161.540(2). Persons who elect to change from the optional retirement plan to the Kentucky Teachers' Retirement System may elect to purchase as service credit, beginning with the most recent years, any portion of their prior years of service during which time they participated in the optional retirement plan, or none of those years. Members may purchase service credit for prior years of service by rolling over funds from their optional retirement plan account as provided under KRS 161.5461, or by rolling over or transferring other plan funds as permitted by the rules set forth in the Internal Revenue Code, or by making an after-tax lump-sum cash payment;

- (c) Effective July 1, 2008, persons otherwise eligible for membership in the Kentucky Teachers' Retirement System may irrevocably elect one (1) time to change their election and to prospectively participate in the Kentucky Teachers' Retirement System and purchase service credit for their prior years of service during which they participated in the optional retirement plan. This election shall be filed in writing with the Kentucky Teachers' Retirement System no later than December 31, 2008. Persons who change their election prior to July 1, 2008, to prospectively participate in the Kentucky Teachers' Retirement System may purchase service credit for their prior years of service during which they participated in the optional retirement plan. The purchase of prior years of service under this paragraph shall be subject to the same conditions and purchase costs as described in paragraph (b) of this subsection, except that the

election to purchase service credit shall be on file with the Kentucky Teachers' Retirement System no later than December 31, 2008; and

(d) Persons electing to change to the Kentucky Teachers' Retirement System under paragraphs (a), (b), and (c) of this subsection shall be eligible to participate, based upon their age and allowable service credit, in the disability, survivorship, and medical insurance programs under the conditions and in the degree as they exist on the date that they file their election with the retirement system, but shall be subject to any changes to those programs from that date forward, including any changes that may affect their eligibility for or degree of participation in those programs. Prior service purchased as service credit as permitted under paragraphs (b) and (c) of this subsection shall not be considered for meeting eligibility requirements or determining the extent of participation in these programs. Persons electing to change to the Kentucky Teachers' Retirement System shall not be eligible for the survivorship or disability programs based upon medical conditions that existed prior to the filing of their elections.

(2) Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their employer institution shall be effective on the date of their employment. If an eligible employee hired subsequent to the implementation date at the employer institution fails to make the election provided for in this section, the employee shall become a member of the regular retirement plan of the Kentucky Teachers' Retirement System.

**161.569 Effect of election to participate – Payment of benefits – Taxation and attachment of benefits – Employer contributions.**

- (1) Any person electing to participate in the optional retirement plan shall be ineligible for membership in the regular retirement plan of the Kentucky Teachers' Retirement System for as long as the participant is employed in a position for which the optional retirement plan is available, except as provided in KRS 161.568(1).
- (2) Any person electing to participate in the optional retirement plan shall acknowledge in writing that the benefits payable to participants are not the obligation of the Commonwealth of Kentucky or the Kentucky Teachers' Retirement System, and that these benefits and other rights of the optional retirement plan are the liability and responsibility solely of the designated companies to which contributions have been made.
- (3) Benefits shall be payable to optional retirement plan participants or their beneficiaries by the designated companies in accordance with the contracts issued by each company and the retirement plan provisions adopted by each public institution.
- (4) Annuity contracts issued under the optional retirement plan and all



rights of a participant in the optional retirement plan shall be exempt from any state, local, or municipal tax; assessment for the insolvency of any life, health, or casualty insurance company; any levy or sale, garnishment, or attachment; or any process whatsoever, and shall be unassignable except as otherwise specifically provided by the contracts offered under the optional retirement plan adopted by the respective public institutions of higher education. Except contracts issued and rights accrued in the optional retirement plan on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

- (5) Each institution shall contribute for each payroll period of each fiscal year to the Kentucky Teachers' Retirement System, an amount equal to five and one-tenth percent (5.1%) of the total salaries of all persons who elect or elected to participate in the optional retirement plan instead of the Kentucky Teachers' Retirement System. This payment shall continue to be made until June 30, 2018. No contributions shall be payable on or after July 1, 2018, to the Kentucky Teachers' Retirement System for all persons who elect or elected to participate in the optional retirement plan instead of the Kentucky Teachers' Retirement System.

**161.580 Individual accounts to be kept – Other data – Summary plan description – Publication – Recipients.**

- (1) The board of trustees shall provide for the maintenance of an individual account for each member showing the amount of the member's accumulated account balance. Such individual accounts shall be identified in the records of the system by name, date of birth, and Social Security number. It shall collect and keep in convenient form such data as is necessary for the preparation of the required mortality and service tables and for the compilation of such other information as is required for the actuarial valuation of the assets and liabilities of the various funds of the retirement system.
- (2) The board shall prepare and furnish to all active contributing members a summary plan description, written in a manner calculated to be understood by the average member or annuitant, and sufficiently accurate and comprehensive to reasonably apprise them of their rights and obligations under the Teachers' Retirement System. The board may furnish the summary plan description by posting it on the retirement system's Web site.
- (3) The summary plan description shall include:
  - (a) The name of the retirement system, the name and address of the executive secretary, and the name, address, and title of each member of the board of trustees;
  - (b) The name and address of the person designated for the service of legal process;
  - (c) The system's requirements for participation and benefits;

- (d) A description of retirement formulas for normal, early, and disability retirement, and survivor benefits;
  - (e) A description of the requirements for vesting of pension benefits;
  - (f) A list of circumstances which would result in disqualification, ineligibility, or denial or loss of benefits;
  - (g) The sources of financing retirement benefits, and statutory requirements for funding;
  - (h) A statement after each actuarial valuation as to whether funding requirements are being met; and
  - (i) The procedures to be followed in presenting claims for benefits under the plan, and the remedies available under the plan for the redress of claims which are denied in whole or in part.
- (4) The board may publish the summary plan description in the form of a comprehensive pamphlet or booklet, or in the form of periodic newsletters which shall incorporate all the information required in the summary plan description within a period of two (2) years. Any changes in statutory requirements or administrative practices which alter the provisions of the plan as described in the summary plan description shall be summarized as required in subsection (2) of this section and furnished to active contributing members in the form of a supplement to a comprehensive booklet, or reported in the periodic newsletter.
- (5) The board shall provide to annuitants so much of the summary plan description as they need to understand changes in benefits which apply to them.

**161.585 Member's account confidential – Release of certain information from accounts of current or former legislators – Medical records on file confidential – Production of records in response to a subpoena or court order.**

- (1) Each member's or annuitant's account shall be administered in a confidential manner, and specific data regarding a member or annuitant shall not be released for publication, except that:
- (a) The member or annuitant may authorize the release of his or her account information;
  - (b) The board of trustees may release member or annuitant account information to the employer or to other state and federal agencies as it deems necessary or in response to a lawful subpoena or order issued by a court of law; or
  - (c) 1. Upon request by any person, the system shall release the following information from the accounts of any member or annuitant of the Kentucky Teachers' Retirement System, if the member or annuitant is a current or former officeholder in the Kentucky General Assembly:
    - a. The first and last name of the member or annuitant;
    - b. The status of the member or annuitant, including

but not limited to whether he or she is a contributing member, a member who is not contributing but has not retired, a retiree receiving a monthly retirement allowance, or a retiree who has returned to work following retirement with an agency participating in the system;

- c. If the individual is an annuitant, the monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year;
  - d. If the individual is a member who has not yet retired, the estimated monthly retirement allowance that he or she is eligible to receive on the first date he or she would be eligible for an unreduced retirement allowance, using his or her service credit, accumulated account balance, and final average salary at the end of the most recently completed fiscal year; and
  - e. The current or last participating employer of the member or annuitant, if applicable.
2. No information shall be disclosed under this paragraph from an account that is paying benefits to a beneficiary due to the death of a member or annuitant.
- (2) The release of information under subsection (1)(c) of this section shall not constitute a violation of the Open Records Act, KRS 61.870 to 61.884.
  - (3) Medical records which are included in a member's or annuitant's file maintained by the Teachers' Retirement System are confidential and shall not be released unless authorized by the member or annuitant in writing or as otherwise provided by law or in response to a lawful subpoena or order issued by a court of law.
  - (4) (a) When a subpoena is served upon any employee of the Kentucky Teachers' Retirement System requiring the production of any data, information, or records, it is sufficient if the employee of the Kentucky Teachers' Retirement System charged with the responsibility of being custodian of the original, or his or her designated staff, delivers within five (5) working days by certified mail or by personal delivery to the person specified in the subpoena either of the following:
    - 1. Legible and durable copies of records certified by the employee or designated staff; or
    - 2. An affidavit stating the information required by the subpoena.
  - (b) The production of records or an affidavit shall be in lieu of any personal testimony of any employee of the Kentucky Teachers' Retirement System unless, after the production of records or an

affidavit, a separate subpoena is served upon the retirement system specifically directing the testimony of an employee of the retirement system. When a subpoena is served on any employee of the retirement system requiring the employee to give testimony or produce records for any purpose, in the absence of a court order requiring the testimony of or production of records by a specific employee, the system may designate an employee to give testimony or produce records upon the matter referred to in the subpoena. The board of trustees may promulgate an administrative regulation for the recovery of reasonable travel and administrative expenses for those occasions when an employee of the retirement system is required to travel from his or her home or office to provide testimony or records. Recoverable expenses may include the wages, salary, and overtime paid to the employee by the retirement system for the period of time that the employee is away from the office. The cost of these expenses shall be borne by the party issuing the subpoena compelling the employee's travel. The board of trustees may also promulgate an administrative regulation establishing a reasonable fee for the copying, compiling, and mailing of requested records.

- (c) The certification required by this subsection shall be signed before a notary public by the employee and shall include the full name of the member or annuitant, the member or annuitant identification number assigned to the member or annuitant by the retirement system, and a legend substantially to the following effect: "The records are true and complete reproductions of the original, microfiched, or electronically stored records which are housed in the retirement system's office. This certification is given in lieu of the undersigned's personal appearance."
- (d) When an affidavit or copies of records are personally delivered, a receipt shall be presented to the person receiving the records for his or her signature and shall be immediately signed and returned to the person delivering the records. When an affidavit or copies of records are sent via certified mail, the receipt used by the postal authorities shall be sufficient to prove receipt of the affidavit or copies of records.
- (e) When the affidavit or copies of records are delivered to a party for use in deposition they shall, after termination of the deposition, be delivered personally or by certified mail to the clerk of the court or other body before which the action or proceeding is pending.
- (f) Upon completion of delivery by the retirement system of copies of records by their deposit in the mail or by their personal delivery to the requesting party, the retirement system

shall cease to have any responsibility or liability for the records and their continued maintenance in a confidential manner.

- (g) Records of the Kentucky Teachers' Retirement System that are susceptible to reproduction may be proved as to foundation, identity, and authenticity without preliminary testimony, by use of legible and durable copies, certified in accordance with the provisions of this subsection.
  - (h) The provisions of this subsection shall not be construed to prohibit the Kentucky Teachers' Retirement System from asserting any exemption, exception, or relief provided under the Kentucky Rules of Civil Procedure or other applicable law.
- (4) For purposes of this section, "records" includes retirement estimates, affidavits, and other documents prepared by the Kentucky Teachers' Retirement System in response to information requested in a lawful subpoena or order issued by a court of law.

#### **161.590 Service credit at retirement.**

- (1) At retirement the total service credited to a teacher shall consist of prior and subsequent service rendered by him or her for which service credit has been allowed.
- (2) Kentucky service, presented at the time of retirement, may not be used in calculating benefits under KRS 161.525, 161.620, or 161.661, if such service has been used to increase benefits in another retirement system, not including Old Age and Survivors Insurance Benefits under the Social Security Administration.
- (3) No service credit shall be added to a member's account after the effective date of retirement for service.

#### **161.595 Credit upon service retirement.**

- (1) Upon service retirement, a member of the Teachers' Retirement System may obtain credit for all or any part of the service otherwise creditable under the Kentucky Employees Retirement System, the County Employees Retirement System, or in the service of the United States government for which service credit is not otherwise given, upon the payment by the member of the full actuarial cost of the service credit purchased as defined in KRS 161.220(22). Such payments shall not be picked up, as described in KRS 161.540(2).
- (2) The amount paid under this section shall be considered as accumulated contributions of the individual member.
- (3) No person shall be allowed credit for the same period of service in more than one (1) of these three (3) retirement systems.

#### **161.597 Installment payments for purchase of service credit by active contributing members.**

- (1) A member in active contributing status may purchase any service credit which the member is authorized to purchase by making

installment payments in lieu of a lump-sum payment.

- (2) To initiate an installment payment plan, a member shall make a written request to the retirement system for an estimate to purchase service credit by making installment payments.
- (3) To qualify for installment payments, the total cost of the service purchase, including any chargeable interest, shall exceed one thousand dollars (\$1,000).
- (4) Installment payments shall be at least fifty dollars (\$50) per month and shall be made for a period of time which is not less than twelve (12) months nor more than sixty (60) months. Interest at eight percent (8%) per annum, unless the board specifies in an administrative regulation a different interest rate, shall be charged on all installment payment purchases of service credit that are purchasable at less than full actuarial cost. Interest shall be assigned to the guarantee fund.
- (5) Installment payments shall be made on a monthly basis by electronic fund transfer. The payments shall be considered accumulated contributions and shall not be picked up as provided in KRS 161.560, except that subject to approval by the Internal Revenue Service and only as permitted by the Internal Revenue Code, installment payments shall be made on a tax-deferred basis.
- (6) A member may elect to terminate electronic fund transfers at any time and purchase the remaining service credit by lump-sum payment. A member on a leave of absence may continue to make installment payments. Termination of employment in a covered position shall terminate installment payments. If the member is later employed by a different employer in a covered position, the member may request a new estimate and reinstate installment payments. A member that misses two (2) consecutive installment payments shall be in default. A member in default shall receive a refund of all prior installment payments and the member's service credit shall be reduced accordingly. A member in default may not reinstate installment payments for twelve (12) months from the date the member was in default.
- (7) If a member dies before completing scheduled installment payments, the named beneficiary of the member's retirement account may pay the remaining balance due by a lump-sum payment within thirty (30) days of the death of the member.

**161.600 Retirement conditions – Consolidation of accounts – Applications and forms – Surviving spouse.**

- (1) An individual who becomes a member of the retirement system prior to January 1, 2022, may qualify for service retirement by meeting one (1) of the following requirements:
  - (a) Attainment of age sixty (60) years and completion of five (5) years of Kentucky service;
  - (b) 1. For an individual who becomes a member before July 1,

2008, attainment of age fifty-five (55) years and completion of a minimum of five (5) years of Kentucky service with an actuarial reduction of the basic allowance of five percent (5%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than twenty-seven (27), whichever is the lesser number; and

2. For an individual who becomes a member on or after July 1, 2008, attainment of age fifty-five (55) years and completion of a minimum of ten (10) years of Kentucky service with an actuarial reduction of the basic retirement allowance of six percent (6%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than twenty-seven (27), whichever is the lesser number;

(c) Completion of twenty-seven (27) years of Kentucky service. Out-of-state service earned in accordance with the provisions of KRS 161.515(2) may be used to meet this requirement; or

(d) Completion of the necessary years of service under provisions of KRS 61.559(2)(c) if the member is retiring under the reciprocity provisions of KRS 61.680. A member retiring under this paragraph who has not attained age fifty-five (55) shall incur an actuarial reduction of the basic allowance determined by the system's actuary for each year the member's service credit is less than twenty-seven (27).

(2) An individual who becomes a member of the retirement system on or after January 1, 2022, shall, except as adjusted by the board pursuant to KRS 161.633 or 161.634, as applicable, be eligible to retire upon attainment of:

(a) Age sixty-five (65) and completion of a minimum of five (5) years of Kentucky service;

(b) Age sixty (60) and completion of a minimum of ten (10) years of Kentucky service;

(c) Age fifty-seven (57) and completion of a minimum of thirty (30) years of Kentucky service; or

(d) Age fifty-seven (57) and completion of a minimum of ten (10) years of Kentucky service with an actuarial reduction of the basic retirement allowance of six percent (6%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than thirty (30), whichever is the lesser number.

(3) Any person who has been a member in Kentucky for twenty-seven (27) years or more and who withdraws from covered employment may continue to pay into the fund each year until the end of the fiscal year in which he or she reaches the age of sixty-five (65) years, the current

contribution rate based on the annual compensation received during the member's last full year in covered employment, less any payment received for accrued sick leave or accrued leave from an employer. The member shall be entitled to receive a retirement allowance as provided in KRS 161.620 at any time after withdrawing from covered employment and payment of contributions under this subsection. No member shall make contributions as provided for in this subsection if the member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

- (4) Service credit in the Kentucky Employees Retirement System, the State Police Retirement System, the Legislators' Retirement Plan, the County Employees Retirement System, or the Judicial Retirement System may be used in meeting the service requirements of subsections (1)(a) to (c) and (2) of this section, provided the service is subsequent to July 1, 1956.
- (5) Upon death, disability, or service retirement, a member's accounts under all state supported retirement systems shall be consolidated, as provided by this section and by KRS 61.680, for the purpose of determining eligibility and amount of benefits, which shall include medical benefits. Upon determination of benefits, each system shall pay the applicable percentage of total benefits. The effective date of retirement under this subsection shall be determined by each retirement system for the portion of the payments that will be made.
- (6) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with administrative regulations of the board of trustees. A member may withdraw his or her retirement application, postpone his or her effective retirement date, or change his or her retirement option if these elections are made no later than the fifteenth day of the month in which the member has made application for retirement.
- (7) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to the member's death.

**161.605 Resumption of employment by retired member – Continuation of retirement allowance – Individuals who retire and are reemployed – Waiver of annuity – Part-time, substitute teaching, and nonteaching employment.**

Any member retired by reason of service may return to work in a position covered by the Kentucky Teachers' Retirement System and continue to receive his or her retirement allowance under the following conditions:

- (1) Any member who is retired with thirty (30) or more years of service may return to work in a full-time or a part-time position, or in a position providing substitute teaching service, covered by the Teachers' Retirement System and earn up to a maximum of seventy-



five percent (75%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is seventy-five percent (75%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, excluding employer-provided medical insurance required under subsection (5) of this section, shall be considered. Members who were retired on or before June 30, 2002, shall be entitled to return to work under the provisions of this section as if they had retired with thirty (30) years of service. Nonqualified service credit purchased under the provisions of KRS 161.5465 or elsewhere with any state-administered retirement system shall not be used to meet the thirty (30) year requirement set forth in this subsection. Out-of state teaching service provided in public schools for kindergarten through grade twelve (12) may count toward the thirty (30) year requirement set forth in this subsection even if it is not purchased as service credit, if the member obtains from his or her out-of-state employer certification of this service on forms prescribed by the retirement system;

- (2) Any member who is retired with less than thirty (30) years of service after June 30, 2002, may return to work in a full-time or part-time position, or in a position providing substitute teaching service, covered by the Teachers' Retirement System and earn up to a maximum of sixty-five percent (65%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is sixty-five percent (65%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, excluding employer- provided medical insurance required under subsection (5) of this section, shall be considered;
- (3) Reemployment of a retired member under subsection (1) or (2) of this section in a full-time teaching or nonteaching position in a local school district shall be permitted only if the employer certifies to the Kentucky Teachers' Retirement System that there are no other qualified applicants available to fill the teaching or nonteaching position. The employer may use any source considered reliable, including but not limited to data provided by the Education Professional Standards Board and the Department of Education, to determine whether other qualified applicants are available to fill the teaching or nonteaching position. The Kentucky Board of Education shall promulgate administrative regulations to establish procedures to determine whether other qualified applicants are available to fill a teaching or nonteaching position and, if not, for filling the position

with a retired member who will then be permitted to return to work in that position under subsection (1) or (2) of this section. The administrative regulations shall ensure that a retired member shall not be hired in a teaching or nonteaching position by a local school district until the superintendent of the school district assures the Kentucky Teachers' Retirement System that every reasonable effort has been made to recruit other qualified applicants for the position on an annual basis;

- (4) Under this section, an employer may employ full-time a number of retired members not to exceed three percent (3%) of the membership actively employed full-time by that employer. The board of trustees may reduce this three percent (3%) cap upon recommendation of the retirement system's actuary if a reduction is necessary to maintain the actuarial soundness of the retirement system. The board of trustees may increase the three percent (3%) cap upon a determination that an increase is warranted to help address a shortage in the number of available teachers and upon the determination of the retirement system's actuary that the proposed cap increase allows the actuarial soundness of the retirement system to be maintained. For purposes of this subsection, "full-time" means the same as defined by KRS 161.220(21). A local school district may exceed the quota established by this subsection by making an annual written request to the Kentucky Department of Education which the department may approve on a year-by-year basis if the statewide quota has not been met. A district's written request to exceed its quota shall be submitted no sooner than two (2) weeks after the start of the school year;
- (5)
  - (a) Except as provided by subsection (10) of this section, a member returning to work in a full-time or part-time position, or in a position providing substitute teaching service, under subsection (1) or (2) of this section shall contribute to an account with the retirement system that shall be administered independently from and with no reciprocal impact with the member's original retirement account, or any other account from which the member is eligible to draw a retirement allowance.
  - (b) Except as provided by subsection (10) of this section, a member returning to work under subsection (1) or (2) of this section shall make contributions to the retirement system at the rate provided under KRS 161.540. The new account shall independently meet all vesting requirements as well as all other conditions set forth in KRS 161.600(1) or (2), as applicable, before any retirement allowance is payable from this account. The retirement allowance accruing under this new account shall be calculated pursuant to KRS 161.620. This new account shall not entitle the member to a duplication of the benefits offered under KRS 161.620(7) or 161.675, nor shall this new account provide the benefits offered by KRS 161.520, 161.525,

161.620(3), 161.655, 161.661, or 161.663.

- (c) A member returning to work under subsection (1) or (2) of this section shall waive his or her medical insurance with the Teachers' Retirement System during the period of reemployment and shall receive the medical insurance coverage that is generally provided by the member's active employer to the other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member.
  - (d) A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit for any service provided after the member's effective date of retirement but prior to the date that the member returns to work. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit that the member would have otherwise been eligible to purchase prior to the member's initial retirement.
  - (e) A member who returns to work under subsection (1) or (2) of this section, or in the event of the death of the member, the member's estate or applicably designated beneficiary, shall be entitled, within ninety (90) days of the posting of the annual report submitted by the employer, to a refund of contributions as permitted and limited by KRS 161.470;
- (6) The board of trustees may annually, on July 1, adjust the current daily rate of a member's last annual compensation, for each full twelve (12) month period that has elapsed subsequent to the member earning his or her last annual compensation, by the percentage increase in the annual average of the consumer price index for all urban consumers for the calendar year preceding the adjustment as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%) annually. Each annual adjustment shall become part of the member's daily rate base. Failure to comply with the salary limitations set forth in subsections (1) and (2) of this section as may be adjusted by this subsection shall result in a reduction of the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar that the member exceeds these salary limitations, and the member shall be refunded his or her retirement contributions made on the compensation that exceeds these salary limitations. Notwithstanding any other provision of law to the contrary, a member retiring from a local school district who returns to work for a local school district under subsection (1) or (2) of this section shall be entitled, without any reduction to his or her retirement allowance or any other retirement benefit, to earn a minimum amount equal to one hundred seventy dollars (\$170) per day;
- (7) (a) A retired member returning to work under subsection (1) or (2)

of this section shall have separated from service for a period of at least one (1) year if returning to work for the same employer on a full-time basis, and at least three (3) months if returning to work for a different employer on a full-time basis. A retired member returning to work under subsection (1) or (2) of this section on a part-time basis shall have separated from service for a period of at least three (3) months before returning to work for any employer.

- (b) As an alternative to the separation-from-service requirements in paragraph (a) of this subsection, a retired member who is returning to work for the same employer in a full-time position under subsections (1) and (2) of this section may elect a separation-from-service of not less than two (2) months followed by a forfeiture of the retired member's retirement allowance on a month-to-month basis for each month that the member has separated from service for less than twelve (12) full months. A retired member returning to work for the same employer in a part-time position, or for a different employer in a full-time position, may elect an alternative separation-from-service requirement of at least two (2) months followed by a forfeiture of the member's retirement allowance for one (1) month. During the period that the member forfeits his or her retirement allowance and thereafter, member and employer contributions shall be made to the retirement system as a result of employment in any position subject to membership in the retirement system. The member shall contribute to an account with the retirement system subject to the conditions set forth in subsection (5) of this section.
- (c) A retired member who is returning to work for an employer that has employees who participate in the Teachers' Retirement System shall comply with the separation-from-service requirements in this subsection before performing any service for the employer, regardless of whether the retired member is providing service in a position covered by the Teachers' Retirement System.
- (d) The starting date for any separation from service required under this subsection shall be the effective date of the member's retirement.
- (e) The separation-from-service requirements of this subsection are not met if there is a prearranged agreement between the member and an employer that has employees who participate in the Teachers' Retirement System prior to retirement for the member to work for the employer after retirement.
- (f) The Teachers' Retirement System may require the member and the employer for which the member is returning to work to certify in writing on a form prescribed by the Teachers'

Retirement System that no prearranged agreement was or will be entered into between the member and employer prior to retirement for the member to work for the employer after retirement.

(g) Failure to comply with the separation-from-service requirements in this subsection voids a member's retirement and the member shall be required to return all the retirement benefits he or she received, with interest, for the period of time that the member returned to work without a sufficient separation from service;

(8) (a) Effective July 1, 2004, local school districts may employ retired members in full-time or part-time teaching or administrative positions without limitation on the compensation of the retired members that is otherwise required by subsections (1) and (2) of this section. Under provisions of this subsection, a local school district may only employ retired members to fill critical shortage positions for which there are no other qualified applicants as determined by the local superintendent. The number of retired members that a local school district may employ under this subsection shall be no more than two (2) members per local school district or one percent (1%) of the total active members employed by the local school district on a full-time basis as defined under KRS 161.220(21), whichever number is greater. Retired members returning to work under this subsection shall be subject to the separation- from-service requirements set forth in subsection (7) of this section. Retired members returning to work under this subsection shall waive their medical insurance coverage with the retirement system during their period of reemployment and receive medical insurance coverage that is offered to other full-time members employed by the local school district. Retired members returning to work under this subsection shall contribute to an account subject to the conditions set forth in subsection (5) of this section. Retired members returning to work under this subsection shall make contributions to the retirement system at the rate provided under KRS 161.540. The employer shall make contributions at the rate provided under KRS 161.550. Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at the rates determined by the retirement system's actuary that reflect any accrued liability resulting from the reemployment of these members.

(b) The Department of Education may employ retired members in full-time or part-time teaching or nonteaching positions without the limitations on compensation otherwise required by subsections (1) and (2) of this section to fill critical shortage

areas in the schools it operates, including the Kentucky School for the Blind, the Kentucky School for the Deaf, and the Kentucky Virtual High School, and to serve on audit teams. The department shall be subject to the same requirements as local school districts as provided in paragraph (a) of this subsection, except the Teachers' Retirement System shall determine the maximum number of employees that may be employed under this paragraph;

- (9) The return-to-work limitations set forth in this section shall apply to retired members who are returning to work in the same position from which they retired, or a position substantially similar to the one from which they retired, or a position described in KRS 161.046 or any position listed in KRS 161.220(4) which requires membership in the retirement system. Positions which generally require certification or graduation from a four (4) year college or university as a condition of employment which are created, or changed to remove the position from coverage under KRS 161.220(4) are also subject to the return to work limitations set forth in this section. The board of trustees shall determine whether employment in a nonteaching position is subject to this subsection;
- (10) (a) Notwithstanding the provisions of this section, individuals who become members on or after January 1, 2022, who subsequently retire and begin drawing a monthly lifetime retirement allowance from the Teachers' Retirement System, who following retirement are reemployed with an employer participating in the Teachers' Retirement System, shall not be eligible to contribute to or earn benefits in a second retirement account in the Teachers' Retirement System during the period of reemployment.
- (b) The provisions of subsections (1) to (8) of this section are not subject to KRS 161.714;
- (11) Any member retired by reason of service may waive his or her annuity and return to full-time employment in a position covered by the Teachers' Retirement System under the following conditions:
- (a) The member shall receive no annuity payments while employed in a covered position, shall waive his or her medical insurance coverage with the Teachers' Retirement System during the period of reemployment, and shall receive the medical insurance coverage that is generally offered by the member's active employer to the other members of the retirement system employed by the active employer. The member's estate or, if there is a beneficiary applicably designated by the member, then the beneficiary, shall continue to be eligible for life insurance benefits as provided in KRS 161.655. Service subsequent to retirement shall not be used to improve an annuity, except as provided in paragraphs (b) and (c) of this subsection;

- (b) Any member who waives regular annuity benefits and returns to teaching or covered employment shall be entitled to make contributions on the salaries received for this service and have his or her retirement annuity recalculated as provided in the regular retirement formula in KRS 161.620(1), less any applicable actuarial discount applied to the original retirement allowance due to the election of a joint and last survivor option. Retirement option and beneficiary designation on original retirement shall not be altered by postretirement employment, and dependents and spouses of the members shall not become eligible for benefits under KRS 161.520, 161.525, or 161.661 because of postretirement employment;
  - (c) When a member returns to full-time teaching or covered employment as provided in subsection (b) of this section, the employer is required to withhold and remit regular retirement contributions. The member must be employed full-time for at least one (1) consecutive contract year to be eligible to improve an annuity. The member shall be returned to the annuity rolls on July 1 following completion of the contract year or on the first day of the month following the month of termination of service if full-time employment exceeds one (1) consecutive contract year. A member shall not be returned to the annuity rolls until after he or she has filed a retirement application in compliance with KRS 161.600(6). Any discounts applied at the time of the original retirement due to service or age may be reduced or eliminated due to additional employment if full-time employment is for one (1) consecutive contract year or longer; and
  - (d) A member retired by reason of service who has been employed the equivalent of twenty-five (25) days or more during a school year under KRS 161.605 may waive the member's retirement annuity and return to regular employment covered by the Teachers' Retirement System during that school year a maximum of one (1) time during any five (5) year period, beginning with that school year;
- (12) Retired members may be employed in a part-time teaching capacity by an agency described in KRS 161.220(4)(b) or (n), not to exceed the equivalent of twelve (12) teaching hours in any one (1) fiscal year. Retired members may be employed for a period not to exceed the equivalent of one hundred (100) days in any one (1) fiscal year in a part-time administrative or nonteaching capacity by an agency described in KRS 161.220(4)(b) or (n) in a position that would otherwise be covered by the retirement system. Except as otherwise provided by this subsection, the return to work provisions set forth in subsections (1) to (8) of this section shall not apply to retired members who return to work solely for an agency described in KRS

161.220(4)(b) or (n). Calculation of the number of days and teaching hours for part-time teaching, substitute teaching, or part-time employment in a nonteaching capacity under this section shall not exceed the ratio between a school year and the actual months of retirement for the member during that school year. The board of trustees by administrative regulation may establish fractional equivalents of a day of teaching service. Any member who exceeds the twelve (12) hour or one hundred (100) day limitations of this subsection shall be subject to having his or her retirement voided and be required to return all retirement allowances and other benefits paid to the member or on the member's behalf since the effective date of retirement. In lieu of voiding a member's retirement, the system may reduce the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar of compensation that the member earns in employment exceeding twelve (12) hours, one hundred (100) days, or any apportionment of the two (2) combined. Retired members returning to work for an employer described in KRS 161.220(4)(b) or (n) shall comply with the separation-from-service requirements of subsection (7) of this section;

- (13) When a retired member returns to employment in a part-time teaching capacity or in a nonteaching capacity as provided in subsection (12) of this section, the employer shall contribute annually to the retirement system on the compensation paid to the retired member at rates determined by the retirement system actuary that reflect accrued liability for retired members who return to work under subsection (12) of this section; and
- (14) For retired members who return to work during any one (1) fiscal year in both a position described in KRS 161.220(4)(b) or (n) and in a position described under another provision under KRS 161.220(4), and for retired members who return to work in a position described under KRS 161.220(4)(b) or (n) in both a teaching and an administrative or nonteaching capacity, the board of trustees shall adopt a methodology for a pro rata apportionment of days and hours that the retired member may work in each position.

**161.607 Employment in position covered by other Kentucky retirement system.**

- (1) Any member of the Teachers' Retirement System who enters employment covered by the Kentucky Employees Retirement System, the State Police Retirement System, or the County Employees Retirement System, prior to July 1, 1976, may retain membership in the Teachers' Retirement System instead of joining the new system.
- (2) Retention of membership in the Teachers' Retirement System by any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System shall be effected by



conforming with KRS 61.680(4)(c). Members of the General Assembly who retain membership shall make retirement contributions based upon their annual compensation as defined under KRS 161.220 or on their creditable compensation as defined under KRS 61.510, whichever is the larger amount. Service as a member of the General Assembly may be used to meet the service requirements of KRS 61.680(2)(a) regardless of the system to which contributions are made by the member.

- (3) Any member of the Teachers' Retirement System entering employment as described in subsection (1) of this section must exercise the option within ninety (90) days of the beginning of such employment.
- (4) Persons who enter service covered by the Teachers' Retirement System prior to July 1, 1976, and who hold membership in a Kentucky retirement system financed in whole or part with public funds may retain membership in that system providing the statutes and regulations governing said system make continued membership possible.
- (5) Any person who has elected an option provided in this section may cancel such election and gain membership in the system which normally covers the position in which currently employed, provided that such cancellation of option election must be completed prior to January 1, 1977.

**161.608 Computation of benefits of member who has an account with another state system.**

The provisions of KRS 61.680 are hereby recognized and shall be followed in computing benefits of any member of the Teachers' Retirement System who also has an account with the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System.

**161.611 Supplemental retirement benefit plan – Purpose – Administration – Eligibility – Payments.**

- (1) The board of trustees is authorized to provide a supplemental retirement benefit plan for the sole purpose of enabling the employer to apply the same formula for determining benefits payable to all members of the retirement system employed by the employer, whose benefits under the retirement system are limited by Section 415 of the Internal Revenue Code of 1986, as amended from time to time. This plan is intended to constitute a qualified governmental excess benefit plan as described in Section 415 of the Internal Revenue Code.
- (2) The board of trustees shall administer this plan and have full discretionary fiduciary authority to determine all questions in connection with the plan. The board of trustees may adopt procedural rules and administrative regulations and may employ and rely on any legal counsel, actuaries, accountants, and agents as it deems advisable to assist in the administration of this plan.

- (3) All members and retired former members in the retirement system shall be eligible to participate in this plan whenever their benefits under the retirement system would exceed the limitation on benefits imposed by Section 415 of the Internal Revenue Code.
- (4) On or after the effective date of this plan, the employer shall pay to each eligible member in the retirement system who retires on or after that date and to each former member who retired before that date and his or her beneficiaries a supplemental pension benefit, equal to the amount by which the benefit that would have been payable under the retirement system, without regard to any provision therein incorporating the limitation on benefits imposed by Section 415 of the Internal Revenue Code, exceeds the benefit actually payable, taking into account the limitation imposed on the retirement system by Section 415 of the code. These supplemental pension benefits shall be computed and payable under the same terms and conditions and to the same person as the benefits payable to, or on account of, an eligible member under the retirement system.
- (5) Benefits payable under this plan shall not be subject to the dollar limit applicable to eligible deferred compensation plans under Section 457 of the Internal Revenue Code, nor to the “substantial risk of forfeiture” rules of Section 457(f) of the code applicable to ineligible deferred compensation plans. In addition, benefits payable under this plan shall not be taken into account in determining whether any other plan of the employer is an eligible deferred compensation plan under Section 457 of the code.
- (6) Funding of benefits payable under this plan shall be provided by the state, as employer, and shall be segregated from funds that are maintained by the retirement system for payment of the regular benefits provided by the retirement system. The employer may establish a grantor trust for payment of benefits provided under this plan, with the employer treated as “grantor” thereof for purposes of Section 677 of the Internal Revenue Code. The rights of any person to receive benefits under this plan are limited to those of a general creditor of the employer.

**161.612 Membership of individuals providing part-time and substitute services – Service credit – Participation in benefits.**

Effective July 1, 2002, any individual occupying a position on a part-time basis that requires certification or graduation from a four (4) year college or university as a condition of employment and any individual providing part-time or substitute teaching services that are the same or similar to those teaching services provided by certified, full-time teachers shall be a member of the Teachers’ Retirement System, according to the conditions and only to the extent set forth in this section, if the individual is employed by one (1) of the public boards, institutions, or agencies set forth in KRS 161.220, excluding those public boards, institutions, and agencies described in KRS 161.220(4)(b)

and (n). Members providing part-time and substitute services shall participate in the retirement system as follows:

- (1) Members providing part-time and substitute services shall accrue service credit as provided under KRS 161.500 and be entitled to a retirement allowance upon meeting the service retirement conditions of KRS 161.600. The board of trustees shall adopt a methodology for accrediting service credit to these members on a pro rata basis. The methodology adopted by the board of trustees may be amended as necessary to ensure its actuarial soundness. The retirement allowance for members providing part-time and substitute services shall be calculated pursuant to KRS 161.620 and 161.635 or 161.636, as applicable, except that the provisions of KRS 161.620(3) shall not apply. Members providing part-time and substitute services who meet the service retirement conditions of KRS 161.600 may also be eligible to participate as approved by the board of trustees in the medical insurance program provided by the retirement system under KRS 161.675. Members providing part-time and substitute services shall make contributions to the Teachers' Retirement System at the rate provided under KRS 161.540. A member who provides part-time or substitute services, or in the event of the death of the member, the member's estate or applicably designated beneficiary, will be entitled, within ninety (90) days of the posting of the annual report submitted by the member's employer, to a refund of contributions as permitted and limited by KRS 161.470;
- (2)
  - (a)
    1. The board of trustees shall adopt eligibility conditions under which members providing part-time and substitute services may participate in the benefits provided under KRS 161.520, 161.655, 161.661, and 161.663.
    2. For all disability retirement applications filed with the Teachers' Retirement System on or after July 1, 2021, disability retirement payments and any other recurring payments payable by any other state-administered retirement system to members providing part-time or substitute services shall be applied to reduce, on a dollar-for-dollar basis, the minimum monthly disability retirement allowance of five hundred dollars (\$500) provided for under KRS 161.661(6).
    3. Effective July 1, 2021, members providing part-time or substitute services shall not be eligible to apply for a disability retirement allowance if they are eligible for a service retirement allowance that is not subject to an actuarial reduction required under KRS 161.600(1)(b) or (d).
  - (b) The board of trustees may permit members providing part-time or substitute services to participate in other benefits offered by the retirement system by promulgating administrative

regulations that establish eligibility conditions for participation in these benefits. All eligibility conditions adopted by the board of trustees pursuant to this subsection may be amended as necessary to ensure their actuarial soundness;

- (3) In addition to the pro rata methodology adopted by the board of trustees under subsection (1) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding the accrual, retention, accreditation, and use of service credit that apply to members providing full-time services. In addition to the eligibility conditions set forth by the board of trustees under subsection (2) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding both the eligibility to participate and the extent of participation in any benefit offered under KRS 161.220 to 161.716 that apply to members providing full-time services;
- (4) Notwithstanding any other provisions of this section to the contrary, instructional assistants who provide teaching services in the local school districts on a full-time basis in positions covered by the County Employees Retirement System who are used as substitute teachers on an emergency basis for five (5) days or less during any one (1) fiscal year shall not be considered members of the Teachers' Retirement System during that period in which they are serving as substitute teachers for five (5) days or less;
- (5) The board of trustees may adopt a pro rata methodology to determine the annual compensation of members providing part-time and substitute services in order to determine benefits provided under KRS 161.661 and 161.663. Members providing part-time and substitute services who had retirement contributions posted to their accounts during the previous fiscal year and who have not had those contributions refunded to them are eligible to vote for the board of trustees;
- (6) The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership; and
- (7) The provisions of this section are not subject to KRS 161.714.

#### **161.614 Court-ordered back salary and reinstatement.**

A court order awarding additional back salary to or reinstating a member as a result of employment in a position covered by the Teachers' Retirement System shall entitle the member to additional salary or service credit, or both, under the following circumstances:

- (1) Members shall make contributions to the Teachers' Retirement System at the rate set forth in KRS 161.540 and members' employers shall make contributions at the rate set forth in KRS 161.550, with interest accruing on all contributions at the rate of eight percent (8%) per

annum from the end of each fiscal year that back salary or the reinstatement was ordered. Contributions, plus interest, shall be made for each year that back salary or reinstatement was ordered. No service or salary credit shall be credited to a member's account unless full contributions are paid to the Teachers' Retirement System;

- (2) The member may have court-ordered back salary credited to his or her account only to the extent that the member actually received payment for the back salary and only to the extent that the court-ordered back salary is within the salary scale that was available to the member in the covered position for the years that the back salary was awarded. Court-ordered back salary can be credited to the member's account only as permitted under KRS 161.220(9) and (10). The member may have court-ordered service credited to his or her account only after the retirement system has received the contributions and interest on the full compensation that would normally be earned in the position that is the subject of the litigation;
- (3) The member's employer ordered to pay back salary or to reinstate the member by a court of competent jurisdiction shall provide the retirement system with a breakdown of the back salary awarded to the member on a year-by-year basis;
- (4) The calculations of the contributions and interest required to be paid for court-ordered back salary or reinstatement shall be provided by the retirement system to the member or the member's employer at the member's or employer's request. Requests for these calculations shall be made with at least two (2) weeks of advance notice to the retirement system to provide these calculations. The retirement system will calculate accrued interest as of the last day of the month during which payment of the full contributions are made;
- (5) For purposes of this section, a settlement agreement that provides back salary or reinstatement, and is adopted by order or judgment of a court of competent jurisdiction or is referenced in an order dismissing the action as settled shall have the same effect as a court order adjudicating the matter. Orders entered by a government board or agency as a result of litigation conducted on an administrative hearing level and legally binding arbitration and mediation awards shall be considered as court orders for the purposes of this section; and
- (6) Under no circumstances shall a member be entitled to service credit as a result of court-ordered reinstatement that is in violation of the provisions of KRS 161.500.

**161.615 Limited defined contribution plan – Purpose – Administration – Eligibility – Payments.**

- (1) The board of trustees is authorized to implement a limited defined contribution plan for the sole purpose of providing retirement allowance payments for retired members who have been approved by the retirement system for full-time reemployment as provided in KRS

161.605.

- (2) The defined contribution plan shall be administered separately from the regular benefits provided for members of the retirement system, except that the contributions to the plan shall be invested in the same manner as other contributions to the retirement system.
- (3) The provisions of this section apply only to those retired members who were permitted to return to work under the critical shortage provisions of KRS 161.605(7) as they existed on June 30, 2002. The provisions of this section shall not apply to any retired member returning to work on or after July 1, 2002.
- (4) Separate member accounts shall be maintained for participants in this plan which shall reflect the annual contributions made to the participant's account based on the rates and interest levels specified in KRS 161.605.
- (5) When the retiree's reemployment terminates, the total contributions and accrued interest in the participant's account will be paid in a lump-sum payment or on an actuarial straight life monthly basis to the retiree. If the member dies prior to making application for a retirement allowance under this plan, the beneficiary designated by the participant for this plan shall receive a refund of the funds in the account. If there is a remaining balance in the account at the death of the participant after retirement from this plan, it shall be paid to the beneficiary designated by the participant for this benefit.
- (6) Retired members shall be eligible to receive their retirement annuity when approved for reemployment and participation in this plan. Service as a reemployed retiree may not be used in any manner for credit under the regular retirement benefit plans provided by the retirement system.

**161.620 Retirement allowances for university and nonuniversity retirees – Amount – Increases – Payments for adult dependents.**

- (1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:
  - (a) For retirements effective July 1, 1998, and thereafter, except as otherwise provided by this section, the annual allowance for each year of service shall be two percent (2%) of the final average salary for service performed prior to July 1, 1983, and two and one-half percent (2.5%) of the final average salary for service performed after July 1, 1983, for all nonuniversity members. Except as otherwise provided by this section, the annual retirement allowance for each year of service performed by members of the Teachers' Retirement System who are university members shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section;
  - (b) For individuals who become nonuniversity members of the

Teachers' Retirement System on or after July 1, 2002, and before July 1, 2008, who upon retirement have earned less than ten (10) full years of service credit, the retirement allowance shall be two percent (2%) of the member's final average salary for each year of service. For individuals who become nonuniversity members of the Teachers' Retirement System on or after July 1, 2002, and before July 1, 2008, and who upon retirement have earned at least ten (10) full years of service credit, the annual allowance for each year of service shall be two and one-half percent (2.5%) of the member's final average salary;

- (c) The board of trustees may approve for members who initially retire on or after July 1, 2004, and who become nonuniversity members before July 1, 2008, a retirement allowance of three percent (3%) of the member's final average salary for each year or partial year of service credit earned in excess of thirty (30) years. This three percent (3%) factor shall be in lieu of the two and one-half percent (2.5%) factor provided for in paragraph (b) of this subsection for every year or fraction of a year of service in excess of thirty (30) years. Upon approval of this three percent (3%) retirement factor, the board of trustees may establish conditions of eligibility regarding the type of service credit that will qualify for meeting the requirements of this subsection. This subsection is optional with the board of trustees and shall not be subject to KRS 161.714;
- (d) For individuals who become nonuniversity members of the Teachers' Retirement System on or after July 1, 2008, but prior to January 1, 2022, the retirement allowance shall be:
  - 1. a. One and seven-tenths percent (1.7%) of the member's final average salary for each year of service if the member has earned ten (10) or less years of service at retirement;
  - b. Two percent (2%) of the member's final average salary for each year of service if the member has earned greater than ten (10) but no more than twenty (20) years of service at retirement;
  - c. Two and three-tenths percent (2.3%) of the member's final average salary for each year of service if the member has earned greater than twenty (20) but no more than twenty-six (26) years of service at retirement; or
  - d. Two and one-half percent (2.5%) of the member's final average salary for each year of service if the member has earned greater than twenty-six (26) but no more than thirty (30) years of service at retirement; and

2. Three percent (3%) of the member's final average salary for each year or partial year of service earned in excess of thirty (30) years of service at retirement subject to the same terms and conditions as set forth in paragraph (c) of this subsection;
- (e) For individuals who become university members of the Teachers' Retirement System on or after July 1, 2008, but prior to January 1, 2022, the retirement allowance shall be:
1. One and one-half percent (1.5%) of the member's final average salary for each year of service if the member has earned ten (10) or less years of service at retirement;
  2. One and seven-tenths percent (1.7%) of the member's final average salary for each year of service if the member has earned greater than ten (10) but no more than twenty (20) years of service at retirement;
  3. One and eighty-five hundredths percent (1.85%) of the member's final average salary for each year of service if the member has earned greater than twenty (20) but less than twenty-seven (27) years of service at retirement; or
  4. Two percent (2%) of the member's final average salary for each year of service if the member has earned twenty-seven (27) or more years of service at retirement;
- (f) For individuals who become nonuniversity members of the Teachers' Retirement System on or after January 1, 2022, the retirement allowance shall, except as adjusted by the board pursuant to KRS 161.633, be the following percentage of the member's final average salary for each year of service:
1. One and seven-tenths percent (1.7%), which shall be increased incrementally each month the member's age at retirement is greater than sixty (60) so that the incremental increase is four one-hundredths of one percent (0.04%) for each complete additional year of age at retirement in excess of sixty (60), not to exceed a value of one and nine-tenths percent (1.9%) at age sixty-five (65) or greater; plus
    2.
      - a. One-quarter of one percent (0.25%), if the member has earned at least twenty (20) but less than thirty (30) years of service at retirement; or
      - b. One-half of one percent (0.50%), if the member has earned thirty (30) or more years of service at retirement;
- (g) For individuals who become university members of the Teachers' Retirement System on or after January 1, 2022, the retirement allowance shall, except as adjusted by the board pursuant to KRS 161.634, be the following percentage of the member's final average salary for each year of service:



1. Seven-tenths of one percent (0.7%), which shall be increased incrementally each month the member's age at retirement is greater than sixty (60) so that the incremental increase is four one-hundredths of one percent (0.04%) for each complete additional year of age in excess of sixty (60), not to exceed a value of nine-tenths of one percent (0.9%) at age sixty-five (65) or greater; plus
    2.
      - a. One-quarter of one percent (0.25%), if the member has earned at least twenty (20) but less than thirty (30) years of service at retirement; or
      - b. One-half of one percent (0.50%), if the member has earned thirty (30) or more years of service at retirement; and
  - (h) The retirement allowance of a member at retirement, as measured on a life annuity, shall not exceed the member's last yearly salary or the member's final average salary, whichever is the greater amount. For purposes of this section, "yearly salary" means the compensation earned by a member during the most recent period of contributing service, either consecutive or nonconsecutive, preceding the member's effective retirement date and shall be subject to the provisions of KRS 161.220(9) and (10). This paragraph shall not apply to the supplemental benefit component.
- (2) Effective July 1, 2002, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option shall be increased in the amount of one and one-half percent (1.5%), provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. This subsection shall not apply to benefits from the supplemental benefit component, and the board may adjust this value for individuals who become members on or after January 1, 2022, as provided by KRS 161.633 or 161.634, as applicable.
  - (3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than four hundred dollars (\$400) effective July 1, 2002, and not less than four hundred forty dollars (\$440) effective July 1, 2003, multiplied by the service credit years of the member. These minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the

effective dates listed in this subsection, except the following:

- (a) Individuals who become members of the Teachers' Retirement System on or after July 1, 2008; or
  - (b) Members whose retirement allowance payment is reduced below the minimum allowance as a result of its division in a qualified domestic relations order or any other provision permitted under KRS 161.700.
- (4) The minimum retirement allowance provided in this section shall apply in the case of members retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the member and his or her beneficiary or beneficiaries as provided in the duly-adopted option tables at the time of the member's retirement.
  - (5) Effective July 1, 2008, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed three and one-half percent (3.5%) of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2008-2010 biennium budget appropriation.
  - (6) Effective July 1, 2009, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed seven-tenths of one percent (0.7%) of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2008-2010 biennium budget appropriation.
  - (7) Effective July 1, 1990, monthly payments of two hundred dollars (\$200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental or physical condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of the

child or until the time the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

- (8) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code.
- (9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the Internal Revenue Code shall not be used in determining a member's retirement annuity. The limitation on compensation for eligible members shall not be less than the amount which was allowed to be taken into account by the retirement system in effect on July 1, 1993. For this purpose, an eligible member is an individual who was a member of the retirement system before the first plan year beginning after December 31, 1995.

**161.623 Use of unused sick-leave days to determine service credit – Applicability to individuals becoming members on or after July 1, 2008 – Maximum amount.**

- (1) Effective July 1, 1982, and thereafter, a district board of education or other employer of members of the Teachers' Retirement System may compensate, at the time of retirement for service, an active contributing member for unused sick-leave days in accordance with this section.
- (2) Upon the member's application for service retirement, the employer shall certify the retiring member's unused accumulated sick-leave balance to the board of trustees of the Kentucky Teachers' Retirement System. The member's sick-leave balance, expressed in days, shall be divided by one hundred eighty-five (185) days to determine the amount of service credit that may be considered for addition to the member's retirement account for the purpose of determining the retirement allowance under KRS 161.620. Notwithstanding any statute to the contrary, sick-leave credit that is accredited under this section or by one (1) of the other state-administered retirement systems shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance from the Kentucky Teachers' Retirement System.
- (3) The board shall compute the cost to the retirement system of the sick-leave credit for each retiring member and shall bill the last employer of the retiring member for such cost. The employer shall pay the cost of such service credit to the retirement system within fifteen (15) days after receiving notification of the cost from the board.
- (4) Retiring members who receive service credit under this section shall

not be eligible to receive compensation for accrued sick leave under KRS 161.155(10) or any other statutory provision.

- (5) Employer participation is optional and the employer may opt to purchase less service credit than the member is eligible to receive provided the same percentage of reduction is made applicable to all retiring members of the employer during a school fiscal year.
- (6) The board of trustees shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions.
- (7) Payments to the retirement system for service credit obtained under this section or for compensation credit obtained under KRS 161.155(10) shall be based on the full actuarial cost as defined in KRS 161.220(22).
- (8) For an individual who becomes a member on or after July 1, 2008, the maximum amount of unused accumulated sick leave that may be considered for addition to the member's retirement account for purposes of determining the retirement allowance under KRS 161.620 shall not exceed three hundred (300) days.

#### **161.624 Responsibilities of members.**

The employees of the Teachers' Retirement System shall endeavor to provide full and complete information to all inquiries presented by members or beneficiaries of members. The members or beneficiaries of the members shall assume full responsibility for obtaining adequate and sufficient information concerning their eligibility for retirement benefits, for selection of the type of benefit available to them, and for adherence to the employment restrictions applicable to retired members.

#### **161.630 Benefit options – Change in benefit option by retiree – Beneficiary redesignation after retirement.**

- (1) (a) A member, upon retirement, shall receive a retirement allowance in the form of a life annuity, with refundable balance, as provided in KRS 161.620, unless an election is made before the effective date of retirement to receive actuarially equivalent benefits under options which the board of trustees approves.
- (b) An individual who is participating in the supplemental benefit component as provided by KRS 161.635 or 161.636 may, before the effective date of retirement, elect to receive his or her accumulated account balance accrued in the supplemental benefit component annuitized into a monthly payment under one (1) of the actuarial equivalent payment options approved by the board of trustees.
- (c) No option shall provide for a benefit with an actuarial value at the age of retirement greater than that provided in KRS 161.620, 161.635(5)(a), or 161.636(5)(a), as applicable. This section does not apply to disability allowances as provided in KRS 161.661(1).

- (2) The retirement option chosen by a retiree at the time of service retirement shall remain in force unless the retiree elects to make a change under the following conditions:
  - (a) A divorce, annulment, or marriage dissolution following retirement shall, at the election of the retiree, cancel any optional plan selected at retirement that provides indefinitely continuing benefits to a spousal beneficiary and return the retiree to a single lifetime benefit equivalent as determined by the board; or
  - (b) Following marriage or remarriage, or the death of the designated beneficiary, a retiree may elect a new optional plan of payment based on the actuarial equivalent of a single lifetime benefit at the time of the election, as determined by the board. The plan shall become effective the first of the month following receipt of an application on a form approved by the board.
- (3) Except as otherwise provided in this section, a beneficiary designation shall not be changed after the effective date of retirement except for retirees who elect the life annuity with refundable balance or the predetermined years certain and life thereafter option. A member may remove a beneficiary at any time, but shall not designate a substitute beneficiary. If a member elects to remove a beneficiary, the member's retirement allowance shall not change regardless of the retirement option selected by the member, even if the removed beneficiary predeceases the member.
- (4) A member who experiences a qualifying event under subsection (2) of this section and who elects a new optional plan of payment shall make that election within sixty (60) days of the qualifying event.

**161.633 Foundational component for persons who became nonuniversity members on or after January 1, 2022 – Valuation assessment – Adjustments to maintain funding level and contain costs – Construction.**

- (1) Individuals who become nonuniversity members of the Teachers' Retirement System on or after January 1, 2022, shall be provided a foundational plan, which shall be known as the foundational benefit component, a supplemental benefit component established by KRS 161.635, and retiree health benefits as provided by KRS 161.675. For purposes of this section, the foundational benefit component includes all benefits provided by KRS 161.220 to 161.716 for individuals who become nonuniversity members of the Teachers' Retirement System on or after January 1, 2022, with the exception of the supplemental benefit component established by KRS 161.635 and retiree health benefits established by KRS 161.675.
- (2) Notwithstanding KRS 161.220 to 161.716, the actuary designated by the board of trustees under KRS 161.400 shall, as part of the annual valuation of the pension fund, assess the funding levels, unfunded liabilities, and the actuarially required employer contribution rates

payable solely on behalf of individuals who first become nonuniversity members on or after January 1, 2022. Computation of the employer contribution rate payable shall be based upon amortizing unfunded liabilities using the level-dollar amortization method.

- (3) If, on the basis of the valuation assessment required under subsection (2) of this section, the funding level for the foundational benefit component payable on behalf of individuals who first become nonuniversity members on or after January 1, 2022, falls below ninety percent (90%), the board shall, notwithstanding any other provision of KRS 161.220 to 161.716 to the contrary, make one (1) or more of the following changes to maintain the funding level and to contain pension and life insurance benefit costs within the maximum statutory employer contribution rate for the foundational benefit component of eight percent (8%) of annual compensation as provided by KRS 161.550(1)(d)1.:
- (a) Utilize moneys from the stabilization reserve account for nonuniversity membership and employers established by KRS 161.420(10)(a);
  - (b) Utilize prospective mandatory employee and employer contributions to the supplemental benefit component as provided by KRS 161.635 to provide funding for the foundational benefit component; or
  - (c) Prospectively adjust for individuals who become nonuniversity members on or after January 1, 2022, one (1) or more of the following parts of the foundational benefit component:
    - 1. Regular interest rate established by KRS 161.220(13)(c);
    - 2. The retirement factors established by KRS 161.620(1)(f);
    - 3. The age and service requirements to retire as established by KRS 161.600(2);
    - 4. The cost-of-living adjustment established by KRS 161.620(2); or
    - 5. The age and service requirements and the retirement allowance provided during the entitlement period under KRS 161.661.

Notwithstanding any other provision of KRS 161.220 to 161.716 to the contrary, the board of trustees may utilize any and all of the above adjustments at any time on all individuals who become nonuniversity members on or after January 1, 2022, in order to maintain the funding level of the foundational benefit component and employer costs as provided by this subsection.

- (4) For purposes of this section, “funding level” means the actuarial value of assets divided by the actuarially accrued liability expressed as a percentage that is determined and reported by the system’s actuary in the system’s actuarial valuation.
- (5) This section shall only apply to individuals who became nonuniversity

members of the Teachers' Retirement System on or after January 1, 2022.

- (6) The provisions of this section shall not be construed to authorize the board to retroactively restore benefits or eligibility for benefits in the foundational benefit component or supplemental benefit that were previously reduced by the board pursuant to subsection (3)(b) and (c) of this section.

**161.634 Foundational component for persons who became university members on or after January 1, 2022 – Valuation assessment – Adjustments to maintain funding level and contain costs – Construction.**

- (1) Individuals who become university members of the Teachers' Retirement System on or after January 1, 2022, shall be provided a foundational plan, which shall be known as the foundational benefit component, a supplemental benefit component established by KRS 161.636, and retiree health benefits as provided by KRS 161.675. For purposes of this section, the foundational benefit component includes all benefits provided by KRS 161.220 to 161.716 for individuals who become university members of the Teachers' Retirement System on or after January 1, 2022, with the exception of the supplemental benefit component established by KRS 161.636 and retiree health benefits established by KRS 161.675.
- (2) Notwithstanding KRS 161.220 to 161.716, the actuary designated by the board of trustees under KRS 161.400 shall, as part of the annual valuation of the pension fund, assess the funding levels, unfunded liabilities, and the actuarially required employer contribution rates payable solely on behalf of individuals who first become university members on or after January 1, 2022. Computation of the employer contribution rate payable shall be based upon amortizing unfunded liabilities using the level-dollar amortization method.
- (3) If, on the basis of the valuation assessment required under subsection (2) of this section, the funding level for the foundational benefit component payable on behalf of individuals who first become university members on or after January 1, 2022, falls below ninety percent (90%), the board shall, notwithstanding any other provision of KRS 161.220 to 161.716 to the contrary, make one (1) or more of the following changes to maintain the funding level and to contain pension and life insurance benefit costs within the maximum statutory employer contribution rate for the foundational benefit component of five and seven hundred seventy-five thousandths percent (5.775%) of annual compensation as provided by KRS 161.550(1)(e)1.:
  - (a) Utilize moneys from the stabilization reserve account for university membership and employers established by KRS 161.420(10)(b);
  - (b) Utilize prospective mandatory employee and employer contributions to the supplemental benefit component as

provided by KRS 161.636 to provide funding for the foundational benefit component; or

- (c) Prospectively adjust for individuals who become university members on or after January 1, 2022, one (1) or more of the following parts of the foundational benefit component:
  - 1. Regular interest rate established by KRS 161.220(13)(c);
  - 2. The retirement factors established by KRS 161.620(1)(g);
  - 3. The age and service requirements to retire as established by KRS 161.600(2);
  - 4. The cost-of-living adjustment established by KRS 161.620(2); or
  - 5. The age and service requirements and the retirement allowance provided during the entitlement period under KRS 161.661.

Notwithstanding any other provision of KRS 161.220 to 161.716 to the contrary, the board of trustees may utilize any and all of the above adjustments at any time on all individuals who become university members on or after January 1, 2022, in order to maintain the funding level of the foundational benefit component and employer costs as provided by this subsection.

- (4) For purposes of this section, “funding level” means the actuarial value of assets divided by the actuarially accrued liability expressed as a percentage that is determined and reported by the system’s actuary in the system’s actuarial valuation.
- (5) This section shall only apply to individuals who became university members of the Teachers’ Retirement System on or after January 1, 2022.
- (6) The provisions of this section shall not be construed to authorize the board to retroactively restore benefits or eligibility for benefits in the foundational benefit component or supplemental benefit that were previously reduced by the board pursuant to subsection (3)(b) and (c) of this section.

**161.635 Supplemental component for persons who became nonuniversity members on or after January 1, 2022 – Benefit – Contributions – Election upon termination of employment and upon retirement – Plans authorized under Internal Revenue Code.**

- (1) An individual who becomes a nonuniversity member of the Teachers’ Retirement System on or after January 1, 2022, shall receive the retirement benefits provided by this section in addition to the retirement benefits provided under KRS 161.620. The retirement benefits provided by this section shall be known as the supplemental benefit component.
- (2) The supplemental benefit component shall provide a benefit based upon a member’s accumulated account balance which shall include:
  - (a) Mandatory contributions made by the member as provided by



- KRS 161.540(1)(c)2.;
- (b) Voluntary contributions made by the member, which may include lump-sum payments;
  - (c) Mandatory contributions made by the employer as provided by KRS 161.550(1)(d)2.;
  - (d) Voluntary employer contributions; and
  - (e) Regular interest, which shall be credited to the member's account annually on June 30 of each fiscal year, by multiplying the member's accumulated account balance in the supplemental benefit component on June 30 of the preceding fiscal year by the regular interest rate.
- (3) (a) Member contributions and employer contributions as provided by subsection (2)(a) to (d) of this section shall be credited to the member's account at least monthly as contributions are reported and posted to the system in accordance with KRS 161.560.
- (b) No employer contributions or interest shall be provided to a member who has taken a refund of his or her accumulated account balance as provided by KRS 161.470 or who has retired and annuitized his or her accumulated account balance as authorized by this section.
- (4) (a) Upon termination of employment, a member who has less than five (5) years of service credited under KRS 161.500, who elects to take a refund of his or her accumulated account balance as provided by KRS 161.470, shall forfeit the accumulated employer contribution, and shall only receive a refund of his or her accumulated contributions.
- (b) Upon termination of employment, a member who has five (5) or more years of service credited under KRS 161.500, who elects to take a refund of his or her accumulated account balance as provided by KRS 161.470, shall receive a full refund of his or her accumulated account balance.
- (5) A nonuniversity member eligible to retire under KRS 161.600(2) may upon retirement, in addition to the other benefits provided by KRS 161.620, elect to:
- (a) Have his or her accumulated account balance in the supplemental benefit component annuitized into a lifetime monthly retirement allowance by the system in accordance with the actuarial assumptions and actuarial methods adopted by the board for the supplemental benefit component and in effect on the member's retirement date;
  - (b) Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options established by the board pursuant to KRS 161.630;
  - (c) Take a distribution of the accumulated account balance in the supplemental benefit component over a period certain as

authorized by the board; or

- (d) Take a full or partial refund of his or her accumulated account balance as provided by KRS 161.470.

A member participating in the supplemental benefit component shall not be required to take a distribution or annuitize his or her accumulated account balance in the supplemental benefit component when he or she begins drawing a retirement allowance from the foundational benefit component and may instead choose to begin drawing a distribution or annuitize his or her accumulated account balance in the supplemental benefit component at any date following his or her retirement date from the foundational benefit component.

- (6) This section only applies to individuals who become nonuniversity members of the Teachers' Retirement System on or after January 1, 2022.
- (7) The board of trustees shall have the authority to utilize or establish any plan or plans authorized under the Internal Revenue Code to provide the benefits set forth in this section.

**161.636 Supplemental component for persons who became university members on or after January 1, 2022 – Benefit – Contributions – Election upon termination of employment and upon retirement – Plans authorized under Internal Revenue Code.**

- (1) An individual who becomes a university member of the Teachers' Retirement System on or after January 1, 2022, shall receive the retirement benefits provided by this section in addition to the retirement benefits provided under KRS 161.620. The retirement benefits provided by this section shall be known as the supplemental benefit component.
- (2) The supplemental benefit component shall provide a benefit based upon a member's accumulated account balance which shall include:
  - (a) Mandatory contributions made by the member as provided by KRS 161.540(1)(d)2.;
  - (b) Voluntary contributions made by the member, which may include lump-sum payments;
  - (c) Mandatory contributions made by the employer as provided by KRS 161.550(1)(e)2.;
  - (d) Voluntary employer contributions; and
  - (e) Regular interest, which shall be credited to the member's account annually on June 30 of each fiscal year, by multiplying the member's accumulated account balance in the supplemental benefit component on June 30 of the preceding fiscal year by the regular interest rate.
- (3) (a) Member contributions and employer contributions as provided by subsection (2)(a) to (d) of this section shall be credited to the member's account at least monthly as contributions are reported and posted to the system in accordance with KRS 161.560.

- (b) No employer contributions or interest shall be provided to a member who has taken a refund of his or her accumulated account balance as provided by KRS 161.470 or who has retired and annuitized his or her accumulated account balance as authorized by this section.
- (4) (a) Upon termination of employment, a member who has less than five (5) years of service credited under KRS 161.500, who elects to take a refund of his or her accumulated account balance as provided by KRS 161.470, shall forfeit the accumulated employer contribution, and shall only receive a refund of his or her accumulated contributions.
- (b) Upon termination of employment, a member who has five (5) or more years of service credited under KRS 161.500, who elects to take a refund of his or her accumulated account balance as provided by KRS 161.470, shall receive a full refund of his or her accumulated account balance.
- (5) A university member eligible to retire under KRS 161.600(2) may upon retirement, in addition to the other benefits provided by KRS 161.620, elect to:
  - (a) Have his or her accumulated account balance in the supplemental benefit component annuitized into a lifetime monthly retirement allowance by the system in accordance with the actuarial assumptions and actuarial methods adopted by the board for the supplemental benefit component and in effect on the member's retirement date;
  - (b) Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options established by the board pursuant to KRS 161.630;
  - (c) Take a distribution of the accumulated account balance in the supplemental benefit component over a period certain as authorized by the board; or
  - (d) Take a full or partial refund of his or her accumulated account balance as provided by KRS 161.470.

A member participating in the supplemental benefit component shall not be required to take a distribution or annuitize his or her accumulated account balance in the supplemental benefit component when he or she begins drawing a retirement allowance from the foundational benefit component and may instead choose to begin drawing a distribution or annuitize his or her accumulated account balance in the supplemental benefit component at any date following his or her retirement date from the foundational benefit component.

- (6) This section only applies to individuals who become university members of the Teachers' Retirement System on or after January 1, 2022.
- (7) The board of trustees shall have the authority to utilize or establish any

plan or plans authorized under the Internal Revenue Code to provide the benefits set forth in this section.

**161.640 Payment of annuities – Payroll deductions – Electronic fund transfer, exception.**

- (1) Retirement annuities shall be payable monthly. The first payment to an annuitant shall be made at the payment date at the end of one (1) full payment period after his retirement and shall consist of one (1) regular monthly payment. Retirement for a member receiving one (1) full year of service credit during a fiscal year shall be no earlier than July 1 next following the end of such fiscal year. Notwithstanding any other statutory provisions to the contrary, members filling positions that customarily require twelve (12) months of service during a fiscal year cannot retire prior to July 1 without a corresponding pro rata reduction in salary and service credit. The board of trustees may determine which positions customarily require twelve (12) months of service during a fiscal year.
- (2) The board of trustees may enter into agreements with retired members for payroll deductions when it is deemed in the best interest of the retired members and the retirement system.
- (3)
  - (a) All new retirees, on or after July 1, 1998, shall receive their monthly annuity checks by electronic fund transfer. All retiree, beneficiary, and survivor monthly allowance payments, except as otherwise provided in paragraph (b) of this subsection, shall be made by electronic fund transfer. Except as provided in paragraph (b) of this subsection, all monthly payments shall be made payable only to an account solely in the name of the retiree, beneficiary, or survivor as an individual and natural person, or to a joint account in the name of the retiree, beneficiary, or survivor as an individual and natural person and another individual and natural person.
  - (b) If the retiree, beneficiary, or survivor is a resident of a nursing or assisted-care home, monthly payments may be made to the order of the nursing or assisted-care home for the benefit of the retiree, beneficiary, or survivor by including the retiree's, beneficiary's, or survivor's name. Monthly annuity checks so paid to a nursing or assisted-care home may be sent by mail rather than electronic fund transfer.

**161.643 Records and annual reports for annuitants employed by school districts or agencies – Penalty for noncompliance – System may require more frequent reporting.**

- (1) Each school district, institution, and agency employing annuitants of the retirement system shall have on file at the retirement system's office an annual summary report of the days employed and the compensation paid to each annuitant and other data as required by

administrative regulation of the board of trustees no later than August 1, following the completion of each fiscal year.

- (2) The retirement system may impose a penalty on the employer not to exceed one thousand dollars (\$1,000) when the employer does not meet the August 1 filing date or fails to provide the information required for employment of annuitants of the retirement system. However, the retirement system may waive the penalty for good cause.
- (3) The retirement system may promulgate administrative regulations in accordance with KRS Chapter 13A to require employers to report more frequently than on an annual basis.

**161.650 Death of retired member – Payment to beneficiaries – Effect of divorce decree – Failure to designate beneficiary.**

- (1) In the case of death of a member who has retired by reason of service or disability, any portion of the member's accumulated contributions, including member contributions to the state accumulation fund and regular interest to the date of retirement, that has not, and will not be paid as an allowance or benefit shall be paid to the member's beneficiary in such manner as the board of trustees elects.
- (2)
  - (a) The member may designate a primary beneficiary or two (2) or more cobeneficiaries to receive any remaining accumulated member contributions payable under this section.
  - (b) A contingent beneficiary may be designated in addition to the primary beneficiary or the cobeneficiaries. The member may designate two (2) or more contingent beneficiaries.
  - (c) To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of any remaining funds of the member's accumulated contributions.
  - (d) Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system. Cobeneficiaries shall be composed of a single class of individuals, or trusts where permitted, who will share in equal proportions in any payment that may become available under this section.
  - (e)
    1. Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent marriage or divorce.
    2. Subsequent marriage by the member shall void the primary beneficiary and any cobeneficiary designation, even that of a trust, and the spouse of the member at death shall be considered as the primary beneficiary, unless the member subsequent to marriage designates another beneficiary. An individual who is married prior to becoming a retired member of the retirement system

and remains married at the time of becoming a retired member shall have his or her spouse considered the primary beneficiary, unless the member designates another beneficiary for any amounts payable under subsection (1) of this section.

3. A final divorce decree shall terminate the beneficiary status of an ex-spouse unless, subsequent marriage or to divorce, the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust.
- (f) In the event that the member fails to designate a beneficiary or all designated beneficiaries predecease the member, any remaining accumulated member contributions shall be payable to the member's estate, unless the member is married at the time of his or her death, in which case any remaining contributions shall be payable to his or her spouse.

#### **161.655 Life insurance benefit – Assignment of benefit.**

- (1) Effective July 1, 2000, the Teachers' Retirement System shall:
  - (a) Provide a life insurance benefit in a minimum amount of five thousand dollars (\$5,000) for its members who are retired for service or disability, except that the minimum amount for an individual who becomes a member on or after January 1, 2022, and retires for service or disability shall be ten thousand dollars (\$10,000). This life insurance benefit shall be payable upon the death of a member retired for service or disability to the member's estate or to a party designated by the member on a form prescribed by the retirement system; and
  - (b) Provide a life insurance benefit in a minimum amount of two thousand dollars (\$2,000) for its active contributing members, except that the minimum amount for an individual who becomes a member on or after January 1, 2022, and is an active contributing member shall be five thousand dollars (\$5,000). This life insurance benefit shall be payable upon the death of an active contributing member to the member's estate or to a party designated by the member on a form prescribed by the retirement system.
- (2)
  - (a) The member may name one (1) primary and one (1) contingent beneficiary for receipt of the life insurance benefit. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of the life insurance benefit.
  - (b) Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms

prescribed by the retirement system.

- (c) In the event that a member fails to designate a beneficiary, or all designated beneficiaries predecease the member, the member's estate shall be deemed to be the beneficiary, unless the member is married at the time of his or her death, in which case the spouse shall be deemed the beneficiary.
  - (d)
    - 1. Any beneficiary designation made by the member, including the estate should the estate become the beneficiary by default, shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent marriage or divorce.
    - 2. A valid marriage license shall terminate any previously designated beneficiary, even that of a trust, and establish the spouse as beneficiary unless, subsequent proof of the marriage, the member or retired member redesignates someone other than the new spouse as the beneficiary.
    - 3. An individual who is married prior to becoming an active member or a retired member of the retirement system and remains married at the time of becoming an active or retired member of the retirement system shall have his or her spouse considered the primary beneficiary, unless the member designates another beneficiary.
    - 4. A final divorce decree shall terminate the beneficiary status of an ex-spouse unless, subsequent to divorce, the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust.
  - (e) The Teachers' Retirement System shall not acknowledge a beneficiary designation unless the life insurance beneficiary form is received by the Teachers' Retirement System prior to the member's death, or the life insurance beneficiary form has been deposited in the mail with a postmark date no later than the date of the member's death.
- (3) Application for payment of life insurance proceeds shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility. The reciprocal provisions of KRS 61.680(2)(a) shall not apply to the coverage and payment of proceeds by the life insurance benefit under this section.
  - (4) Suit or civil action shall not be required for the collection of the proceeds of the life insurance benefit provided for by this section, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the proceeds of the life insurance benefit.
  - (5) Upon the death of a member of the Teachers' Retirement System, the

life insurance provided pursuant to subsection (1) of this section may be assigned by the designated beneficiary to a bank or licensed funeral home.

**161.661 Disability retirement.**

- (1) (a) Any member who is accredited by the Teachers' Retirement System for five (5) or more years of service in Kentucky after July 1, 1941, may retire for disability and be granted a disability allowance if found to be eligible as provided in this section. Application for disability benefits shall be made within one (1) year of the last contributing service in Kentucky, and the disability must have occurred during the most recent period of employment in a position covered by the Teachers' Retirement System and subsequent to the accreditation by the Teachers' Retirement System of five (5) years of retirement system service credit in Kentucky. A disability occurring during the regular vacation immediately following the last period of active service in Kentucky or during an official leave for which the member is entitled to make regular contributions to the retirement system, shall be considered as having occurred during a period of active service.
- (b) The annual disability allowance shall be equal to sixty percent (60%) of the member's final average salary.
- (c) The following individuals shall not be eligible for disability benefits under this section:
  1. Members with twenty-seven (27) or more years of service credit; and
  2. Individuals who become members on or after July 1, 2021, who are eligible for an unreduced benefit under KRS 161.600(1)(b)2. or (d).
- (2) The provisions of KRS 161.520, 161.525, and subsections (3), (4), and (5) of this section shall not apply to disability retirees whose benefits were calculated on the service retirement formula nor to survivors of these members.
- (3) Members shall earn one (1) year of entitlement to disability retirement, at sixty percent (60%) of the member's final average salary, for each four (4) years of service in a covered position, but any member meeting the service requirement for disability retirement shall be credited with no less than five (5) years of eligibility.
- (4) A member retired by reason of disability shall continue to earn service credit at the rate of one (1) year for each year retired for disability. This service shall be credited to the member's account at the expiration of entitlement as defined in subsection (3) of this section, or when the member's eligibility for disability benefits is terminated upon recommendation of a medical review committee, and this service shall be used in calculating benefits as provided in subsection (5) of this



section, but under no circumstances shall this service be used to provide the member with more than twenty-seven (27) years of total service credit. The service credit shall be valued at the same level as service earned by active members as provided under KRS 161.600 or 161.620.

- (5) Any member retired by reason of disability and remaining disabled at the expiration of the entitlement period shall have his or her disability benefits recalculated using the service retirement formula with service credit earned as set out in subsection (4) of this section. The retirement allowance shall be calculated as set forth in KRS 161.620, except that those persons less than sixty (60) years of age shall be considered as sixty (60) years of age. Members having their disability benefits recalculated under this subsection shall not be entitled to a benefit based upon an average of their three (3) highest salaries as set forth in KRS 161.220(9), unless approved otherwise by the board of trustees.
- (6) Members who have their disability retirement allowance recalculated at the expiration of the entitlement period shall continue to have coverage under the post-retirement medical insurance program. Restrictions on employment shall remain in effect until the member attains age seventy (70) or until the member's eligibility is discontinued. KRS 161.520 and 161.525 shall not apply to survivors of disability retirees whose retirement allowances have been recalculated at the expiration of the entitlement period. Members who have their disability retirement allowance recalculated at the expiration of their entitlement period shall be entitled to a minimum monthly allowance of five hundred dollars (\$500) as the basic straight life annuity. The minimum allowance shall be effective July 1, 1992, and shall apply to those members who have had their allowance recalculated prior to that date and to disability retirees who will have their benefit allowance recalculated on or after that date. For individuals who become members on or after July 1, 2021, disability retirement payments and any other recurring payments payable by any other state-administered retirement system shall be applied to reduce, on a dollar-for-dollar basis, the minimum monthly disability retirement allowance payable under this subsection.
- (7) Effective July 1, 1992, members retired for disability prior to July 1, 1964, shall be entitled to a minimum monthly allowance of five hundred dollars (\$500) as their basic straight life annuity and their surviving spouse shall be eligible for survivor benefits as provided in KRS 161.520(1)(a) and (b).
- (8) Any member retired by reason of disability may voluntarily waive disability benefits and return to teaching or any member, who is age sixty (60) years or older, may elect to waive disability benefits and retire for service on the basis of service credited to the member on the effective date of the disability retirement.
- (9) In order to qualify for retirement by reason of disability a member

must suffer from a physical or mental condition presumed to be permanent in duration and of a nature as to render the member incapable of being gainfully employed in a covered position. The incapability must be revealed by a competent examination by a licensed physician or physicians and must be approved by a majority of a medical review committee.

- (10) A member retired by reason of disability shall be required to undergo periodic examinations at the discretion of the board of trustees to determine whether the disability allowance shall be continued. When examination and recommendation of a medical review committee indicate the disability no longer exists, the allowance shall be discontinued.
- (11) Eligibility for payment shall begin on the first day of the month following receipt of the application in the Teachers' Retirement System office, or the first of the month next following the last payment of salary or sick leave benefits by the employer, whichever is the later date.
- (12) No person who receives a disability allowance may be employed in a position that entails duties or qualification requirements similar to positions subject to participation in the retirement system either within or without the State of Kentucky. So doing shall constitute a misdemeanor and shall result in loss of the allowance from the first date of this service. For purposes of this subsection and subsection (13) of this section, "employment" and "occupation," and derivatives thereof, mean any activity engaged in by the member receiving disability allowance from which income is earned. A member who applies for and is approved for disability retirement on or after July 1, 2002, and whose annual disability benefit is less than forty thousand dollars (\$40,000) may earn income in any occupation other than covered employment only to the extent that the annual income from the other employment when added to the annual disability benefit does not exceed forty thousand dollars (\$40,000). For any member who exceeds this limit as a result of income from other employment, the Kentucky Teachers' Retirement System shall reduce the member's disability benefit on a dollar-for-dollar basis for each dollar that the member's combined annual disability benefit and annual income from other employment exceeds forty thousand dollars (\$40,000). The board of trustees may annually increase the forty thousand dollar (\$40,000) limit by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%). The retirement system may require income verification from the member, including but not limited to copies of tax returns and federal forms W-2 and W-4P.
- (13) All members who applied for disability retirement before July 1, 2002, and were approved as a result of that application shall be subject to the

income limitations as they existed on June 30, 2002, until July 1, 2006. Effective July 1, 2006, the twenty- seven thousand dollar (\$27,000) limitation shall be increased to forty thousand dollars (\$40,000) and may be adjusted by the board of trustees by the consumer price index in the manner described in subsection (12) of this section. The recipient of a disability allowance who engages in any gainful occupation other than covered employment must make a report of the duties involved, compensation received, and any other pertinent information required by the board of trustees. The retirement system may require income verification from the member, including but not limited to copies of tax returns and federal forms W-2 and W-4P.

- (14) The board of trustees shall designate medical review committees, each consisting of three (3) licensed physicians. A medical review committee shall pass upon all applications for disability retirement and upon all applicant statements, medical certifications, and examinations submitted in connection with disability applications. The disposition of each case shall be recommended by a medical review committee in writing to the retirement system. Members of a medical review committee shall follow administrative regulations regarding procedures as the board of trustees may enact and shall be paid reasonable fees and expenses as authorized by the board of trustees in compliance with the provisions of KRS 161.330 and 161.340. The retirement system may secure additional medical examinations and information as it deems necessary. A member may appeal any final agency decision denying his or her disability retirement application pursuant to the provisions of KRS 161.250(2).
- (15) A disability may be presumed to be permanent if the condition creating the disability may be reasonably expected to continue for one (1) year or more from the date of application for disability benefits.
- (16) Any member who has voluntarily waived disability benefits or whose disability benefits have been discontinued on recommendation of a medical review committee, may apply for reinstatement of disability benefits. The application for reinstatement must be made to the retirement system within twelve (12) months of the date disability benefits terminated. If the termination of benefits were voluntary, the reinstatement may be made without medical examination if application is made within three (3) months of the termination date. Other applications for reinstatement will be processed in the same manner as new applications for benefits.
- (17) No person who is receiving disability benefits under this section may be employed in a position which qualifies the person for membership in a retirement system financed wholly or in part with public funds. Employment in a position prohibited by this subsection shall result in disqualification for those disability benefits from the date of employment in the prohibited position.
- (18) Any person who is receiving benefits and becomes disqualified from

receiving those benefits under this section, or becomes disqualified from receiving a portion of those benefits due to income from other than covered employment, shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits. The Teachers' Retirement System may, in order to collect an outstanding debt, reduce or terminate any benefit that a member is otherwise entitled to receive.

- (19) Notwithstanding any other provision of this section to the contrary, individuals who become members on or after January 1, 2022, shall be eligible for an actuarially determined disability benefit as prescribed by the board of trustees via administrative regulations promulgated by the board. The board of trustees shall arrange by appropriate contract or on a self-insured basis a disability plan to provide the disability benefits and may adjust the benefits in accordance with KRS 161.633(3) or 161.634(3).

#### **161.662 Status of disabled teachers and superintendents.**

- (1) Teachers and superintendents with continuing status who retire because of disability shall, notwithstanding provisions of KRS 161.720 to 161.810 to the contrary, retain continuing status in the school district from which they retired for twenty-four (24) calendar months from the date of retirement, if the teacher or superintendent:
  - (a) Is approved for disability retirement under the provisions of KRS 161.661, or
  - (b) Is approved for disability retirement but elects to have benefits calculated on the service retirement formula under the provisions of KRS 161.661, or
  - (c) Is disqualified from receiving disability retirement benefits by KRS 161.661(2) but is otherwise eligible for disability retirement under the remaining provisions of KRS 161.661.
- (2) (a) If the superintendent recovers from disability and presents written notice of such recovery, supported by the statement of a licensed physician, to the employing board of education within the twenty-four (24) calendar month period but not later than April 15 prior to the beginning of the school term, the board of education shall reinstate the superintendent to active continuing status at the beginning of the school term. If notice of recovery from disability is not presented to the employing board of education within the twenty-four (24) calendar month period, or

if the superintendent states to the board, in a verified document, prior to expiration of the twenty-four (24) calendar month period that he or she will not return to employment in the school system, the continuing service contract of the superintendent shall terminate as by retirement under the provisions of KRS 161.661.

- (b) If the teacher recovers from disability and presents written notice of such recovery, supported by the statement of a licensed physician, to the superintendent within the twenty-four (24) calendar month period but not later than April 15 prior to the beginning of the school term, the superintendent shall reinstate the teacher to active continuing status at the beginning of the school term. If notice of recovery from disability is not presented to the superintendent within the twenty-four (24) calendar month period, or if the teacher states to the superintendent, in a verified document, prior to expiration of the twenty-four (24) calendar month period that he or she will not return to employment in the school system, the continuing service contract of the teacher shall terminate as by retirement under the provisions of KRS 161.661.
- (3) Retirement because of disability under this section shall not be cause for termination of the contract of a teacher or superintendent under KRS 161.790 during the twenty-four (24) calendar month period described in this section. A teacher or superintendent who applies for disability retirement under the provisions of KRS 161.661 shall retain continuing service status during the period of time the application for disability retirement is being processed. If the application is not approved, the teacher or superintendent may return to the contract, employment, or leave status held prior to submission of the application.
- (4) (a) If the superintendent recovers from the disability and presents written notice of such recovery, supported by the statement of a licensed physician, to the employing board of education within twenty-five (25) through forty-two (42) months from the date of retirement, the board shall give priority consideration to reemployment of the superintendent for the first available position for which the superintendent is qualified and certified.
  - (b) If the teacher recovers from the disability and presents written notice of such recovery, supported by the statement of a licensed physician, to the superintendent within twenty-five (25) through forty-two (42) months from the date of retirement, the superintendent shall give priority consideration to reemployment of the teacher for the first available position for which the teacher is qualified and certified.

**161.663 Disability retirement with less than required years of service.**

Any active contributing member with less than five (5) years of Kentucky service may apply and be approved for disability retirement under KRS 161.661 if the member is found to be mentally or physically incapacitated as a result of an injury related directly to their covered employment. All conditions and restrictions specified under KRS 161.661 shall be applicable, except that the initial annual disability allowance shall be equal to fifty percent (50%) of the member's current annual contract salary and the member's last annual contract salary shall be used in lieu of the final average salary in the recalculation of the member's benefit at the expiration of the eligibility period.

**161.675 Hospital and medical benefits and health insurance coverage for eligible recipients of retirement allowances from Teachers' Retirement System – Applicability to individuals becoming members on or after July 1, 2008 – Health insurance supplement payments – Coverage for spouses, dependents, and disabled children of retirees – Exemption from premium tax.**

- (1) The board of trustees shall arrange by appropriate contract or on a self-insured basis to provide a broad program of group hospital and medical insurance for present and future eligible recipients of a retirement allowance from the Teachers' Retirement System. The board of trustees may also arrange to provide health insurance coverage through an insurer licensed pursuant to Subtitle 38 of KRS Chapter 304 and offering a managed care plan as defined in KRS 304.17A-500 as an alternative to group hospital and medical insurance for persons eligible for hospital and medical benefits under this section. The board of trustees may authorize eligible recipients of a retirement allowance from the Teachers' Retirement System who are less than age sixty-five (65) to be included in the state-sponsored health insurance that is provided to active teachers and state employees under KRS 18A.225. Members who are sixty-five (65) or older and retired for service shall not be eligible to participate in the state employee health insurance program as described in KRS 18A.225.
- (2) (a) The coverage provided shall be as set forth in the contracts and the administrative regulations of the board of trustees. The board of trustees may change the levels of coverage and eligibility conditions to meet the changing needs of the annuitants and, when necessary, to contain the expenses of the insurance program within the funds available to finance the insurance program, except as provided by paragraph (b) of this subsection. The contracts and administrative regulations shall provide for but not be limited to hospital room and board, surgical procedures, doctors' care in the hospital, and miscellaneous hospital costs. An annuitant whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years' creditable Kentucky service in the Teachers' Retirement System or five (5) years of combined

creditable service in the state-administered retirement systems if the member is retiring under the reciprocity provisions of KRS 61.680, 61.702, and 78.5536. An annuitant shall not elect coverage through more than one (1) of the state-administered retirement systems. The board of trustees shall offer coverage to the disabled child of an annuitant regardless of the disabled child's age if the annuitant pays the entire premium for the disabled child's coverage. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

- (b) Individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2008, shall not be eligible for benefits under this section unless the member has at least fifteen (15) or more years of service credited under KRS 161.500 or another state-administered retirement system.
- (3) All expenses for benefits under this section shall be paid from the funding provisions contained in KRS 161.420(5), from a trust fund established by the board under 26 U.S.C. sec. 115, premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute.
- (4) (a) The board of trustees shall determine the amount of health insurance supplement payments that the Teachers' Retirement System will provide to assist eligible annuitants in paying the cost of their health insurance, based on the funds available in the medical insurance fund and any trust fund established by the board for this purpose under 26 U.S.C. sec. 115. The board of trustees shall establish the maximum monthly amounts of health insurance supplement payments that will be made by the Kentucky Teachers' Retirement System for eligible annuitants. The board of trustees shall annually establish the percentage of the maximum monthly health insurance supplement payment that will be made, based on age and years of service credit of eligible recipients of a retirement allowance. Monthly health insurance supplement payments made by the retirement system may not exceed the amount of the single coverage insurance premium chosen by the eligible annuitants. In order to qualify for health insurance supplements, the annuitant must agree to pay the difference between the insurance premium and the applicable supplement payment, by payroll deduction from his retirement allowance, or by a payment method approved by the retirement system.
- (b) The board shall, effective July 1, 2010, have the authority to charge retired members who are not paying the Standard Medicare Part B premium an amount equal to the Standard Medicare Part B premium in addition to any other payments determined by the board to be necessary to contain costs within

the available funding. If the board determines that retired members who are not paying the Standard Medicare Part B premium should pay the equivalent of the Standard Medicare Part B premium, the board shall phase in the premium according to the following schedule:

July 1, 2010.....thirty-three percent (33%)

July 1, 2011.....sixty-seven percent (67%)

July 1, 2012, and thereafter one hundred percent (100%)

Nothing in this paragraph shall limit the board's authority to change the levels of coverage, eligibility conditions, or levels of health insurance supplement for retirees in order to contain costs within available funding.

- (c) The board of trustees may offer, on a full-cost basis, health care insurance coverage provided by the retirement system to spouses and dependents of eligible annuitants not otherwise eligible for regular coverage. Recipients of a retirement allowance from the retirement system must agree to pay the cost of this coverage by payroll deduction from their retirement allowance or by a payment method approved by the retirement system.
  - (d) The board of trustees shall offer, on a full-cost basis, health insurance coverage provided by the retirement system to the disabled child of an annuitant, regardless of the age of the disabled child. A child shall be considered disabled for purposes of this section if the child has been determined to be eligible for federal Social Security disability benefits.
- (5) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the hospital and medical insurance program. The board of trustees is empowered to pay the expenses for insurance coverage from the medical insurance fund, from any trust fund established by the board for this purpose under 26 U.S.C. sec. 115, from the premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute. The board may provide insurance coverage by making payment to insurance carriers including health insurance plans that are available to active and retired state employees and active teachers, institutions, and individuals for services performed, or the board of trustees may elect to provide insurance on a "self-insurance" basis or a combination of these provisions.
- (6) The board of trustees may approve health insurance supplement payments to eligible annuitants who are less than sixty-five (65) years of age, as reimbursement for hospital and medical insurance premiums made by annuitants for their individual coverage. Eligible annuitants or recipients are those annuitants who are not eligible for Medicare and who do not reside in Kentucky or in an area outside of Kentucky where



comparable coverage is available. The reimbursement payments shall not exceed the minimum supplement payment that would have been made had the annuitant lived in Kentucky. Eligible annuitants or recipients shall submit proof of payment to the retirement system for hospital and medical insurance that they have obtained.

Reimbursement payments shall be made on a quarterly basis.

- (7) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system or any trust fund established for this purpose by the board.
- (8) The board of trustees is empowered to promulgate administrative regulations to assure efficient operation of the hospital and medical insurance program.
- (9) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the medical insurance fund or another trust fund established by the board for this purpose shall not constitute taxable income to an insured recipient.
- (10) In the event that a member is providing services on less than a full-time basis under KRS 161.605, the retirement system may pay the full cost of the member's health insurance coverage for the full fiscal year that the member is providing those services, at the conclusion of which, the retirement system may then bill the active employer and the active employer shall reimburse the retirement system for the cost of the health insurance coverage incurred by the retirement system on a pro rata basis for the time that the member was employed by the active employer.

**161.677 Kentucky Teachers' Retirement System insurance trust fund.**

- (1) (a) The Kentucky Teachers' Retirement System insurance trust fund is hereby created. All assets received in the trust fund shall be deemed trust funds to be held and applied solely as provided in this section. Assets of the trust fund shall not be used for any other purpose and shall not be used to pay the claims of creditors or any individual, person, or employer participating in the Kentucky Teachers' Retirement System.
- (b) The trust fund is intended to be established as a trust exempt from taxation under 26 U.S.C. sec. 115.
- (2) The trust fund is created for the purpose of providing a trust separate from the funds under KRS 161.420. Trust fund assets are dedicated for use for health benefits as provided in KRS 161.675, and as permitted under 26 U.S.C. secs. 105 and 106, for present and future eligible recipients of a retirement allowance from the Kentucky Teachers' Retirement System.
- (3) The trust fund shall be administered by the board of trustees

established by KRS 161.250, and the board shall serve as trustees of the fund. The board shall manage the assets of the fund in the same general manner in which it administers the retirement funds, except that the asset allocation may differ and separate accounting and financial reporting shall be maintained for the trust fund.

- (4) In addition to the requirements of subsection (2) of this section, the employers participating in the trust fund are limited to the Commonwealth, political subdivisions of the Commonwealth, and entities whose income is exempt from taxation under 26 U.S.C. sec. 115. No other entity may participate in the trust fund.
- (5) If the trust fund is terminated, the assets in the trust fund may revert, after the payment of all liabilities, to the participating employers as determined by the board of trustees.
- (6) The board of trustees may promulgate administrative regulations and adopt procedures and a trust document to implement this section and take all action necessary and appropriate to provide that the income of the trust fund shall not diminish or expand the rights of any recipients, employees, or dependents to health benefits.
- (7) The establishment of the Kentucky Teachers' Retirement System insurance trust fund shall not diminish or expand the rights of any recipients, employees, or dependents to health benefits.
- (8) The trust fund established under this section, at the direction of the board of trustees, shall consist of amounts, excluding those amounts that have been deposited to an account established pursuant to 26 U.S.C. sec. 401(h), that have been accumulated for the purpose of providing benefits as provided in KRS 161.675, including:
  - (a) Contributions required under KRS 161.550;
  - (b) Contributions required under KRS 161.675(4)(b); and
  - (c) Interest income from the investments of the fund from contributions received by the fund and from income earned on those investments.

**161.680 Mistake in payment – Correction of error – Collection of overpayments.**

- (1) If any change or error in a record results in any individual receiving from the retirement system more or less than the individual was entitled to receive, the board of trustees shall, when the error is discovered, correct the error, and as far as practicable adjust the payments so that the actuarial equivalent of the benefit to which the individual was entitled shall be paid.
- (2) The Teachers' Retirement System shall take all practicable and cost-effective steps to collect overpayments from a member's or retiree's account. Methods of correction of overpayments from any member's or retiree's account shall include but are not limited to reclamation of the overpayment from the member's or retiree's account at the depository bank, the deduction of moneys from account refunds,

deduction from the retirement allowance or joint and survivor annuity payable from the account, and deduction of moneys from the life insurance benefit. Collection of overpayments shall be initiated regardless of the designated beneficiary for any amounts payable from the account.

**161.690 Falsifying record prohibited.**

No person shall knowingly make any false statement, nor shall any person falsify or permit to be falsified any record of the retirement system in an attempt to defraud the system.

**161.695 Use and acceptance of electronic signatures.**

- (1) Notwithstanding any provision of KRS 161.220 to 161.716 to the contrary, the Teachers' Retirement System may, when it deems appropriate, use and accept electronic signatures on any retirement system document, and for any reason that the retirement system would otherwise require a signature, if the electronic signatures are submitted using technology that the board of trustees of the retirement system deems sufficient to protect their integrity, security, and authenticity.
- (2) If deemed appropriate for use and acceptance under this section, an electronic signature shall have the same force and effect as a handwritten signature.
- (3) The board of trustees of the retirement system may promulgate an administrative regulation in accordance with KRS Chapter 13A to establish guidelines for the use and acceptance of electronic signatures.

**161.700 Funds exempt from taxation and process – Taxability after December 31, 1997 – Benefits not considered marital property – Qualified domestic relations order.**

- (1) Except as otherwise provided by this section and KRS 161.655(5), the right of a member to a retirement allowance and to the return of contributions, any benefit or right accrued or accruing to any person under KRS 161.220 to 161.716, and the money in the various funds established pursuant to KRS 161.220 to 161.716 are hereby exempt from any state or municipal tax, and shall not be subject to execution, garnishment, attachment, or other process, and shall not be assigned.
- (2) Notwithstanding subsection (1) of this section, retirement benefits accrued or accruing to any person under this retirement system on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.
- (3) Retirement allowance, disability allowance, accumulated account balance, or any other benefit under the retirement system shall not be classified as marital property pursuant to KRS 403.190(1), except to the extent permitted under KRS 403.190(4). Retirement allowance, disability allowance, accumulated contributions, or any other benefit under the retirement system shall not be considered as an economic

circumstance during the division of marital property in an action for dissolution of marriage pursuant to KRS 403.190(1)(d), except to the extent permitted under KRS 403.190(4).

- (4) Qualified domestic relations orders issued by a court or administrative agency shall be honored by the retirement system if:
  - (a) The benefits payable pursuant to the order meet the requirements of a qualified domestic relations order as provided by 26 U.S.C. sec. 414(p). The retirement system shall follow applicable provisions of 26 U.S.C. sec. 414(p) in administering qualified domestic relations orders;
  - (b) The order meets the requirements established by the retirement system and by subsections (4) to (12) of this section. The board of trustees of the retirement system shall establish the requirements, procedures, and forms necessary for the administration of qualified domestic relations order by promulgation of administrative regulations in accordance with KRS Chapter 13A; and
  - (c) The order is on the form established by the retirement system pursuant to the retirement system's authority provided under paragraph (b) of this subsection.
- (5) A qualified domestic relations order shall not:
  - (a) Require the retirement system to take any action not authorized under state or federal law;
  - (b) Require the retirement system to provide any benefit, allowance, or other payment not authorized under state or federal law;
  - (c) Grant or be construed to grant the alternate payee any separate right, title, or interest in or to any retirement benefit other than to receive payments from the participant's account in accordance with the administrative regulations promulgated by the system and as provided by subsections (4) to (12) of this section; or
  - (d) Grant any separate interest to any person other than the participant.
- (6) Any qualified domestic relations order submitted to the retirement system shall specify the dollar amount or percentage amount of the participant's benefit to be paid to the alternate payee. In calculating the amount to be paid to the alternate payee, the court or administrative agency that is responsible for issuing the order shall follow the requirements set forth in the administrative regulations promulgated by the board of trustees. Notwithstanding any other statute to the contrary, the board shall not be required to honor a qualified domestic relations order that does not follow the requirements set forth in the administrative regulations promulgated by the board of trustees.
- (7) If the qualified domestic relations order meets the requirements established by the system and by subsections (4) to (12) of this section,

payments to the alternate payee shall be distributed under the following conditions:

- (a) If the participant is retired and is receiving a monthly retirement allowance, the month following the date the retirement system receives a qualified domestic relations order that complies with the administrative regulations promulgated by the retirement system and subsections (4) to (12) of this section; or
  - (b) If the participant is not retired, the month of the participant's effective retirement date in which the first retirement allowance is payable to the participant or the month in which the participant receives a refund of his or her accumulated account balance as provided by KRS 161.470(6).
- (8) An alternate payee's benefits and rights under a qualified domestic relations order shall terminate upon the earlier of:
- (a) The death of the participant;
  - (b) The death of the alternate payee; or
  - (c) The termination of benefits to the participant under any provision of KRS 161.220 to 161.716.
- (9) An alternate payee shall not receive a monthly payment under a qualified domestic relations order if the participant is not receiving a monthly retirement allowance.
- (10) The cost of living adjustment provided to the participant pursuant to KRS 161.620 shall be divided between the participant and alternate payee in a qualified domestic relations order as follows:
- (a) If the order specifies the alternate payee is to receive a percentage of the participant's benefit, then the cost of living adjustment shall be divided between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or
  - (b) If the order specifies that the alternate payee is to receive a set dollar amount of the participant's benefit, then the order shall specify that:
    - 1. The cost of living adjustment shall be divided between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or
    - 2. The alternate payee shall receive no cost of living adjustment.

If the order does not specify the division of the cost of living adjustment as required by this paragraph, then no cost of living adjustment shall be payable to the alternate payee. If no cost of living adjustment is provided to the alternate payee, then the participant shall receive the full cost of living adjustment he or she would have received

if the order had not been applied to the participant's account.

- (11) Except in cases involving child support payments, the retirement system may charge reasonable and necessary fees and expenses to the recipient and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by retirement system. All fees and expenses shall be established by the administrative regulations promulgated by the board of trustees of the retirement system. The qualified domestic relations order shall specify whether the fees and expenses provided by this subsection shall be paid:
  - (a) Solely by the participant;
  - (b) Solely by the alternate payee; or
  - (c) Equally shared by the participant and alternate payee.
- (12) The retirement system shall honor a qualified domestic relations order issued prior to July 15, 2010, for prospective benefit payments if the order or an amended version of the order meets the requirements established by this section and the administrative regulations promulgated by the retirement system. The order shall not apply to benefit payments issued by the retirement system prior to the date the order was approved by the retirement system.

**161.710 Local system merged with state system.**

- (1) The local retirement systems merged with the state retirement system under the provisions of 1938 Ky. Acts (1st Ex. Sess.), ch. 1, sec. 49, shall be discontinued. The payment of all benefits to members on the retired roll at the time of discontinuance shall become the obligation of the school district in which the local system was operated prior to its discontinuance. The method of determining and paying refundable deposits due members of the local system shall be as provided in 1938 Ky. Acts (1st Ex. Sess.), ch. 1, sec. 49.
- (2) Payments to annuitants in cities of the first class or in areas formerly constituting a city of the first class which have been consolidated with their county shall not exceed the amount being received by them at the time the local retirement system is discontinued. The sum that remains after the death of all annuitants shall be used by the local board of education for general school purposes.
- (3) The local board of education shall continue to invest the funds transferred to it for the benefit of the existing annuitants as long as such annuitants live. Such investment shall be governed by 1934 Ky. Acts, ch. 65, Art. IX, except that the local board of education is substituted for the board of trustees of the local retirement system. The local board of education shall keep all funds transferred to it by the local retirement system and all income from the investment of such funds in a separate fund to be known as the annuity fund. The local board of education may pay from the fund any reasonable expenses necessary for the fund's administration and general management. The

local board of education shall safeguard the fund by requiring such additional surety bond of the treasurer as it deems necessary, by providing for an annual audit by a reputable auditing firm, by spreading on the minutes of the board of education at least annually a report of investments, assets, and liabilities, and the names, addresses, and annuities of annuitants, and by making such an appropriation to the fund from local school revenues as will guarantee the full and complete discharge of all obligations to annuitants.

**161.714 Inviolable contract.**

It is hereby declared that in consideration of the contributions by members and in further consideration of benefits received by the state from the member's employment, KRS 161.220 to 161.710 shall constitute, except as provided in KRS 6.696, an inviolable contract of the Commonwealth, and the benefits provided herein, except as provided in KRS 6.696, shall not be subject to reduction or impairment by alteration, amendment, or repeal.

**161.716 Federal laws take precedence over Kentucky statutes pertaining to Teachers' Retirement System.**

In the event that federal laws are in conflict with the Kentucky Revised Statutes pertaining to the Teachers' Retirement System, federal laws shall take precedence. When necessary to comply with federal laws, the board of trustees may defer or stop payments of allowances until the conflict is resolved. The board of trustees shall adopt such regulations as are necessary to remove any conflicts with federal laws and to protect the interests of the members, survivors of members and the system.

**161.990 Penalties.**

- (1) Any person who violates subsections (1) to (4) of KRS 161.164 shall be guilty of a Class A misdemeanor. Any school board candidate or school board member who willfully violates subsections (1) to (4) of KRS 161.164 shall also be disqualified from holding the office of school board member.
- (2) Any teacher or employee of a district who willfully violates subsections (1) to (4) of KRS 161.164 shall be ineligible for employment in the common schools for a period of five (5) years.
- (3) Any person who violates any of the provisions of KRS 161.190 shall be guilty of a Class A misdemeanor.
- (4) Any teacher who violates any of the provisions of subsection (2) of KRS 161.210 shall be subject to a fine of fifty dollars (\$50) and upon conviction his certificate shall be revoked.
- (5) A violation of any of the provisions of KRS 161.661 or 161.690 is a misdemeanor and upon conviction shall be punished by a fine of not more than five thousand dollars (\$5,000).

**6.350 Actuarial analysis required for bill before General Assembly to**

**increase benefits or participation in state-administered retirement system.**

- (1) A bill which would increase or decrease the benefits or increase or decrease participation in the benefits or change the actuarial accrued liability of any state- administered retirement system shall not be reported from a legislative committee of either house of the General Assembly for consideration by the full membership of that house unless the bill is accompanied by an actuarial analysis.
- (2)
  - (a) An actuarial analysis required by this section shall show the economic effect of the bill on the state-administered retirement system over a thirty (30) year period, including:
    1. An estimate of the effect on the unfunded actuarial accrued liabilities and funding levels of the affected systems; and
    2. A projection of the annual employer costs to the systems of implementing the legislation over the thirty (30) year period. The annual employer cost projection shall include the effect on the contributions of participating employers as a percentage of total payroll and in total dollars of contributions.
  - (b) If a bill affects more than one (1) state-administered retirement system, the actuarial analysis shall project costs for each affected state-administered retirement system.
  - (c) A statement that the cost is negligible or indeterminable shall not be considered in compliance with this section. If a cost cannot be determined by the actuary in accordance with paragraph (a) of this subsection, then the systems shall certify in writing:
    1. The estimated number of individuals affected;
    2. The estimated change in benefit payments;
    3. The estimated change to employer costs; and
    4. The estimated change to administrative expenses.
  - (d) An actuarial analysis shall state the actuarial assumptions and methods of computation used in the analysis and shall state whether or not the bill or resolution, if enacted, would, in the opinion of the actuary, make the affected state-administered retirement system actuarially unsound or, in the case of a system already actuarially unsound, more unsound. Actuarial cost methods and assumptions that meet actuarial standards of practice established by the Actuarial Standards Board shall be used in all cost projections.
  - (e) An actuarial analysis required by this section shall be prepared by an actuary who is a fellow of the Conference of Consulting Actuaries or a member of the American Academy of Actuaries.
- (3)
  - (a) An actuary commissioned to make an actuarial analysis that is required by this section, or for the purpose of seeking appropriations for a state-administered retirement system, shall



include in the analysis a complete definition of each actuarial term used in the analysis and, either in the analysis or in a separate

actuarial valuation report made available as a public record, an enumeration and explanation of each actuarial assumption used to complete the actuarial analysis.

(b) If the actuary commissioned to complete the actuarial analysis is relying upon assumptions that have not been previously established by the actuary in an actuarial valuation of the affected state-administered retirement system, the actuary shall clearly note and describe the new assumption and the basis for selecting the assumption.

(4) The actuarial analysis required by this section:

(a) Shall be completed by the actuary retained by the affected state-administered retirement system. The state-administered retirement systems shall provide the analysis without cost to the General Assembly;

(b) Shall be provided in a uniform format established by the Legislative Research Commission; and

(c) Shall include on the front page a summary of relevant data from the analysis, including but not limited to:

1. The total nominal dollar savings or costs over the thirty (30) year period;

2. The net present value of savings or costs over the thirty (30) year period; and

3. The estimated change in the normal cost, if applicable.

(5) For purposes of this section, the terms:

(a) "State-administered retirement system" shall include:

1. The Kentucky Employees Retirement System and the State Police Retirement System administered by the Kentucky Retirement Systems and established under the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705;

2. The Kentucky Teachers' Retirement System established under KRS 161.220 to 161.716;

3. The Judicial Retirement Plan established under KRS 21.345 to 21.580;

4. The Legislators' Retirement Plan established under KRS 6.500 to 6.577; and

5. The County Employees Retirement System established under KRS 78.510 to 78.852; and

(b) "Funding level" means the actuarial value of assets divided by the actuarially accrued liability expressed as a percentage.

#### **6.696 Effect of felony conviction on state retirement benefits.**

(1) A legislator or former legislator convicted of a felony relating to his

duties as a legislator, in any state or federal court of competent jurisdiction, shall forfeit rights and benefits earned after September 16, 1993, under the state administered retirement plan to which contributions have been made as a result of his service in the General Assembly, except for the return of his accumulated contributions and interest credited on those contributions.

- (2) The payment of retirement benefits ordered forfeited shall be stayed pending any appeal of the conviction. If the conviction is reversed on final judgment, no retirement benefits shall be forfeited.

**7A.255 Annual report of information on state-administered retirement systems' members and recipients of retirement allowances – Protection of members' and recipients' identities – Report to Public Pension Oversight Board – Investment procurement policy – Annual report on disability payments – Annual report on employer pay credits.**

- (1) Notwithstanding KRS 21.345 to 21.580, 61.661, 61.870 to 61.884, or 161.585 to the contrary, on or before November 15 following the close of each fiscal year, the state-administered retirement systems shall collectively file a report with the Public Pension Oversight Board that shall include the following information for each member or recipient of a retirement allowance from any of the state-administered retirement systems:
  - (a) A unique identification number for each member or recipient that is created solely for purposes of compiling the report provided by this section and which shall not be the member's Social Security number or personal identification number issued by the systems. For individual members or recipients with multiple accounts in the state-administered retirement systems, all of the state-administered retirement systems shall use the same unique identification number;
  - (b) The system or systems in which the member has an account or from which the retired member is receiving a monthly retirement allowance;
  - (c) The status of the member or recipient, including but not limited to whether he or she is a contributing member, a member who is not currently contributing to the systems but has not retired, a retired member, a beneficiary, or a retired member who has returned to work following retirement with an agency participating in the systems;
  - (d) If the individual is a retired member or beneficiary, the annualized monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year; and
  - (e) If the individual is a member who has not yet retired, the estimated annual retirement allowance that he or she is eligible to receive at his or her normal retirement date based upon his or

her service credit, final compensation, and accumulated account balance at the end of the most recently completed fiscal year.

Under no circumstances shall the member's name, address, or Social Security number be included in the information required to be reported to the board by this section, nor shall the unique identification number established by subsection (1) of this section be capable of being linked to a specific member's retirement account with a state-administered retirement system.

- (2) On or before November 15 following the close of each fiscal year, the state-administered retirement systems shall report to the Public Pension Oversight Board the percentage of system assets and managers for which fees and commissions are being reported in accordance with KRS 21.540(4)(m), 61.645(19)(i), and 161.250(4)(i). This subsection shall apply on a fiscal year basis beginning on or after July 1, 2017.
- (3) On or before November 15, 2017, the state-administered retirement systems shall tender to the Public Pension Oversight Board a copy of their board-adopted investment procurement policy along with certification from the secretary of the Finance and Administration Cabinet that the investment procurement policy meets or does not meet the best practices for investment management procurement. If the board amends its investment procurement policy, it shall tender a copy of its amended investment procurement policy to the Public Pension Oversight Board within sixty (60) days of adoption along with certification from the secretary of the Finance and Administration Cabinet that the policy meets or does not meet the best practices for investment management procurement.
- (4) On or before November 15 following the close of each fiscal year, the Kentucky Public Pensions Authority shall report to the Public Pension Oversight Board the number of individuals and total payments to members who become totally and permanently disabled as a direct result of an act in line of duty as defined in KRS 16.505 or become disabled as a result of a duty-related injury as defined in KRS 61.621. The data shall be broken down by system and for recipients who are drawing a benefit from the disablement of a hazardous member, a nonhazardous member who worked in a nonhazardous position that could be certified as a hazardous position based upon KRS 61.592, and a nonhazardous member who worked in a nonhazardous position that could not be certified as a hazardous position based upon KRS 61.592.
- (5) On or before November 15, 2023, and on or before November 15 every fourth year thereafter, the Department of Kentucky State Police and the Kentucky Public Pensions Authority shall jointly report to the Public Pension Oversight Board on the costs and effectiveness of the program established by KRS 16.583(2)(b)2. and 16.584.

#### **48.040 Budget forms – Projections of actuarially required contribution**

**rates – Executive branch assistance in preparation of budgets.**

- (1) On or before April 1 of each odd-numbered year, representatives designated by the Governor, the Chief Justice, and the Legislative Research Commission for their respective branches shall propose drafts of uniform forms to be used by all budget units in submitting their budget estimates, requests and recommendations, and shall recommend to the Legislative Research Commission such rules and regulations deemed necessary for the preparation of such budget estimates, requests and recommendations.
- (2) On or before June 1 of each odd-numbered year, the Legislative Research Commission shall prescribe uniform forms, records, and instructions to be used by branch budget units. Included in such forms shall be a section requiring budget units to identify the amount of funds to be spent on agency publications.
- (3)
  - (a) On or before August 15 of each odd-numbered year, each of the state- administered retirement systems as defined by KRS 6.350(5) shall submit to the state budget director’s office and the Legislative Research Commission a preliminary projection of the actuarially required contribution rates payable for the budget biennium that begins in the following fiscal year.
  - (b) On or before October 1 of each odd-numbered year, the state-administered retirement systems as defined by KRS 6.350(5) shall submit revised projections to the state budget director’s office and the Legislative Research Commission, based upon the most recently completed actuarial valuation, of the actuarially required contribution rates payable for the budget biennium that begins in the following fiscal year.
  - (c) The Legislative Research Commission shall distribute the information received under this subsection to the committee staff and co-chairs of any committee that has jurisdiction over a state-administered retirement system.
- (4) On or before August 1 of each odd-numbered year, the Finance and Administration Cabinet shall supply each branch of government with at least three (3) complete sets of the prescribed uniform forms and instructions for the preparation of estimates and statements, and one (1) copy of the complete statement of the expenditures of each budget unit of the branch to aid each branch of government in preparing its estimates and statements.
- (5) Upon request, the Finance and Administration Cabinet shall provide such additional assistance to each branch of government as may be required.

**61.552 Credit for service – Purchases and grants.**

- (1) Called to Active Duty Military Service. An employee of an employer participating in the system who is called to active military duty in the Armed Forces of the United States shall be credited in accordance with

38 U.S.C. sec. 4318 with service credit, creditable compensation, and in the case of employees participating in the hybrid cash balance plan, employee contributions, employer credits, and interest credits, for a period of active military duty of up to six (6) years, provided:

- (a) The employee was called to active military duty in the Armed Forces of the United States:
  - 1. After he or she began participating in the system and provided the employee was on leave of absence from the employer and did not withdraw his or her accumulated account balance; or
  - 2. Prior to the date he or she began participating in the system and terminated employment with his or her employer;
- (b) The employee entered active military service within three (3) months of his or her last day of paid employment;
- (c) His or her discharge military service was terminated in a manner other than as described in 38 U.S.C. sec. 4304; and
- (d) He or she returns to work with an employer participating in the system within two (2) years after completion of the period of active military duty, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

For periods of active military duty that meet the requirements of this subsection, the employer shall pay the employer contributions payable under KRS 61.565, 61.702, 78.5536, and 78.635.

- (2) (a) Omitted Service. Any person who is entitled to service credit for employment which was not reported by the employer in accordance with KRS 16.543, 61.543, or 78.615 may obtain credit for the service subject to the provisions of this subsection.
- (b) Provided the person pays for the omitted service with within six (6) months of notification by the system, the cost of the service shall be equal to the employee contributions that would have been paid if the person had been correctly reported in accordance with KRS 16.543, 61.543, or 78.615.
- (c) Any employee participating in one (1) of the state-administered retirement systems entitled to service credit under paragraph (a) of this subsection who has not repaid the employee contributions due within six (6) months of notification by the system may purchase the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (b) of this subsection.
- (d) Omitted service purchased under this subsection shall:
  - 1. Be considered service credited under KRS 16.543(1), 61.543(1), or 78.615(1) for purposes of determining eligibility for retirement benefits under KRS 78.510 to

78.852; and

2. Not be credited to the member's account until the employer contributions due and any interest or penalties on the delinquent employer contributions for the period of omitted service are received by the system.
- (e) Employees who begin participating on or after January 1, 2014, in the hybrid cash balance plan provided by KRS 16.583 or 61.597 or 78.5512 or 78.5516 shall, upon payment of the employee and employer contributions due under this subsection, have their accumulated account balance increased by the employee contributions, employer pay credits, and interest credits that would have been credited to their member's account if the contributions had been paid on time.
  - (f) Contributions payable by the employer under this subsection for omitted service shall be considered delinquent from the date the employee should have been reported and received service credit in accordance with KRS 16.543, 61.543, and 78.615.
- (3) (a) Recontribution of a Refund. Any employee participating in one (1) of the state-administered retirement systems who has been refunded his or her accumulated account balance under the provisions of KRS 61.625, thereby losing service credit in the system, may regain the credit by paying to the system the amount or amounts refunded by the system with interest at a rate determined by the board. Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the systems.
  - (b) Recontribution of a refund purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least six (6) months of service credit in a state-administered retirement system, excluding the service purchased under this subsection. If the member does not accrue at least six (6) months of service credit in a state-administered retirement system, excluding service purchased under this subsection, then the payment plus interest as provided in KRS 16.560, 61.575, or 78.640 shall be refunded upon retirement, death, or written request following termination of employment. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582, 61.600, 61.621, 78.5522, or 78.5524.
- (4) (a) Summer Months. Any employee participating in one (1) of the state-administered retirement systems who is or has been employed by a school board or community action agency participating in the County Employees Retirement System or a state-operated school under KRS Chapter 167 or an institution of higher learning participating in the Kentucky Employees Retirement System, who receives service credit for less than

twelve (12) months each year, may purchase the additional months of service credit needed to total one (1) year of service credit, except the amount purchased for any specific year shall not exceed three (3) months.

- (b) The cost of the summer months service credit shall be determined by the formula established by subsection (10) of this section and may be purchased by the employee, or the employer on behalf of the employee, or the cost may be paid by both the employer and employee in which case the employer and employee shall each pay fifty percent (50%) of the cost. Service credit shall not be credited to the member's account until both the employer's and employee's payment are received by the system.
- (c) If the employee has purchased service credit under this subsection based on months reported by the employer for the fiscal year, and an audit of the employee's account reduces the number of months of service credit for which the employee is eligible to no fewer than nine (9) months, the employee shall retain credit for the months purchased unless the employee is ineligible for any service in the fiscal year. The employee shall be eligible to purchase the additional months under this subsection to total one (1) year.
- (d) This subsection shall not apply to members who began participating in the County Employees Retirement System on or after January 1, 2014.

(5) Vested Service Purchases. Any employee who began participating in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System prior to January 1, 2014, who is vested may purchase service credit for:

- (a) Past service. "Past service" means periods of employment:
  - 1. Between July 1, 1956, in the case of the Kentucky Employees Retirement System, or July 1, 1958, in the case of the County Employees Retirement System, and the effective date of participation by the employer;
  - 2. Where the employee did not participate in the system due to the employee not electing to participate as provided in KRS 61.525(2) or 78.540(1); and
  - 3. With a public agency that did not participate in the Kentucky Employees Retirement System but would have been eligible to participate under KRS 61.520 or a political subdivision that did not participate in the County Employees Retirement System but would have been eligible to participate under KRS 78.530, provided the public agency or political subdivision has merged with or been taken over by a participating employer;
- (b) State university service, provided the university does not participate in a state-administered retirement system and the

university service being purchased was in a nonteaching position that did not participate in a defined benefit retirement program;

- (c)
  - 1. Up to ten (10) years of out-of-state service. “Out-of-state” means service credited to a state or local government-administered public defined benefit plan in another state that is not a defined benefit plan for teachers.
  - 2. Up to ten (10) years of out-of-state hazardous service. “Out-of-state hazardous service” means service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592 or 78.5520, as applicable. The employee may purchase out-of-state hazardous service under this subparagraph provided the employee is vested to receive benefits from the State Police Retirement System or hazardous duty benefits from the Kentucky Employees Retirement System or the County Employees Retirement System. The employee must purchase out-of-state service or out-of-state hazardous service in the system in which he or she is vested based solely upon the service in that system;
- (d) Active military duty, which means periods of active military duty in the Armed Forces of the United States, provided:
  - 1. The employee’s military service was terminated in a manner other than as described in 38 U.S.C. sec. 4304; and
  - 2. The service has not been credited as free military service under subsection (1) of this section;
- (e) National Guard service. An employee may purchase one (1) month of service for each six (6) months of service in the National Guard or the military reserves of the United States. The service shall be treated as service earned prior to participation in the system;
- (f) Federal service. “Federal service” means service with the United States government, that is not service in the Armed Forces;
- (g) Seasonal, emergency, interim, probationary, or temporary employment or part-time employment as provided by KRS 61.510(21) or 78.510(21) averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member may purchase credit for only those months he or she receives creditable compensation for one hundred (100) hours of work;



- (h) Part-time employment in a noncertified position at a school board prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed to purchase credit only for those months he or she receives creditable compensation for eighty (80) hours of work;
- (i) Any period of:
  - 1. Authorized maternity leave without pay or sick leave without pay;
  - 2. Unpaid leave authorized under the federal Family and Medical Leave Act;
  - 3. Approved educational leave; and
  - 4. Agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the board receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor;
- (j) Non-participating employer service, which means periods of employment with the following types of agencies provided the agency does not participate in a state-administered retirement system:
  - 1. A regional community services program for mental health organized and operated under the provisions of KRS 210.370 to 210.480;
  - 2. A community action agency created under KRS 273.405 to 273.453. The service provided by this subparagraph shall be purchased in the County Employees Retirement System;
  - 3. An area development district created pursuant to KRS 147A.050; or
  - 4. A business development corporation created pursuant to KRS 155.001 to 155.230, provided the system receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor;
- (k) Urban-county government service, which means employment in an urban- county government position that would qualify for hazardous duty coverage under KRS 61.592 or 78.5520. The provisions of this paragraph shall only be applicable to vested members participating in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System;

- (l) Periods of service as assistants to officers and employees of the General Assembly for persons who were unable to acquire service under KRS 61.510(20) for service performed after January 1, 1960;
  - (m) Service as a volunteer in the Kentucky Peace Corps, created by KRS 154.1- 720; and
  - (n) Employment with a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year. The service provided by this paragraph shall be purchased in the Kentucky Employees Retirement System.
- (6) Non-qualified service. Provided the employee's participation date in the system is prior to July 15, 2002, and provided the employee has total service in all state- administered retirement systems of at least one hundred eighty (180) months of service credit, the employee may purchase a combined maximum total of five (5) years of service credit, known as non-qualified service, which is not otherwise purchasable under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852. The service purchased under this paragraph shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, upon retirement, death, or written request following termination, the payment, plus interest as provided in KRS 16.560, 61.575, or 78.640, as applicable, shall be refunded.
- (7) For purposes of service purchased under subsections (2) to (6) of this section:
- (a) Except for subsection (6) of this section, the service must qualify as regular full-time as provided by KRS 61.510 and 78.510;
  - (b) No service credit may be purchased for periods already credited to the system or another public defined benefit retirement fund, including non-qualified service purchased in another state-administered retirement system;
  - (c) Except as provided by paragraph (a)2.a. of subsection (9) of this section, the employee payment for service purchases shall not be picked up, as described in KRS 16.545(4), 61.560(4), or 78.610(4), by the employer;
  - (d) Except for service purchased under subsection (2) or (3) of this section, service purchases made pursuant to this section may be purchased by the entire amount of service available or by increments. Service purchases made pursuant to subsections (2) and (3) of this section shall only be purchased by the entire

- amount of service available; and
- (e) Service purchases as provided by subsections (5)(b), (5)(d) to (f), (5)(j)1., and (6) of this section may be purchased in any system in which the member has service credit.
- (8) (a) Employer purchase of past service. Any employer participating in the system may purchase service credit, between July 1, 1956, in the case of the Kentucky Employees Retirement System, or July 1, 1958, in the case of the County Employees Retirement System, and the participation date of the employer, for present employees of the county or department who have elected coverage under KRS 61.525(2) or 78.540(1), provided the employee began participating in the system prior to January 1, 2014.
- (b) A Kentucky Employees Retirement System employer shall pay the cost of the service credit within the fiscal year the election is made to purchase the service credit. A County Employees Retirement System employer may purchase the service, with interest at the rate actuarially assumed by the board, over a period not to exceed ten (10) years.
- (c) If an employer elects to purchase service under the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (5)(a) of this section shall have his or her payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640; and
- (d) Any payments made by an employer under this subsection shall be deposited to the retirement allowance account of the system and these funds shall not be considered accumulated contributions of the individual members.
- (9) (a) An employee participating in the system may purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 for which he or she is eligible to purchase, or as otherwise required by 38 U.S.C. ch. 43, by:
1. Making a lump-sum payment on a before-tax basis as provided in subparagraph 3. of this paragraph, or on an after-tax basis if the employee is purchasing service credit under subsection (1) or (3) of this section, service available pursuant to 38 U.S.C. ch. 43 not otherwise provided for in this section, or grandfathered service as defined in paragraph (b) of this subsection;
  2. Entering into an agreement to purchase service credit through an installment purchase of service agreement with the systems as provided by paragraph (c) of this subsection:

- a. On a before-tax basis in which the service is purchased pursuant to the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2); or
  - b. On an after-tax basis if the employee is purchasing service credit under subsection (1) or (3) of this section, service available pursuant to 38 U.S.C. ch. 43 not otherwise provided for in this section, or grandfathered service as defined in paragraph (b) of this subsection; or
3. Transferring funds to the system through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder, or through a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. secs. 402(c) and 408(d)(3). The system shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder.
- (b) For purposes of this subsection, “grandfathered service” means service purchases for which a member, whose membership date in the system is prior to July 1, 1999, is eligible to purchase under KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, that were available for all members of the system to purchase on August 5, 1997.
- (c)
    1. For service purchased under a before-tax or after-tax installment purchase of service agreement as provided by paragraph (a)2. of this subsection, the cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal, except that interest compounded annually at the actuarial rate in effect at the time the member elects to make the purchase shall be added for the period that the installments are to be made.
    2. Multiple service purchases may be combined under a single installment agreement, except that no employee may make more than one (1) installment purchase at the same time.
    3. For after-tax installment purchase of service agreements, the employee may elect to stop the installment payments by notifying the system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal or a portion of the remaining

- principal.
4. Before-tax installment purchase of service agreements shall be irrevocable, and the employee shall not be able to stop installment payments or to pay off the remaining balance of the purchase of service agreement, except upon termination of employment or death.
  5. One (1) year of installment payments shall be made for each one thousand dollars (\$1,000) or any part thereof of the total cost, except that the total period allowed for installments shall not be less than one (1) year and shall not exceed five (5) years.
  6. The employee shall pay the installments by payroll deduction for after- tax purchase of service agreements, and the employer shall pick up installments for before-tax purchase of service agreements. Upon notification by the system, the employer shall report the installment payments monthly continuously over each twelve (12) month period at the same time as, but separate from, regular employee contributions on the forms or by the computer format specified by the board.
  7. The system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.
  8. If the employee utilizing an installment purchase of service agreement dies, retires, does not continue employment in a position required to participate in the system, or elects to stop an after-tax installment purchase of service agreement, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal or a portion of the remaining principal of the installment purchase of service agreement by lump sum, subject to the restrictions of paragraph (a)1. of this subsection, or by transfer of funds under paragraph (a)3. of this subsection, except that payment by the member shall be filed with the system prior to the member's effective retirement date. If the member or beneficiary does not pay the remaining cost, the system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased, except as provided by subsection (6) of this section.

9. If the employer does not report installment payments on an employee for sixty (60) days for an after-tax installment purchase of service agreement, except in the case of employees on military leave or sick leave without pay, the installment purchase shall cease and the system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.
  10. Installment payments of employees on military leave or sick leave without pay shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.
  11. If payments have ceased under subparagraph 8. or 9. of this paragraph and the member later becomes a participating employee in the County Employees Retirement System, Kentucky Employees Retirement System, or State Police Retirement System, the employee may complete the adjusted original installment purchase by lump sum or installment payments, subject to the restrictions of this subsection. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with subsection (10) of this section.
    - (d) Member payments, including interest, properly received pursuant to this subsection, shall be deposited to the member's account and considered as accumulated contributions of the individual member.
- (10) (a) The cost of purchasing service credit under any provision of this section, except as provided by subsections (1) to (3) of this section, shall be determined by multiplying the higher of the employee's current rate of pay, final rate of pay, or final compensation as of the end of the month in which the purchase is made times the actuarial factor times the number of years of service being purchased. The actuarial factor used to determine the cost of purchasing service credit shall assume the earliest date the member may retire without a reduction in benefits and the cost-of-living adjustments provided to members upon retirement.
- (b) Service purchased on or after August 1, 2004, under the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, except for service purchased under subsections (1) to (3) of this section or service purchased as described by paragraph (d) of this subsection, shall not be used to determine eligibility for or the amount of the monthly insurance contribution under KRS 61.702 or 78.5536.
  - (c) For a member whose participation begins on or after August 1,

2004, service purchased under the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, except for service purchased under subsections (1) to (3) of this section or service purchased as described by paragraph (d) of this subsection:

1. Shall not be used to determine eligibility for a retirement allowance under disability retirement, early retirement, normal retirement, or upon death of the member under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852; and
  2. Shall only be used to determine the amount of the retirement allowance of a member who is eligible for a retirement allowance under disability, early retirement, normal retirement, or upon death of the member under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, based on service earned as a participating employee.
- (d) Paragraphs (b) and (c) of this subsection shall not apply to a member who was bound by an educational contract as a conditional employee to the state of Kentucky prior to December 31, 2003, regardless of participation date or membership date in the system. Educational leave, seasonal service, or any other qualified service purchased by a member with this classification under this section shall be used to determine eligibility for benefits, membership dates or participation dates, and the amount of benefit for:
1. A retirement allowance under disability retirement, early retirement, normal retirement, or death under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852; and
  2. The monthly insurance contribution under KRS 61.702 or 78.5536.

**61.621 Fred Capps Memorial Act – Eligibility for benefits for duty-related injury – Benefits for surviving spouse and dependent children – Receipt of benefits pending final determination.**

- (1) Notwithstanding any provision of any statutes to the contrary, effective June 1, 2000, any employee participating in one (1) of the state-administered retirement systems who is not in a hazardous duty position, as defined in KRS 61.592 or 78.5520, shall be eligible for minimum benefits equal to the benefits payable under this section or KRS 61.702 or 78.5536, as applicable, if the employee dies or becomes totally and permanently disabled to engage in any occupation for remuneration or profit as a result of a duty-related injury.
- (2) (a) For purposes of this section, “duty-related injury” means:
  1. a. A single traumatic event that occurs while the

- employee is performing the duties of his or her position; or
      - b. A single act of violence committed against the employee that is found to be related to his or her job duties, whether or not it occurs at his or her job site; and
    - 2. The event or act of violence produces a harmful change in the human organism evidenced by objective medical findings.
  - (b) “Duty-related injury” does not include the effects of the natural aging process, a communicable disease unless the risk of contracting the disease is increased by nature of the employment, or a psychological, psychiatric, or stress-related change in the human organism unless it is the direct result of a physical injury.
- (3)
- (a) If the employee dies as a result of a duty-related injury and is survived by a spouse, the surviving spouse shall be the beneficiary, and this shall supersede the designation of all previous beneficiaries of the deceased employee’s retirement account, except as provided in KRS 61.542(2)(e).
  - (c) The surviving spouse, provided he or she supersedes all previously designated beneficiaries, may elect to receive the benefits payable under KRS 61.640 or other applicable death benefit statutes, or may elect to receive a lump-sum payment of ten thousand dollars (\$10,000) and a monthly payment equal to seventy-five percent (75%) of the member’s monthly average pay beginning in the month following the member’s death and continuing each month until the death of the surviving spouse.
  - (d) In addition, if the member is also survived by dependent children, monthly payments shall be made for each dependent child equal to ten percent (10%) of the deceased member’s monthly average pay, except that the combined maximum payment made to the:
    - 1. Surviving spouse and dependent children under this subsection shall not exceed one hundred percent (100%) of the deceased member’s monthly average pay; and
    - 2. Dependent children, while the surviving spouse is living, shall not exceed twenty-five percent (25%) of the deceased member’s monthly average pay.  
Payments made to the dependent children under this subsection shall be divided equally among all the dependent children.
- (4) If the employee dies as a result of a duty-related injury and is not survived by a spouse but is survived by a dependent child or children, the following benefits shall be paid to the dependent child or children:
- (a) Fifty percent (50%) of the deceased member’s monthly average



- pay, if the deceased member has one (1) dependent child;
- (b) Sixty-five percent (65%) of the deceased member's monthly average pay, if the deceased member has two (2) dependent children; or
- (c) Seventy-five percent (75%) of the deceased member's monthly average pay, if the deceased member has three (3) or more dependent children.

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

- (5) If the employee is determined to be disabled as provided in KRS 61.600, or other applicable disability statutes in any other state-administered retirement system, as the result of a duty-related injury, the employee may elect to receive benefits determined under the provisions of KRS 61.605, or other applicable disability statutes in any other state-administered retirement system, except that:
  - (a) If an employee is working in a nonhazardous position that could be certified as a hazardous position based upon KRS 61.592, the monthly retirement allowance shall not be less than seventy-five percent (75%) of the employee's monthly average pay; or
  - (b) If an employee is working in a nonhazardous position that could not be certified as a hazardous position based upon KRS 61.592, the monthly retirement allowance shall not be less than twenty-five percent (25%) of the employee's monthly final rate of pay.

For purposes of determining a disability that is the result of a duty related injury, the service requirement in KRS 61.600(1)(a), or other applicable statutes in any other state-administered retirement system, shall be waived.

- (6) (a) In the period of time following the disability of a member covered by subsection (5)(a) of this section during which dependent children survive, a monthly payment shall be made for each dependent child who is alive which shall be equal to ten percent (10%) of the disabled member's monthly average pay, except that:
  1. Member and dependent children payments under this section shall not exceed one hundred percent (100%) of the member's monthly average pay; and
  2. Total maximum dependent children's benefits shall not exceed twenty-five percent (25%) of the member's monthly average pay while the member is living and forty percent (40%) of the disabled member's monthly average pay after the member's death. The payment shall commence in the month following the date of disability of the member and shall be payable to the dependent children, or to a legally appointed guardian, or as directed by the system and shall be divided equally among all

dependent children.

- (b) In the period of time following the disability of a member covered by subsection (5)(b) of this section during which dependent children survive, a monthly payment shall be made for each dependent child who is alive which shall be equal to ten percent (10%) of the disabled member's monthly final rate of pay; except that total maximum dependent children's benefits shall not exceed forty percent (40%) of the disabled member's monthly final rate of pay at the time any particular payment is due. The payment shall commence in the month following the date of disability of the member and shall be payable to the dependent children, or to a legally appointed guardian, or as directed by the system.
- (7) Benefits for death as a result of a duty-related injury to a dependent child shall be payable under this section notwithstanding an election by a surviving spouse or beneficiary to withdraw the deceased member's accumulated account balance as provided in KRS 61.625 or benefits under any other provisions of KRS 61.515 to 61.705 or other applicable death benefit statutes in any other state-administered retirement system.
- (8)
  - (a) A spouse applying for benefits under this section who is also eligible for benefits under KRS 61.640 or 78.5532 may elect to receive benefits under KRS 61.640(2)(a) or (b) or 78.5532(2)(a) or (b) while the application for benefits under this section is pending.
  - (b) If a final determination results in a finding of eligibility for benefits under this section, the system shall recalculate the benefits due the spouse in accordance with this subsection.
  - (c) If the spouse has been paid less than the amount of benefits to which the spouse was entitled to receive under this section, the system shall pay the additional funds due to the spouse.
  - (d) If the spouse has been paid more than the benefit the spouse was eligible to receive under this section, then the system shall deduct the amount owed by the spouse from the ten thousand dollars (\$10,000) lump-sum payment and from the monthly retirement allowance payments until the amount owed to the systems has been recovered.
- (9) For purposes of this section, "dependent child" has the same meaning as in KRS 16.505.
- (10) This section shall be known as "The Fred Capps Memorial Act."

**Legislative Research Commission Note (3/27/2020).** KRS 16.601 and 61.621 were amended in 2020 Ky. Acts ch. 46, secs. 1 and 2, respectively. Section 4 of that Act reads as follows:

"The provisions of Sections 1 to 3 of this Act shall not reduce any benefits payable to any surviving spouse or

dependent children of a member who died prior to the effective date of this Act and whose death was determined by the systems to be the direct result of an act in line of duty as defined in KRS 16.505(19) or resulted from a duty-related injury as defined in Section 2 of this Act.”

**61.680 Consent of employees to deductions – Consolidation for determination of eligibility and determination of benefits – Waiver – Choice among retirement systems – Reciprocal arrangements.**

- (1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his or her compensation required by KRS 6.500 to 6.535, 16.505 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).
- (2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.505 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714:
  1. Upon death, disability, or service retirement, a member’s accounts under the Legislators’ Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers’ Retirement System, except for service prohibited by KRS 161.623(2), shall be consolidated for the purpose of determining eligibility and amount of benefits, including those members who participate in the hybrid cash balance plan within the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System, on or after January 1, 2014, and regardless of the transition of administration of the County Employees Retirement System to the County Employees Retirement System board of trustees;
  2. Vested service credit in a retirement system, other than the Teachers’ Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for twenty-seven (27) year retirement for an employee who begins participating before September 1, 2008, but not the amount of benefits;
  3. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation, excluding

- compensation earned under KRS 161.155(10), shall be determined as if all service were in one (1) system;
4. If the member has prior service in more than one (1) system administered by Kentucky Retirement Systems, he or she shall obtain at least twelve (12) months' current service in each system in which he or she has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this subsection; and
  5. Upon the determination of benefits, each system shall pay the applicable amount of benefits due the member.
- (b) The provisions of paragraph (a) of this subsection shall be waived if the member:
1. Notifies the system of his or her desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System; or
  2. Fails to simultaneously retire from all state-administered retirement systems in which the member has an account or fails to retire from any other systems not administered by Kentucky Retirement Systems within one (1) month of the member's effective retirement date in the systems administered by Kentucky Retirement Systems.
- (c) If the member has not contributed at least one (1) year in a system in which he or she has prior service, his or her current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.
- (3) (a) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System who becomes the holder of an office entitling him or her to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he or she is a member, either the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his or her membership.
- (b) Any person entitled to membership in the Judicial Retirement

Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System.

- (c) A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems or Kentucky Teachers' Retirement System shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System.
- (4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.
- (b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his or her election and participate in the system under which his or her position would normally participate, if he or she elects to cancel his or her option prior to January 1, 1977.
- (c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his or her term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his or her term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General

Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(5).

- (5) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his or her employee contributions, service credit and employer contributions made on his or her behalf are being transferred to the other retirement system shall contribute to the system in which his or her employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he or she elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.
- (6)
  - (a) Except as provided by KRS 61.545(3)(b)2., any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his or her wages and contributions consolidated and his or her retirement account administered as a single account. If part-time positions are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).
  - (b) The provisions of this subsection shall not apply to an individual serving as a volunteer who is receiving compensation from the employer equal to or less than a nominal fee as defined by KRS 61.510 and 78.510 if the compensation paid to the volunteer is excluded from the definition of creditable compensation as provided by KRS 61.510(13) or 78.510(13).
- (7)
  - (a) Notwithstanding the provisions of subsection (2) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his or her actual service credit in each system in which he or she has service credit when his or her combined service credit in all the systems, plus any service credit he or she has in the Judicial Retirement Plan, is equal to that required for service retirement

in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, except that total service in all systems, unless prohibited by KRS 161.623(2), shall be used to determine the reduction for early retirement, if any. Except as provided in KRS 21.360, the final compensation shall be determined by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems.

- (b) Paragraph (a) of this subsection shall be waived if the member fails to simultaneously retire from all state-administered retirement systems in which the member has an account or fails to retire from any other systems not administered by Kentucky Retirement Systems within one (1) month of the member's effective retirement date in the systems administered by the Kentucky Retirement Systems.
- (8) Each retirement system from which the member retires shall pay a retirement allowance upon receipt of required forms and documents, except that no retirement system shall pay a retirement allowance or annuity until all forms and documents are filed at all retirement systems in compliance with each system's requirements.

**61.702 Group hospital and medical insurance plan coverage – Inclusion in Kentucky Employees Health Plan – Employee and employer contributions – Minimum service requirements – Members with service in other retirement systems – Exemption from premium tax – Administrative regulation.**

- (1) For purposes of this section:
  - (a) "Hospital and medical insurance plan" may include, at the board's discretion, any one (1) or more of the following:
    - 1. Any hospital and medical expense policy or certificate, provider- sponsored integrated health delivery network, self-insured medical plan, health maintenance organization contract, or other health benefit plan;
    - 2. Any health savings account as permitted by 26 U.S.C. sec. 223 or health reimbursement arrangement or a similar account as may be permitted by 26 U.S.C. sec. 105 or 106. Such arrangement or account, at the board's discretion, may reimburse any medical expense permissible under 26 U.S.C. sec. 213; or
    - 3. A medical insurance reimbursement program established by the board through the promulgation of administrative

regulation under which members purchase individual health insurance coverage through a health insurance exchange established under 42 U.S.C. sec. 18031 or 18041;

- (b) “Monthly contribution rate” is the amount determined by the board based upon the requirements of subsection (4)(a) to (d) of this section, except that for members who began participating in the system on or after July 1, 2003, the term shall mean the amount determined in subsection (4)(e) of this section; and
  - (c) “Months of service” means the total months of combined service used to determine benefits under the system, except service added to determine disability benefits or service otherwise prohibited from being used to determine retiree health benefits under KRS 16.505 to 16.652 or 61.510 to 61.705 shall not be counted as “months of service.” For current and former employees of the Council on Postsecondary Education who were employed prior to January 1, 1993, and who earn at least fifteen (15) years of service credit in the Kentucky Employees Retirement System, “months of service” shall also include vested service in another retirement system other than the Kentucky Teachers’ Retirement System sponsored by the Council on Postsecondary Education.
- (2) (a) 1. The board of trustees of the system shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan coverage for:
- a. Present and future recipients of a retirement allowance from the Kentucky Employees Retirement System and the State Police Retirement System; and
  - b. The spouse and each qualified dependent of a recipient who is a former member or the beneficiary, provided the spouse and dependent meet the requirements to participate in the hospital and medical insurance plans established, contracted, or authorized by the system.
2. Any recipient who chooses coverage under a hospital and medical insurance plan shall pay, by payroll deduction from the retirement allowance, electronic funds transfer, or by another method, the difference between the premium cost of the hospital and medical insurance plan coverage selected and the monthly contribution rate to which he or she would be entitled under this section.
- (b) 1. For present and future recipients of a retirement allowance from the system who are not eligible for Medicare and for those recipients described in



subparagraph 3.b. of this paragraph, the board may authorize these participants to be included in the Kentucky Employees Health Plan as provided by KRS 18A.225 to 18A.2287 and shall provide benefits for recipients in the plan equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status. Notwithstanding the provisions of any other statute except subparagraph 3.b. of this paragraph, system recipients shall be included in the same class as current state employees for purposes of determining medical insurance policies and premiums in the Kentucky Employees Health Plan as provided by KRS 18A.225 to 18A.2287.

2. Regardless of age, if a recipient or the spouse or dependent child of a recipient who elects coverage becomes eligible for Medicare, he or she shall participate in the plans offered by the systems for Medicare eligible recipients. Individuals participating in the Medicare eligible plans may be required to obtain and pay for Medicare Part A and Part B coverage, in order to participate in the Medicare eligible plans offered by the system.
3. The system shall continue to provide the same hospital and medical insurance plan coverage for recipients and qualifying dependents after the age of sixty-five (65) as before the age of sixty-five (65), if:
  - a. The recipient is not eligible for Medicare coverage; or
  - b. The recipient would otherwise be eligible for Medicare coverage but is subject to the Medicare Secondary Payer Act under 42 U.S.C. sec. 1395y(b) and has been reemployed by a participating agency which offers the recipient a hospital and medical insurance benefit or by a participating agency which is prevented from offering a hospital and medical benefit to the recipient as a condition of reemployment under KRS 70.293, 95.022, or 164.952. Individuals who are eligible, pursuant to this subdivision, to be included in the Kentucky Employees Health Plan as provided by KRS 18A.225 to 18A.2287 may be rated as a separate class from other eligible employees and retirees for the purpose of determining medical insurance premiums.
  - c. For recipients of a retirement allowance who are not eligible for the same level of hospital and

medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (6) of this section.

- d. tanding anything in KRS Chapter 16 or 61 to the contrary, the board of trustees, in its discretion, may take necessary steps to ensure compliance with 42 U.S.C. secs. 300bb-1 et seq.

- (3) (a) Each employer participating in the Kentucky Employees Retirement System or the State Police Retirement System as provided in KRS 16.505 to 16.652 or 61.510 to 61.705 shall contribute to the insurance trust fund established under KRS 61.701 the amount necessary to provide the monthly contribution rate as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate determined under KRS 61.565.
- (b) 1. Each employer described in paragraph (a) of this subsection shall deduct from the creditable compensation of each member whose membership date begins on or after September 1, 2008, an amount equal to one percent (1%) of the member's creditable compensation. The deducted amounts shall, at the discretion of the board, be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701. Notwithstanding the provisions of this paragraph, a transfer of assets between the accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510 and 61.515, and the insurance trust fund established under KRS 61.701 shall not be allowed.
2. The employer shall file the contributions as provided by subparagraph 1. of this paragraph at the retirement office in accordance with KRS 61.675. Any interest or penalties paid on any delinquent contributions shall be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701. Notwithstanding any minimum compensation requirements provided by law, the deductions provided by this paragraph shall be made, and the compensation of the member shall be reduced

accordingly.

3. Each employer shall submit payroll reports, contributions lists, and other data as may be required by administrative regulation promulgated by the board of trustees pursuant to KRS Chapter 13A.
  4. Every member shall be deemed to consent and agree to the deductions made pursuant to this paragraph, and the payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 16.505 to 16.652 or 61.510 to 61.705. No member may elect whether to participate in, or choose the contribution amount to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701. The member shall have no option to receive the contribution required by this paragraph directly instead of having the contribution paid to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701. No member may receive a rebate or refund of contributions. If a member establishes a membership date prior to September 1, 2008, pursuant to KRS 61.552(2) or (3), then this paragraph shall not apply to the member and all contributions previously deducted in accordance with this paragraph shall be refunded to the member without interest. The contribution made pursuant to this paragraph shall not act as a reduction or offset to any other contribution required of a member or recipient under KRS 16.505 to 16.652 or 61.510 to 61.705.
  5. The board of trustees, at its discretion, may direct that the contributions required by this paragraph be accounted for within accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701, through the use of separate accounts.
- (4) (a) The premium required to provide hospital and medical insurance plan coverage under this section shall be paid wholly or partly from funds contributed by:
1. The recipient of a retirement allowance, by payroll deduction from his or her retirement allowance, or by other method;

2. The insurance trust fund established under KRS 61.701 or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515;
3. Another state-administered retirement system, including the County Employees Retirement System, under a reciprocal arrangement, except that any portion of the premium paid from the funds specified by subparagraph 2. of this paragraph under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in the systems administered by the Kentucky Retirement Systems. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the insurance trust fund established under KRS 61.701 or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515 shall pay the balance; or
4. A combination of the fund sources described by subparagraphs 1. to 3. of this paragraph.

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

- (b) For a member who began participating in the system prior to July 1, 2003, the monthly contribution rate shall be paid by the system from the funds specified under paragraph (a)2. of this subsection and shall be equal to a percentage of the single premium to cover the retired member as follows:
2. One hundred percent (100%) of the monthly premium for single coverage shall be paid for a retired member who had two hundred forty (240) months of service or more upon retirement or for a retired member who when he or she was an employee became disabled as a direct result of an act in line of duty as defined in KRS 16.505 or as a result of a duty-related injury as defined in KRS 61.621;

3. Seventy-five percent (75%) of the monthly premium for single coverage shall be paid for a retired member who had less than two hundred forty (240) months of service but at least one hundred eighty (180) months of service upon retirement, provided such retired member agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method;
  4. Fifty percent (50%) of the monthly premium for single coverage shall be paid for a retired member who had less than one hundred eighty (180) months of service but had at least one hundred twenty (120) months of service upon retirement, provided such retired member agrees to pay the remaining fifty percent (50%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method; or
  5. Twenty-five percent (25%) of the monthly premium for single coverage shall be paid for a retired member who had less than one hundred twenty (120) months of service but had at least forty-eight (48) months of service upon retirement, provided such retired member agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method.
- (c) Notwithstanding paragraph (b) of this subsection, for a member participating in the system prior to July 1, 2003, who:
2. Dies as a direct result of an act in line of duty as defined in KRS 16.505 or dies as a result of a duty-related injury as defined in KRS 61.621, the monthly premium shall be paid for his or her spouse so long as the spouse remains eligible for a monthly retirement benefit;
  3. Becomes totally and permanently disabled as defined in KRS 16.582 as a direct result of an act in line of duty as defined in KRS 16.505 or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the monthly premium shall be paid for his or her spouse so long as the member and the spouse individually remain eligible for a monthly retirement benefit; and
  4. Dies as a direct result of an act in line of duty as defined in KRS 16.505, dies as a result of a duty-related injury as defined in KRS 61.621, becomes totally and permanently disabled as defined in KRS 16.582 as a direct result of an act in line of duty as defined in KRS 16.505, or becomes disabled as a result of a duty-related

injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the monthly premium shall be paid for each dependent child as defined in KRS 16.505, so long as the member remains eligible for a monthly retirement benefit, unless deceased, and each dependent child individually remains eligible under KRS 16.505.

- (d)
  - 1. For a member who began participating in the system prior to July 1, 2003, who was determined to be in a hazardous position in the Kentucky Employees Retirement System or in a position in the State Police Retirement System, the funds specified under paragraph (a)2. of this subsection shall also pay a percentage of the monthly contribution rate sufficient to fund the premium costs for hospital and medical insurance coverage for the spouse and for each dependent child of a recipient.
  - 2. The percentage of the monthly contribution rate paid for the spouse and each dependent child of a recipient who was in a hazardous position in accordance with subparagraph 1. of this paragraph shall be based solely on the member's service in a hazardous position using the formula in paragraph (b) of this subsection.
- (e) For members who begin participating in the system on or after July 1, 2003:
  - 1. Participation in the insurance benefits provided under this section shall not be allowed until the member has earned at least one hundred twenty (120) months of service in the state-administered retirement systems, except that for members who begin participating in the system on or after September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the member has earned at least one hundred eighty (180) months of service credited under KRS 16.543(1) or 61.543(1), or another state-administered retirement system.
  - 2. A member who meets the minimum service requirements as provided by subparagraph 1. of this paragraph shall upon retirement be eligible for the following monthly contribution rate to be paid on his or her behalf from the funds specified under paragraph (a)2. of this subsection:
    - a. For members with service in a nonhazardous position, a monthly insurance contribution of ten dollars (\$10) for each year of service as a participating employee in a nonhazardous position; and
    - b. For members with service in a hazardous

position or who participate in the State Police Retirement System, a monthly insurance contribution of fifteen dollars (\$15) for each year of service as a participating employee in a hazardous position or the State Police Retirement System.

- c. Upon the death of the retired member, the beneficiary, if the beneficiary is the member's spouse, shall be entitled to a monthly insurance contribution of ten dollars (\$10) for each year of service the member attained as a participating employee in a hazardous position.
3. The minimum service requirement to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a member who receives a satisfactory determination of a hazardous disability that is a direct result of an act in line of duty as defined in KRS 16.505, and the member shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in a hazardous position.
4. The minimum service required to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a member who is disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(b), and the member shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in a nonhazardous position.
5. Notwithstanding the provisions of this paragraph, the minimum service requirement to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a for a member who dies as a direct result of an act in line of duty as defined in KRS 16.505, who becomes totally and permanently disabled as defined in KRS 16.582 as a direct result of an act in line of duty as defined in KRS 16.505, who dies as a result of a duty-related injury as defined in KRS 61.621, or who becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), and the premium for the member, the member's spouse, and for each dependent child as defined in KRS 16.505 shall be paid in full by the systems so long as the member, member's spouse, or dependent child individually remains eligible for a monthly retirement benefit.

6. Except as provided by subparagraph 5. of this paragraph, the monthly insurance contribution amount shall be increased:
  - a. On July 1 of each year by one and one-half percent (1.5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member or beneficiary but shall not apply to any increase in the contribution attributable to the increase specified by subdivision b. of this subparagraph; and
  - b. On January 1 of each year by five dollars (\$5) for members who have accrued an additional full year of service as a participating employee beyond the career threshold, subject to the following restrictions:
    - i. The additional insurance contribution provided by this subdivision shall only be applied to the monthly contribution amounts provided under subparagraph 2.a. and b. of this paragraph;
    - ii. The additional insurance contribution provided by this subdivision shall only be payable towards the health plans offered by the system to retirees who are not eligible for Medicare or for reimbursements provided to retirees not eligible for Medicare pursuant to subsection (6)(a)2. of this section; and
    - iii. In order for the annual increase to occur as provided by this subdivision, the funding level of retiree health benefits for the system in which the employee is receiving the additional insurance contribution shall be at least ninety percent (90%) as of the most recent actuarial valuation and be projected by the actuary to remain ninety percent (90%) for the year in which the increase is provided.
7. The benefits of this paragraph provided to a member whose participation begins on or after July 1, 2003, shall not be considered as benefits protected by the inviolable contract provisions of KRS 16.652 or 61.692. The General Assembly reserves the right to suspend or reduce the benefits conferred in this paragraph if in its



- judgment the welfare of the Commonwealth so demands.
8. An employee whose membership date is on or after September 1, 2008, who retires and is reemployed in a regular full-time position required to participate in the system or the County Employees Retirement System shall not be eligible for health insurance coverage or benefits provided by this section and shall take coverage with his or her employing agency during the period of reemployment in a regular full-time position.
  9. For purposes of this paragraph:
    - a. “Career threshold” for a member with service in a nonhazardous position means twenty-seven (27) years of service credited under KRS 16.543(1), 61.543(1), 78.615(1), or another state-administered retirement system and for a member with service in a hazardous position means the service requirements specified by KRS 16.577(2) or (3) or 16.583(6)(b), as applicable; and
    - b. “Funding level” means the actuarial value of assets divided by the actuarially accrued liability expressed as a percentage that is determined and reported by the system’s actuary in the annual actuarial valuation.
- (f) For members with service in another state-administered retirement system who select hospital and medical insurance plan coverage through the system:
1. The system shall compute the member’s combined service, including service credit in another state-administered retirement system, and calculate the portion of the member’s premium monthly contribution rate to be paid by the funds specified under paragraph (a)2. of this subsection according to the criteria established in paragraphs (a) to (e) of this subsection. Each state-administered retirement system shall pay annually to the insurance trust fund established under KRS 61.701 the portion of the system’s cost of the retiree’s monthly contribution for single coverage for hospital and medical insurance plan which shall be equal to the percentage of the member’s number of months of service in the other state-administered retirement plan divided by his or her total combined service and in conjunction with the reciprocal agreement established between the system and the other state-administered retirement systems. The amounts paid by the other state-administered retirement plans and by the Kentucky Retirement Systems from funds specified under paragraph (a)2. of this subsection

shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees;

2. A member may not elect coverage for hospital and medical benefits through more than one (1) of the state-administered retirement systems; and
  3. A state-administered retirement system shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.
- (5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the funds described by subsection (4)(a)2. of this section shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.
- (6) (a) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance plan premiums of recipients of a retirement allowance who:
1. Are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status; or
  2. Are eligible for retiree health subsidies as provided by subsection (4)(d) of this section, except for those recipients eligible for full premium subsidies under subsection (4)(e)5. of this section. The reimbursement program as provided by this subparagraph shall be available to the recipient regardless of the hospital and medical insurance plans offered by the systems.
- (b) An eligible recipient shall file proof of payment for hospital and medical insurance plan coverage with the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly contribution rate determined under subsection (4) of this section.
- (c) For purposes of recipients described by paragraph (a)1. of this subsection, the plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

**65.154 “Employer”, “employee” defined – Spouse to acknowledge action in writing if not named as beneficiary by employee.**

- (1) KRS 344.030 notwithstanding, for the purposes of this section, “employer” shall mean the sponsor of and “employee” shall mean a member of a pension plan governed by the federal “Employee Retirement Income Security Act of 1974,” and any member of a state pension plan or a pension plan of any unit of local government.
- (2) For any employee who elects not to take a joint and survivor annuity or who selects a beneficiary other than the spouse if living, the employer shall provide forms which provide for the spouse of the employee to acknowledge by signature such action.

### **156.812 Employee benefits.**

- (1) All certified, equivalent, and unclassified employees in the Office of Career and Technical Education shall be:
  - (a) Provided the same health insurance coverage as all other state government employees provided in KRS 18A.225;
  - (b) Eligible to participate in the deferred compensation system provided for all state government employees by KRS 18A.250 to 18A.265;
  - (c) Provided the same life insurance coverage provided all state employees pursuant to KRS 18A.205 to 18A.215;
  - (d) Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made pursuant to KRS 45.101 in the performance of their official duties; no part of the reimbursement shall be included in or accounted as a part of their salaries;
  - (e) Ensured equal employment opportunity regardless of race, color, religion, national origin, disability, sex, or age; and
  - (f) Given those holidays and rights granted state employees pursuant to KRS 18A.190.
- (2) Employees under the jurisdiction of the former Department for Technical Education who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems. All new certified and equivalent employees hired by the office shall be placed in the Kentucky Teachers’ Retirement System.

**Formerly codified as KRS 151B.040.**

### **158.070 School district calendar committee – School calendar adoption procedures – Variable student instructional year – Professional development – Holidays and days closed – Waivers – Scheduling of athletic competitions – Continuing education for students – Student attendance days and their equivalents in instructional year – Nontraditional instruction program – Administrative regulations – Breakfast program – Calculation of service credit and equivalent time for days missed by employees due to emergencies.**

- (1) As used in this section:
  - (a) “Election” has the same meaning as in KRS 121.015;

- (b) “Minimum school term” or “school term” means not less than one hundred eighty-five (185) days composed of the student attendance days, teacher professional days, and holidays;
  - (c) “School calendar” means the document adopted by a local board of education that establishes the minimum school term, student instructional year or variable student instructional year, and days that school will not be in session;
  - (d) “School district calendar committee” means a committee that includes at least the following:
    1. One (1) school district principal;
    2. One (1) school district office administrator other than the superintendent;
    3. One (1) member of the local board of education;
    4. Two (2) parents of students attending a school in the district;
    5. One (1) school district elementary school teacher;
    6. One (1) school district middle or high school teacher;
    7. Two (2) school district classified employees; and
    8. Two (2) community members from the local chamber of commerce, business community, or tourism commission;
  - (e) “Student attendance day” means any day that students are scheduled to be at school to receive instruction, and encompasses the designated start and dismissal time;
  - (f) “Student instructional year” means at least one thousand sixty-two (1,062) hours of instructional time for students delivered on not less than one hundred seventy (170) student attendance days;
  - (g) “Teacher professional day” means any day teachers are required to report to work as determined by a local board of education, with or without the presence of students; and
  - (h) “Variable student instructional year” means at least one thousand sixty-two (1,062) hours of instructional time delivered on the number of student attendance days adopted by a local board of education which shall be considered proportionally equivalent to one hundred seventy (170) student attendance days and calendar days for the purposes of a student instructional year, employment contracts that are based on the school term, service credit under KRS 161.500, and funding under KRS 157.350.
- (2) (a) The local board of education, upon recommendation of the local school district superintendent, shall annually appoint a school district calendar committee to review, develop, and recommend school calendar options.
- (b) The school district calendar committee, after seeking feedback from school district employees, parents, and community members, shall recommend school calendar options to the local

school district superintendent for presentation to the local board of education. The committee's recommendations shall comply with state laws and regulations and consider the economic impact of the school calendar on the community and the state.

- (c) Prior to adopting a school calendar, the local board of education shall hear for discussion the school district calendar committee's recommendations and the recommendation of the superintendent at a meeting of the local board of education.
  - (d) During a subsequent meeting of the local board of education, the local board shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, student attendance days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.
  - (e) For local board of education meetings described in paragraphs (c) and (d) of this subsection, if the meeting is a regular meeting, notice shall be given to media outlets that have requests on file to be notified of special meetings stating the date of the regular meeting and that one (1) of the items to be considered in the regular meeting will be the school calendar. The notice shall be sent at least twenty-four (24) hours before the regular meeting. This requirement shall not be deemed to make any requirements or limitations relating to special meetings applicable to the regular meeting.
  - (f) A local school board of education that adopts a school calendar with the first student attendance day in the school term starting no earlier than the Monday closest to August 26 may use a variable student instructional year. Districts may set the length of individual student attendance days in a variable student instructional schedule, but no student attendance day shall contain more than seven (7) hours of instructional time unless the district submitted and received approval from the commissioner of education for an innovative alternative calendar.
- (3) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of students pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to

- maximize existing resources and to encourage shared planning.
- (b) At least one (1) hour of self-study review of seizure disorder materials shall be required for all principals, guidance counselors, and teachers hired after July 1, 2019.
  - (c)
    - 1. A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.
    - 2. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.
    - 3. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.
  - (d) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.
  - (e) Each local board may use two (2) days for planning activities without the presence of students.
  - (f) Each local board may close schools for the number of days deemed necessary for:
    - 1. National or state emergency or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;
    - 2. Local emergency which would endanger the health or safety of children; and
    - 3. Mourning when so designated by the local board of education and approved by the Kentucky Board of

Education upon recommendation of the commissioner of education.

- (4) (a) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of student attendance days as a result of a local emergency, as described in subsection (3)(f)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of waivers from the requirements of a student instructional year in subsection (1)(f) of this section for districts that wish to adopt innovative instructional calendars, or for circumstances that would create extreme hardship.
- (b) If a local board of education amends its school calendar after its adoption due to an emergency, it may lengthen or shorten any remaining student attendance days by thirty (30) minutes or more, as it deems necessary, provided the amended calendar complies with the requirements of a student instructional year in subsection (1)(f) of this section or a variable student instructional year in subsection (1)(h) of this section. No student attendance day shall contain more than seven (7) hours of instructional time unless the district submitted and received approval from the commissioner of education for an innovative alternative calendar.
- (5) (a) 1. In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings.
2. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the commissioner of education may designate alternate dates.
3. If schools are scheduled to operate during days designated for the statewide professional meeting, the school district shall permit employees who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence.
4. The commissioner of education shall designate one (1) additional day during the school year when schools may be closed to permit professional school employees to participate in regional or district professional meetings.
5. These three (3) days so designated for attendance at professional meetings may be counted as a part of the minimum school term.
- (b) 1. If any school in a district is used as a polling place, the

school district shall be closed on the day of the election, and those days may be used for professional development activities, professional meetings, or parent-teacher conferences.

2. A district may be open on the day of an election if no school in the district is used as a polling place.
- (c) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:
1. Designate the day as one (1) of the four (4) holidays permitted under subsection (3)(d) of this section; or
  2. Not include the day in the minimum school term specified in subsection (1) of this section.
- (6) (a) The Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, shall be encouraged to schedule athletic competitions outside the regularly scheduled student attendance day.
- (b) Any member of a school-sponsored interscholastic athletic team who competes in a regional tournament or state tournament sanctioned by the Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, and occurring on a regularly scheduled student attendance day may be counted present at school on the date or dates of the competition, as determined by local board policy, for a maximum of two (2) days per student per year. The student shall be expected to complete any assignments missed on the date or dates of the competition.
- (c) The school attendance record of any student for whom paragraph (b) of this subsection applies shall indicate that the student was in attendance on the date or dates of competition.
- (7) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts and shall include criteria by which the commissioner of education may approve a district's request for a waiver to use an alternative service delivery option, including providing services during the student attendance day on a limited basis. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to



achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the student attendance day.

- (8) Notwithstanding any other statute, each school term shall include no less than the equivalent of the student instructional year in subsection (1)(f) of this section, or a variable student instructional year in subsection (1)(h) of this section, except that the commissioner of education may grant up to the equivalent of ten (10) student attendance days for school districts that have a nontraditional instruction plan approved by the commissioner of education on days when the school district is closed for health or safety reasons. The district's plan shall indicate how the nontraditional instruction process shall be a continuation of learning that is occurring on regular student attendance days. Instructional delivery methods, including the use of technology, shall be clearly delineated in the plan. Average daily attendance for purposes of Support Education Excellence in Kentucky program funding during the student attendance days granted shall be calculated in compliance with administrative regulations promulgated by the Kentucky Board of Education.
- (9) The Kentucky Board of Education shall promulgate administrative regulations to prescribe the conditions and procedures for districts to be approved for the nontraditional instruction program. Administrative regulations promulgated by the board under this section shall specify:
  - (a) The application, plan review, approval, and amendment process;
  - (b) Reporting requirements for districts approved for the program, which may include but are not limited to examples of student work, lesson plans, teacher work logs, and student and teacher participation on nontraditional instruction days. Documentation to support the use of nontraditional instruction days shall include clear evidence of learning continuation;
  - (c) Timelines for initial approval as a nontraditional instruction district, length of approval, the renewal process, and ongoing evaluative procedures required of the district;
  - (d) Reporting and oversight responsibilities of the district and the Kentucky Department of Education, including the documentation required to show clear evidence of learning continuation during nontraditional instruction days; and
  - (e) Other components deemed necessary to implement this section.
- (10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (1) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the beginning of the student attendance day. The superintendent of a school district that participates in the Federal School Breakfast

Program may also authorize up to fifteen (15) minutes of the student attendance day to provide the opportunity for children to eat breakfast during instructional time.

- (11) Notwithstanding any other statute to the contrary, the following provisions shall apply to a school district that misses student attendance days due to emergencies, including weather-related emergencies:
- (a) A certified school employee shall be considered to have fulfilled the minimum one hundred eighty-five (185) day contract with a school district under KRS 157.350 and shall be given credit for the purpose of calculating service credit for retirement under KRS 161.500 for certified school personnel if:
    - 1. State and local requirements under this section are met regarding the equivalent of the number and length of student attendance days, teacher professional days, professional development days, holidays, and days for planning activities without the presence of students; and
    - 2. The provisions of the district's school calendar to make up student attendance days missed due to any emergency, as approved by the Kentucky Department of Education when required, including but not limited to a provision for additional instructional time per day, are met.
  - (b) Additional time worked by a classified school employee shall be considered as equivalent time to be applied toward the employee's contract and calculation of service credit for classified employees under KRS 78.615 if:
    - 1. The employee works for a school district with a school calendar approved by the Kentucky Department of Education that contains a provision that additional instructional time per day shall be used to make up full days missed due to an emergency;
    - 2. The employee's contract requires a minimum six (6) hour work day; and
    - 3. The employee's job responsibilities and work day are extended when the instructional time is extended for the purposes of making up time.
  - (c) Classified employees who are regularly scheduled to work less than six (6) hours per day and who do not have additional work responsibilities as a result of lengthened student attendance days shall be excluded from the provisions of this subsection. These employees may be assigned additional work responsibilities to make up service credit under KRS 78.615 that would be lost due to lengthened student attendance days.

**161.046 Adjunct instructors.**

- (1) For purposes of this section, "adjunct instructor" means an individual

who has training or experience in a specific subject area and who has met the requirements for certification as an adjunct instructor established by the Education Professional Standards Board.

- (2) The Education Professional Standards Board shall adopt administrative regulations governing the qualifications and utilization of adjunct instructors. These administrative regulations shall specify the minimum essential competencies which must be demonstrated by persons seeking an adjunct instructor certificate.
- (3) Holders of an adjunct instructor certificate shall be employed on an annual contract basis and shall not be eligible for continuing service status pursuant to KRS 161.740 or for the retirement provisions of KRS 161.220 through 161.714, except that the return to work limitations set forth in KRS 161.605 shall apply to any retired member of the Kentucky Teachers' Retirement System who resumes employment as an adjunct instructor. The granting of successive annual contracts to the holder of an adjunct instructor certificate shall not give rise to a claim of expectation of continuing employment.
- (4) Local school boards may contract with certificated adjunct instructors for part-time services on an hourly, daily, or other periodic basis as best meets the needs of the board. An adjunct instructor shall not fill a position that will result in the displacement of a qualified teacher with a regular certificate who is already employed in the district.
- (5) An orientation program shall be developed and implemented for adjunct instructors by the local school board.

**161.155 Definitions for section – Salary, benefits, and leave for employee or teacher when victim of assault – Sick leave for employee or teacher – Sick leave bank – Sick leave donation program – Payment for unused sick leave upon retirement or death.**

- (1) As used in this section:
  - (a) “Teacher” shall mean any person for whom certification is required as a basis of employment in the common schools of the state;
  - (b) “Employee” shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;
  - (c) “Immediate family” shall mean the teacher’s or employee’s spouse, children including stepchildren and foster children, grandchildren, daughters-in-law and sons-in law, brothers and sisters, parents and spouse’s parents, and grandparents and spouse’s grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher’s or employee’s home;
  - (d) “Sick leave bank” shall mean an aggregation of sick leave days contributed by teachers or employees for use by teachers or employees who have exhausted all sick leave and other

- available paid leave days; and
- (e) “Assault” shall mean an act that intentionally causes injury so significant that the victim is determined to be, by certification of a physician or surgeon duly qualified under KRS Chapter 342, incapable of performing the duties of his or her job.
- (2) Each district board of education shall allow to each teacher and full-time employee in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher or employee if he or she presents a personal statement or a certificate of a physician stating that the teacher or employee was ill, that the teacher or employee was absent for the purpose of attending to a member of his or her immediate family who was ill, or for the purpose of mourning a member of his or her immediate family. The ten (10) days of sick leave granted in this subsection may be taken by a teacher or employee on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher or employee under the provisions of subsection (4) of this section.
  - (3) A school district shall coordinate among the income and benefits from workers’ compensation, temporary disability retirement, and district payroll and benefits so that there is no loss of income or benefits to a teacher or employee for work time lost because of an assault while performing the teacher’s or employee’s assigned duties for a period of up to one (1) year after the assault. In the event a teacher or employee suffers an assault while performing his or her assigned duties that results in injuries that qualify the teacher or employee for workers’ compensation benefits, the district shall provide leave to the teacher or employee for up to one (1) year after the assault with no loss of income or benefits under the following conditions:
    - (a) The district shall pay the salary of the teacher or employee between the time of the assault and the time the teacher’s or employee’s workers’ compensation income benefits take effect, or the time the teacher or employee is certified to return to work by a physician or surgeon duly qualified under KRS Chapter 342, whichever is sooner;
    - (b) The district shall pay, for up to one (1) year from the time of the assault, the difference between the salary of the teacher or employee and any workers’ compensation income benefits received by the teacher or employee resulting from the assault. Payments by the district shall include payments for intermittent work time missed as a result of the assault during the one (1) year period. If the teacher’s or employee’s workers’ compensation income benefits cease during the one (1) year period after the assault, the district shall also cease to make payments under this paragraph;
    - (c) The Commonwealth, through the Kentucky Department of

Education, shall make the employer's health insurance contribution during the period that the district makes payments under paragraphs (a) and (b) of this subsection;

- (d) The Commonwealth, through the Kentucky Department of Education, shall make the employer's contribution to the retirement system in which the teacher or employee is a member during the period that the district makes payments under paragraphs (a) and (b) of this subsection; and
  - (e) Payments to a teacher or employee under paragraphs (a) and (b) of this subsection shall be coordinated with workers' compensation benefits under KRS Chapter 342, disability retirement benefits for teachers under KRS 161.661 to 161.663, and disability retirement benefits for employees under KRS 61.600 to 61.621 and 78.5522, 78.5524, 78.5526, 78.5528, and 78.5530 so that the teacher or employee receives income equivalent to his or her full contracted salary, but in no event shall the combined payments exceed one hundred percent (100%) of the teacher's or employee's full contracted salary.
- (4) Days of sick leave not taken by an employee or a teacher during any school year shall accumulate without limitation and be credited to that employee or teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow employees or teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick leave days credited to an employee or a teacher shall remain so credited in the event he or she transfers his or her place of employment from one (1) school district to another within the state or to the Kentucky Department of Education or transfers from the Department of Education to a school district.
  - (5) Accumulated days of sick leave shall be granted to a teacher or employee if, prior to the opening day of the school year, a statement or a certificate of a physician is presented to the district board of education, stating that the teacher or employee is unable to commence his or her duties on the opening day of the school year, but will be able to assume his or her duties within a period of time that the board determines to be reasonable.
  - (6) Any school teacher or employee may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.
  - (7) A district board of education may adopt a plan for a sick leave bank. The plan may include limitations upon the number of days a teacher or employee may annually contribute to the bank and limitations upon the number of days a teacher or employee may annually draw from the

bank. Only those teachers or employees who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher or employee. The sick leave bank shall be administered in accordance with a policy adopted by the board of education.

- (8) (a) A district board of education shall establish a sick leave donation program to permit teachers or employees to voluntarily contribute sick leave to teachers or employees in the same school district who are in need of an extended absence from school. A teacher or employee who has accrued more than fifteen (15) days' sick leave may request the board of education to transfer a designated amount of sick leave to another teacher or employee who is authorized to receive the sick leave donated. A teacher or employee may not request an amount of sick leave be donated that reduces his or her sick leave balance to less than fifteen (15) days.
- (b) A teacher or employee may receive donations of sick leave if:
1. a. The teacher or employee or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the teacher or employee to be absent for at least ten (10) days; or
  - b. The teacher or employee suffers from a catastrophic loss to his or her personal or real property, due to either a natural disaster or fire, that either has caused or will likely cause the employee to be absent for at least ten (10) consecutive working days;
  2. The teacher's or employee's need for the absence and use of leave are certified by a licensed physician for leave requested under subparagraph 1.a. of this subsection;
  3. The teacher or employee has exhausted his or her accumulated sick leave, personal leave, and any other leave granted by the school district; and
  4. The teacher or employee has complied with the school district's policies governing the use of sick leave.
- (c) While a teacher or employee is on sick leave provided by this section, he or she shall be considered a school district employee, and his or her salary, wages, and other employee benefits shall not be affected.
- (d) Any sick leave that remains unused, is not needed by a teacher or employee, and will not be needed in the future shall be returned to the teacher or employee donating the sick leave.

- (e) The board of education shall adopt policies and procedures necessary to implement the sick leave donation program.
- (9) A teacher or employee may use up to thirty (30) days of sick leave following the birth or adoption of a child or children. Additional days may be used when the need is verified by a physician's statement.
- (10)
  - (a) After July 1, 1982, a district board of education may compensate, at the time of retirement or upon the death of a member in active contributing status at the time of death who was eligible to retire by reason of service, an employee or a teacher, or the estate of an employee or teacher, for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%).
  - (b) Except as provided in paragraph (c) of this subsection, payment for unused sick leave days under this subsection shall be incorporated into the annual salary of the final year of service for inclusion in the calculation of the employee's or teacher's retirement allowance only at the time of his or her initial retirement, provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of these days includes unused sick leave days held by the employee or teacher at the time of implementation of the program.
  - (c) For a teacher or employee who becomes a nonuniversity member of the Teachers' Retirement System on or after January 1, 2022, as provided by KRS 161.220, payment for unused sick leave days under this subsection shall not be incorporated into the annual compensation used to calculate the teacher's or employee's retirement allowance in the foundational benefit component as described by KRS 161.633 but may be deposited into the nonuniversity member's supplemental benefit component as provided by KRS 161.635.
  - (d) For a teacher or employee who begins employment with a local school district on or after July 1, 2008, the maximum amount of unused sick leave days a district board of education may recognize in calculating the payment of compensation to the teacher or employee under this subsection shall not exceed three hundred (300) days.
- (11) Any statute to the contrary notwithstanding, employees and teachers who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee or teacher was entitled on the date of transfer. This credit shall be for the purposes set forth in subsection (10) of this section.

- (12) The death benefit provided in subsection (10) of this section may be cited as the Baughn Benefit.

**161.168 Certified employee granted leave of absence for active military service – Medical insurance – Contribution to retirement system to be retroactive – Credit given – Exclusions.**

Notwithstanding any other statute to the contrary, a certified employee of a local board of education who is a member of a state National Guard or a Reserve component ordered to active military duty by the President of the United States shall be granted a leave of absence for this purpose and shall be considered to be rendering service to the state.

- (1) A local board of education that has granted military leave to a certified employee and has a commitment from the employee to return to work upon the conclusion of military leave may provide the employer's contribution toward the purchase of the state's medical insurance program during the period of military leave as long as the employee or spouse pays the additional cost of dependent coverage.
- (2) Upon the employee's return to work, the Commonwealth of Kentucky shall pay the member contribution and any accrued interest that is required to be paid under KRS 161.507(4)(b) in order for the member to receive retirement service credit for the period of active military duty. Under no circumstances shall a member be entitled to service credit under this paragraph that is in violation of the provisions of KRS 161.500. The provisions of this subsection shall be retroactive to January 1, 2003, for employees who have been deployed to active combat service.
- (3) For each year of military service or each year of combined military and school service within a school year, the certified employee shall receive a year of service credit for purposes of the district's single salary schedule defined in KRS 157.320.
- (4) No provisions of this section shall be construed to provide disability benefits under KRS 161.611 or 161.663, survivorship benefits under KRS 161.520, life insurance benefits under KRS 161.555 or any other benefit available from the Kentucky Teachers' Retirement System as a result of active military service, or conditions or injuries resulting from active military service, except for the accrual of service credit which shall be acknowledged by the retirement system subject to the relevant conditions set forth in KRS 161.507.

**161.770 Leaves of absence.**

- (1) Upon written request of a teacher or superintendent, a board of education may grant a leave of absence for a period of not more than two (2) consecutive school years for educational or professional purposes, and shall grant such leave where illness, maternity, adoption of a child or children, or other disability is the reason for the request. Upon subsequent request, such leave may be renewed by the board. A



board of education may pay a sum of money equivalent to all or any portion of salary to a teacher or superintendent who has been granted leave for educational or professional purposes if the person taking said leave agrees in writing to return to employment with the board for no less than two (2) years.

- (2) Without request, a board of education may grant leave of absence and renewals thereof to any teacher or superintendent because of physical or mental disability, but such teacher or superintendent shall have the right to a hearing and appeal on such unrequested leave of absence or its renewal in accordance with the provisions for hearing and appeal in KRS 161.790.
- (3) Any action taken under subsection (1) or (2) of this section shall not violate the Americans with Disabilities Act of 1990, the Health Insurance Portability and Accountability Act of 1996, or any other applicable federal law. A board of education:
  - (a) May only request medical information necessary to decide whether to grant a leave of absence;
  - (b) Shall not request or retain unnecessary medical information; and
  - (c) Shall not disclose any medical information received, except as permitted by state and federal law.
- (4) Upon the return to service of a teacher or superintendent at the expiration of a leave of absence, he shall resume the contract status which he held prior to such leave.
- (5) Payments to any teacher or superintendent under this section by a local district are intended and presumed to be for and in consideration of services rendered and for the benefit of the common schools and such payments do not affect the eligibility of any school district to share in the distribution of funds from the public school funds as established in KRS Chapter 157.

#### **403.190 Disposition of property.**

- (1) In a proceeding for dissolution of the marriage or for legal separation, or in a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall assign each spouse's property to him. It also shall divide the marital property without regard to marital misconduct in just proportions considering all relevant factors including:
  - (a) Contribution of each spouse to acquisition of the marital property, including contribution of a spouse as homemaker;
  - (b) Value of the property set apart to each spouse;
  - (c) Duration of the marriage; and
  - (d) Economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the spouse having custody of any children.

- (2) For the purpose of this chapter, “marital property” means all property acquired by either spouse subsequent to the marriage except:
  - (a) Property acquired by gift, bequest, devise, or descent during the marriage and the income derived therefrom unless there are significant activities of either spouse which contributed to the increase in value of said property and the income earned therefrom;
  - (b) Property acquired in exchange for property acquired before the marriage or in exchange for property acquired by gift, bequest, devise, or descent;
  - (c) Property acquired by a spouse after a decree of legal separation;
  - (d) Property excluded by valid agreement of the parties; and
  - (e) The increase in value of property acquired before the marriage to the extent that such increase did not result from the efforts of the parties during marriage.
- (3) All property acquired by either spouse after the marriage and before a decree of legal separation is presumed to be marital property, regardless of whether title is held individually or by the spouses in some form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, and community property. The presumption of marital property is overcome by a showing that the property was acquired by a method listed in subsection (2) of this section.
- (4) If the retirement benefits of one spouse are excepted from classification as marital property, or not considered as an economic circumstance during the division of marital property, then the retirement benefits of the other spouse shall also be excepted, or not considered, as the case may be. However, the level of exception provided to the spouse with the greater retirement benefit shall not exceed the level of exception provided to the other spouse. Retirement benefits, for the purposes of this subsection shall include retirement or disability allowances, accumulated contributions, or any other benefit of a retirement system or plan regulated by the Employees Retirement Income Security Act of 1974, or of a public retirement system administered by an agency of a state or local government, including deferred compensation plans created pursuant to KRS 18A.230 to 18A.275 or defined contribution or money purchase plans qualified under Section 401(a) of the Internal Revenue Code of 1954, as amended.

#### **427.150 Property totally or partially exempt.**

- (1) To the extent reasonably necessary for the support of an individual and his dependents in addition to property totally exempt under subsection (2) of this section, that individual shall be entitled to exemption of money or property received and rights to receive money or property for alimony, support, or separate maintenance.
- (2) An individual shall be entitled to exemption of the following property:

- (a) An award under a crime victim's reparation law;
- (b) A payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;
- (c) A payment, not to exceed seven thousand five hundred dollars (\$7,500), on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent;
- (d) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;
- (e) Assets held, payments made and amounts payable under pensions exempt pursuant to KRS 61.690, 161.700, and 427.125; or
- (f) The right or interest of a person in an individual retirement account or annuity, deferred compensation account, tax sheltered annuity, simplified employee pension, pension, profit-sharing, stock bonus, or other retirement plan described in the Internal Revenue Code of 1986, or Section 408 or 408A of the Internal Revenue Code, as amended which qualifies for the deferral of income tax until the date benefits are distributed. This exemption shall also apply to the operation of the Federal Bankruptcy Code, for the purpose of applying the provisions of 11 U.S.C. sec. 522(b)(3) in a federal bankruptcy proceeding and only to the extent otherwise allowed by applicable federal law. This exemption shall not apply to any amounts contributed to an individual retirement account or annuity, deferred compensation account, a pension, profit-sharing, stock bonus, or other qualified retirement plan or annuity if the contribution occurs within one hundred twenty (120) days:
  - 1. Before the debtor files for bankruptcy if this exemption is being applied in a federal bankruptcy proceeding; or
  - 2. Before the earlier of the entry of the judgment or other ruling against the debtor or the issuance of the levy, attachment, garnishment, or other execution or order against which this exemption is being applied, if this exemption is being applied in other than a federal bankruptcy proceeding. This exemption shall not apply to the right or interest of a person in an individual retirement account or annuity, deferred compensation account, pension, profit-sharing, stock bonus, or other retirement plan to the extent that that right or interest is subject to any of the following:
    - a. An order of a court for payment of maintenance;

- b. An order of a court for payment of child support.