

1 AN ACT relating to designating a special needs trust to receive state-administered
2 retirement benefits.

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

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

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

6 (1) "System" means the State Police Retirement System created by KRS 16.505 to
7 16.652;

8 (2) "Board" means the board of trustees of the Kentucky Retirement Systems;

9 (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its
10 successor;

11 (4) "Current service" means the number of years and completed months of employment
12 as an employee subsequent to July 1, 1958, for which creditable compensation was
13 paid by the employer and employee contributions deducted except as otherwise
14 provided;

15 (5) "Prior service" means the number of years and completed months of employment as
16 an employee prior to July 1, 1958, for which creditable compensation was paid to
17 the employee by the Commonwealth. Twelve (12) months of current service in the
18 system are required to validate prior service;

19 (6) "Service" means the total of current service and prior service;

20 (7) "Accumulated contributions" at any time means the sum of all amounts deducted
21 from the compensation of a member and credited to his or her individual account in
22 the member's account, including employee contributions picked up after August 1,
23 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts
24 as provided in KRS 16.505 to 16.652, and any other amounts the member shall
25 have contributed, including interest credited. For members who begin participating
26 on or after September 1, 2008, "accumulated contributions" shall not include
27 employee contributions that are deposited into accounts established pursuant to 26

1 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, as
2 prescribed by KRS 61.702(3)(b);

3 (8) "Creditable compensation":

4 (a) Except as provided by paragraph (b) or (c) of this subsection, means all salary
5 and wages, including payments for compensatory time, paid to the employee
6 as a result of services performed for the employer or for time during which the
7 member is on paid leave, which are includable on the member's federal form
8 W-2 wage and tax statement under the heading "wages, tips, other
9 compensation," including employee contributions picked up after August 1,
10 1982, pursuant to KRS 16.545(4);

11 (b) Includes:

- 12 1. Lump-sum bonuses, severance pay, or employer-provided payments for
13 purchase of service credit, which shall be averaged over the employee's
14 total service with the system in which it is recorded if it is equal to or
15 greater than one thousand dollars (\$1,000);
- 16 2. Lump-sum payments for creditable compensation paid as a result of an
17 order of a court of competent jurisdiction, the Personnel Board, or the
18 Kentucky Commission on Human Rights, or for any creditable
19 compensation paid in anticipation of settlement of an action before a
20 court of competent jurisdiction, the Personnel Board, or the Kentucky
21 Commission on Human Rights, including notices of violations of state
22 or federal wage and hour statutes or violations of state or federal
23 discrimination statutes, which shall be credited to the fiscal year during
24 which the wages were earned or should have been paid by the employer.
25 This subparagraph shall also include lump-sum payments for reinstated
26 wages pursuant to KRS 61.569, which shall be credited to the period
27 during which the wages were earned or should have been paid by the

1 employer;

2 3. Amounts which are not includable in the member's gross income by
3 virtue of the member having taken a voluntary salary reduction provided
4 for under applicable provisions of the Internal Revenue Code; and

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

9 (c) Excludes:

10 1. Living allowances, expense reimbursements, lump-sum payments for
11 accrued vacation leave, and other items determined by the board;

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

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

16 (9) "Final compensation" means:

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

24 (b) For a member who begins participating on or after September 1, 2008, but
25 prior to January 1, 2014, the creditable compensation of the member during
26 the three (3) complete fiscal years he or she was paid at the highest average
27 monthly rate divided by three (3). Each fiscal year used to determine final

1 compensation must contain twelve (12) months of service credit. If the
2 member does not have three (3) complete fiscal years that each contain twelve
3 (12) months of service credit, then one (1) or more additional fiscal years,
4 which may contain less than twelve (12) months of service credit, shall be
5 added until the number of months in the final compensation calculation is at
6 least thirty-six (36) months;

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

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

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

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

1 computed under early retirement;

2 (14) "Authorized leave of absence" means any time during which a person is absent
3 from employment but retained in the status of an employee in accordance with the
4 personnel policy of the Department of Kentucky State Police;

5 (15) "Normal retirement date" means:

6 (a) For a member who begins participating before September 1, 2008, the first
7 day of the month following a member's fifty-fifth birthday, except that for
8 members over age fifty-five (55) on July 1, 1958, it shall mean January 1,
9 1959; or

10 (b) For a member who begins participating on or after September 1, 2008, the
11 first day of the month following a member's sixtieth birthday;

12 (16) "Disability retirement date" means the first day of the month following the last day
13 of paid employment;

14 (17) "Dependent child" means a child in the womb and a natural or legally adopted child
15 of the member who has neither attained age eighteen (18) nor married or who is an
16 unmarried full-time student who has not attained age twenty-two (22). Solely in the
17 cases where a member dies as a direct result of an act in line of duty as defined in
18 this section, dies as a result of a duty-related injury as defined in KRS 61.621,
19 becomes totally and permanently disabled as a direct result of an act in line of duty
20 as defined in this section, or becomes disabled as a result of a duty-related injury as
21 defined in KRS 61.621 and is eligible for the benefits provided by KRS
22 61.621(5)(a), "dependent child" also means a naturally or legally adopted disabled
23 child of the member, regardless of the child's age, if the child has been determined
24 to be eligible for federal Social Security disability benefits or is being claimed as a
25 qualifying child for tax purposes due to the child's total and permanent disability;

26 (18) "Optional allowance" means an actuarially equivalent benefit elected by the
27 member in lieu of all other benefits provided by KRS 16.505 to 16.652;

1 (19) "Act in line of duty" means:

2 (a) A single act occurring or a single thing done, which, as determined by the
3 board, was required in the performance of the duties specified in KRS 16.060;

4 (b) For employees in hazardous positions under KRS 61.592, a single act
5 occurring which was required in the performance of the principal duties of the
6 position as defined by the job description; or

7 (c) For employees participating in the State Police Retirement System and for
8 employees who are in hazardous positions under KRS 61.592, a single act of
9 violence committed against the employee that is found to be related to his or
10 her job duties, whether or not it occurs at his or her job site;

11 (20) "Early retirement date" means:

12 (a) For a member who begins participating before September 1, 2008, the
13 retirement date declared by a member who is not less than fifty (50) years of
14 age and has fifteen (15) years of service; or

15 (b) For a member who begins participating on or after September 1, 2008, but
16 prior to January 1, 2014, the retirement date declared by a member who is not
17 less than fifty (50) years of age and has fifteen (15) years of service credited
18 under KRS 16.543(1) or 61.543(1) or another state-administered retirement
19 system;

20 (21) "Member" means any officer included in the membership of the system as provided
21 under KRS 16.520 whose membership has not been terminated under KRS 61.535;

22 (22) "Regular full-time officers" means the occupants of positions as set forth in KRS
23 16.010;

24 (23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which
25 results in an employee's total incapacity to continue as an employee in a hazardous
26 position, but the employee is not necessarily deemed to be totally and permanently
27 disabled to engage in other occupations for remuneration or profit;

- 1 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
2 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
3 pay. The rate shall be certified by the employer;
- 4 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the
5 member in accordance with KRS 61.542 or 61.705 to receive any available benefits
6 in the event of the member's death, except when used in reference to the sole
7 beneficiary of a special needs trust. As used in KRS 61.702, "beneficiary" does not
8 mean an estate, trust, or trustee;
- 9 (26) "Recipient" means the retired member, the person or persons designated as
10 beneficiary by the member and drawing a retirement allowance as a result of the
11 member's death, or a dependent child drawing a retirement allowance. An alternate
12 payee of a qualified domestic relations order shall not be considered a recipient,
13 except for purposes of KRS 61.623;
- 14 (27) "Person" means a natural person, including a sole beneficiary of a special needs
15 trust who is a single natural person designated by a member as his or her
16 beneficiary in accordance with KRS 61.542;
- 17 (28) "Retirement office" means the Kentucky Public Pensions Authority office building
18 in Frankfort, unless otherwise designated by the Kentucky Public Pensions
19 Authority;
- 20 (29) "Vested" for purposes of determining eligibility for purchasing service credit under
21 KRS 61.552 means the employee has at least forty-eight (48) months of service if
22 age sixty-five (65) or older or at least sixty (60) months of service if under the age
23 of sixty-five (65). For purposes of this subsection, "service" means service in the
24 systems administered by the Kentucky Retirement Systems and County Employees
25 Retirement Systems;
- 26 (30) "Last day of paid employment" means the last date employer and employee
27 contributions are required to be reported in accordance with KRS 16.543 or 61.543

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

1 property rights to an alternate payee;

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

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

8 (40) "Accumulated account balance" means:

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

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

15 (41) "Monthly average pay" means:

16 (a) In the case of a member who dies as a direct result of an act in line of duty as
17 defined in this section or who dies as a result of a duty-related injury as
18 defined in KRS 61.621, the higher of the member's monthly final rate of pay
19 or the average monthly creditable compensation earned by the deceased
20 member during his or her last twelve (12) months of employment; or

21 (b) In the case where a member becomes totally and permanently disabled as a
22 direct result of an act in line of duty as defined in this section or becomes
23 disabled as a result of a duty-related injury as defined in KRS 61.621 and is
24 eligible for the benefits provided by KRS 61.621(5)(a), the higher of the
25 member's monthly final rate of pay or the average monthly creditable
26 compensation earned by the disabled member during his or her last twelve
27 (12) months of employment prior to the date the act in line of duty or duty-

1 related injury occurred; and

2 (42) "Special needs trust" means a trust described in 42 U.S.C. sec 1396p(d)(4)(A).

3 Any reference to a trust includes a special needs trust, unless the context
4 otherwise requires.

5 ➔Section 2. KRS 16.578 is amended to read as follows:

6 (1) If a member dies prior to the first day of the month in which the member would
7 have received his or her first retirement allowance, the member's beneficiary shall
8 be eligible for the benefits provided by this section if the member had on file a
9 written designation of a beneficiary with the retirement office as provided by KRS
10 61.542 and the member met the following conditions at the date of his or her death:

- 11 (a) The member was eligible to retire under KRS 16.576, 16.577, or 16.583(6);
12 (b) The member was in active employment or on authorized leave of absence
13 with five (5) or more years of service credit and died prior to his or her normal
14 retirement date; or
15 (c) The member was not in active employment or on authorized leave of absence
16 with twelve (12) or more years of service credit and died prior to his or her
17 normal retirement date.

18 (2) If the beneficiary eligible for benefits as provided in subsection (1) of this section is
19 a single person or the sole beneficiary of a special needs trust, then the beneficiary
20 may elect to receive:

- 21 (a) A monthly benefit payable for the life of the beneficiary that is equal to the
22 benefit that would have been paid had the member retired immediately prior
23 to his or her date of death and elected to receive benefits payable under the
24 survivorship one hundred percent (100%) option as provided in KRS
25 61.635(2);
26 (b) A monthly benefit payable for the life of the beneficiary under the beneficiary
27 Social Security adjustment option as provided in KRS 61.635(9) that is the

1 actuarial equivalent to the amount computed under paragraph (a) of this
2 subsection;

3 (c) A monthly benefit payable for a period of sixty (60) months that is the
4 actuarial equivalent to the amount computed under paragraph (a) of this
5 subsection;

6 (d) A monthly benefit payable for a period of one hundred twenty (120) months
7 that is the actuarial equivalent to the amount computed under paragraph (a) of
8 this subsection;

9 (e) If the member began participating in the system prior to January 1, 2014, a
10 monthly benefit payable for:

- 11 1. Sixty (60) months certain;
- 12 2. One hundred twenty (120) months certain;
- 13 3. The actuarial equivalent refund; or
- 14 4. The Social Security adjustment option;

15 that is equivalent to the benefit the member would have been entitled to
16 receive based on his or her years of service and final compensation at the date
17 of his or her death reduced by the survivorship fifty percent (50%) factor as
18 provided for in KRS 61.635(4), then reduced by fifty percent (50%), and that
19 is the actuarial equivalent to the amount computed under paragraph (a) of this
20 subsection; or

21 (f) The higher of a refund of the member's accumulated account balance and
22 interest as described in KRS 61.625(1) or a one (1) time lump-sum payment
23 which shall be the actuarial equivalent of the amount payable under paragraph
24 (a) of this subsection for a period of sixty (60) months.

25 (3) If the beneficiary eligible for benefits as provided in subsection (1) of this section
26 are multiple beneficiaries or a trust, *other than a special needs trust*, then the
27 multiple beneficiaries by consensus or the trustee may elect to receive the actuarial

1 equivalent amounts payable under subsection (2)(c), (d), (e), or (f) of this section
2 using the assumption that the beneficiary's age is the same as the member's age.

3 (4) If the beneficiary eligible for benefits as provided in subsection (1) of this section is
4 the member's estate, then the beneficiary shall receive the higher of a refund of the
5 member's accumulated account balance and interest as described in KRS 61.625(1)
6 or the one (1) time lump-sum payment payable under subsection (2)(f) of this
7 section, using the assumption that the beneficiary's age is the same as the member's
8 age.

9 (5) Payments of taxable distributions made pursuant to this section shall be subject to
10 state and federal tax as appropriate.

11 ➔Section 3. KRS 61.510 is amended to read as follows:

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

13 (1) "System" means the Kentucky Employees Retirement System created by KRS
14 61.510 to 61.705;

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

16 (3) "Department" means any state department or board or agency participating in the
17 system in accordance with appropriate executive order, as provided in KRS 61.520.
18 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the
19 General Assembly and any other body, entity, or instrumentality designated by
20 executive order by the Governor, shall be deemed to be a department,
21 notwithstanding whether said body, entity, or instrumentality is an integral part of
22 state government;

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

24 (5) "Employee" means the members, officers, and employees of the General Assembly
25 and every regular full-time, appointed or elective officer or employee of a
26 participating department, including the Department of Military Affairs. The term
27 does not include persons engaged as independent contractors, seasonal, emergency,

- 1 temporary, interim, and part-time workers. In case of any doubt, the board shall
2 determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- 3 (6) "Employer" means a department or any authority of a department having the power
4 to appoint or select an employee in the department, including the Senate and the
5 House of Representatives, or any other entity, the employees of which are eligible
6 for membership in the system pursuant to KRS 61.525;
- 7 (7) "State" means the Commonwealth of Kentucky;
- 8 (8) "Member" means any employee who is included in the membership of the system
9 or any former employee whose membership has not been terminated under KRS
10 61.535;
- 11 (9) "Service" means the total of current service and prior service as defined in this
12 section;
- 13 (10) "Current service" means the number of years and months of employment as an
14 employee, on and after July 1, 1956, except that for members, officers, and
15 employees of the General Assembly this date shall be January 1, 1960, for which
16 creditable compensation is paid and employee contributions deducted, except as
17 otherwise provided, and each member, officer, and employee of the General
18 Assembly shall be credited with a month of current service for each month he or
19 she serves in the position;
- 20 (11) "Prior service" means the number of years and completed months, expressed as a
21 fraction of a year, of employment as an employee, prior to July 1, 1956, for which
22 creditable compensation was paid; except that for members, officers, and
23 employees of the General Assembly, this date shall be January 1, 1960. An
24 employee shall be credited with one (1) month of prior service only in those months
25 he or she received compensation for at least one hundred (100) hours of work;
26 provided, however, that each member, officer, and employee of the General
27 Assembly shall be credited with a month of prior service for each month he or she

1 served in the position prior to January 1, 1960. Twelve (12) months of current
2 service in the system are required to validate prior service;

3 (12) "Accumulated contributions" at any time means the sum of all amounts deducted
4 from the compensation of a member and credited to his or her individual account in
5 the members' account, including employee contributions picked up after August 1,
6 1982, pursuant to KRS 61.560(4), together with interest credited, on such amounts
7 and any other amounts the member shall have contributed thereto, including interest
8 credited thereon. For members who begin participating on or after September 1,
9 2008, "accumulated contributions" shall not include employee contributions that are
10 deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the
11 funds established in KRS 16.510 and 61.515, as prescribed by KRS 61.702(3)(b);

12 (13) "Creditable compensation":

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

24 (b) Includes:

25 1. Lump-sum bonuses, severance pay, or employer-provided payments for
26 purchase of service credit, which shall be averaged over the employee's
27 total service with the system in which it is recorded if it is equal to or

- 1 greater than one thousand dollars (\$1,000);
- 2 2. Cases where compensation includes maintenance and other perquisites,
- 3 but the board shall fix the value of that part of the compensation not paid
- 4 in money;
- 5 3. Lump-sum payments for creditable compensation paid as a result of an
- 6 order of a court of competent jurisdiction, the Personnel Board, or the
- 7 Kentucky Commission on Human Rights, or for any creditable
- 8 compensation paid in anticipation of settlement of an action before a
- 9 court of competent jurisdiction, the Personnel Board, or the Kentucky
- 10 Commission on Human Rights, including notices of violations of state
- 11 or federal wage and hour statutes or violations of state or federal
- 12 discrimination statutes, which shall be credited to the fiscal year during
- 13 which the wages were earned or should have been paid by the employer.
- 14 This subparagraph shall also include lump-sum payments for reinstated
- 15 wages pursuant to KRS 61.569, which shall be credited to the period
- 16 during which the wages were earned or should have been paid by the
- 17 employer;
- 18 4. Amounts which are not includable in the member's gross income by
- 19 virtue of the member having taken a voluntary salary reduction provided
- 20 for under applicable provisions of the Internal Revenue Code; and
- 21 5. Elective amounts for qualified transportation fringes paid or made
- 22 available on or after January 1, 2001, for calendar years on or after
- 23 January 1, 2001, that are not includable in the gross income of the
- 24 employee by reason of 26 U.S.C. sec. 132(f)(4); and
- 25 (c) Excludes:
- 26 1. Living allowances, expense reimbursements, lump-sum payments for
- 27 accrued vacation leave, and other items determined by the board;

- 1 2. For employees who begin participating on or after September 1, 2008,
- 2 lump-sum payments for compensatory time;
- 3 3. For employees who begin participating on or after August 1, 2016,
- 4 nominal fees paid for services as a volunteer; and
- 5 4. Any salary or wages paid to an employee for services as a Kentucky
- 6 State Police school resource officer as defined by KRS 158.441;

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

- 8 (a) For a member who begins participating before September 1, 2008, who is
- 9 employed in a nonhazardous position, the creditable compensation of the
- 10 member during the five (5) fiscal years he or she was paid at the highest
- 11 average monthly rate divided by the number of months of service credit
- 12 during that five (5) year period multiplied by twelve (12). The five (5) years
- 13 may be fractional and need not be consecutive. If the number of months of
- 14 service credit during the five (5) year period is less than forty-eight (48), one
- 15 (1) or more additional fiscal years shall be used;
- 16 (b) For a member who is employed in a nonhazardous position, whose effective
- 17 retirement date is between August 1, 2001, and January 1, 2009, and whose
- 18 total service credit is at least twenty-seven (27) years and whose age and years
- 19 of service total at least seventy-five (75), final compensation means the
- 20 creditable compensation of the member during the three (3) fiscal years the
- 21 member was paid at the highest average monthly rate divided by the number
- 22 of months of service credit during that three (3) years period multiplied by
- 23 twelve (12). The three (3) years may be fractional and need not be
- 24 consecutive. If the number of months of service credit during the three (3)
- 25 year period is less than twenty-four (24), one (1) or more additional fiscal
- 26 years shall be used. Notwithstanding the provision of KRS 61.565, the
- 27 funding for this paragraph shall be provided from existing funds of the

1 retirement allowance;

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

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

20 (e) For a member who begins participating on or after September 1, 2008, but
21 prior to January 1, 2014, who is employed in a hazardous position as provided
22 in KRS 61.592, the creditable compensation of the member during the three
23 (3) complete fiscal years he or she was paid at the highest average monthly
24 rate divided by three (3). Each fiscal year used to determine final
25 compensation must contain twelve (12) months of service credit. If the
26 member does not have three (3) complete fiscal years that each contain twelve
27 (12) months of service credit, then one (1) or more additional fiscal years,

1 which may contain less than twelve (12) months of service credit, shall be
2 added until the number of months in the final compensation calculation is at
3 least thirty-six (36) months;

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

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

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

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

25 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
26 following June 30, which shall also be the plan year. The "fiscal year" shall be the
27 limitation year used to determine contribution and benefit limits as established by

1 26 U.S.C. sec. 415;

2 (20) "Officers and employees of the General Assembly" means the occupants of those
3 positions enumerated in KRS 6.150. The term shall also apply to assistants who
4 were employed by the General Assembly for at least one (1) regular legislative
5 session prior to July 13, 2004, who elect to participate in the retirement system, and
6 who serve for at least six (6) regular legislative sessions. Assistants hired after July
7 13, 2004, shall be designated as interim employees;

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

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

16 (b) Emergency positions which are positions utilized by the employer during:
17 1. An emergency as determined by the employer for a period not
18 exceeding thirty (30) working days and are nonrenewable; or
19 2. A state of emergency declared by the President of the United States or
20 the Governor of the Commonwealth of Kentucky that are created or
21 filled specifically for addressing the employer's needs during and as a
22 result of the declared emergency;

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

26 (d) Part-time positions which are positions which may be permanent in duration,
27 but which require less than a calendar or fiscal year average of one hundred

1 (100) hours of work per month, determined by using the number of months
2 actually worked within a calendar or fiscal year, in the performance of duty;
3 and

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

6 (22) "Vested" for purposes of determining eligibility for purchasing service credit under
7 KRS 61.552 means the employee has at least forty-eight (48) months of service if
8 age sixty-five (65) or older or at least sixty (60) months of service if under the age
9 of sixty-five (65). For purposes of this subsection, "service" means service in the
10 systems administered by the Kentucky Retirement Systems and County Employees
11 Retirement System;

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

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

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

24 (26) "Beneficiary" means the person or persons, ~~or~~ estate, ~~or~~ trust, or trustee
25 designated by the member in accordance with KRS 61.542 or 61.705 to receive any
26 available benefits in the event of the member's death, except when used in
27 reference to the sole beneficiary of a special needs trust. As used in KRS 61.702,

- 1 "beneficiary" does not mean an estate, trust, or trustee;
- 2 (27) "Recipient" means the retired member or the person or persons designated as
3 beneficiary by the member and drawing a retirement allowance as a result of the
4 member's death or a dependent child drawing a retirement allowance. An alternate
5 payee of a qualified domestic relations order shall not be considered a recipient,
6 except for purposes of KRS 61.623;
- 7 (28) "Level percentage of payroll amortization method" means a method of determining
8 the annual amortization payment on the unfunded actuarial accrued liability as
9 expressed as a percentage of payroll over a set period of years but that may be
10 converted to a dollar value for purposes of KRS 61.565(1)(d). Under this method,
11 the percentage of payroll shall be projected to remain constant for all years
12 remaining in the set period of time and the unfunded actuarially accrued liability
13 shall be projected to be fully amortized at the conclusion of the set period of years;
- 14 (29) "Increment" means twelve (12) months of service credit which are purchased. The
15 twelve (12) months need not be consecutive. The final increment may be less than
16 twelve (12) months;
- 17 (30) "Person" means a natural person, including a sole beneficiary of a special needs
18 trust who is a single natural person designated by a member as his or her
19 beneficiary in accordance with KRS 61.542;
- 20 (31) "Retirement office" means the Kentucky Public Pensions Authority's office
21 building in Frankfort, unless otherwise designated by the Kentucky Public Pensions
22 Authority;
- 23 (32) "Last day of paid employment" means the last date employer and employee
24 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
25 78.615 to the retirement office in order for the employee to receive current service
26 credit for the month. Last day of paid employment does not mean a date the
27 employee receives payment for accrued leave, whether by lump sum or otherwise,

- 1 if that date occurs twenty-four (24) or more months after previous contributions;
- 2 (33) "Objective medical evidence" means reports of examinations or treatments; medical
3 signs which are anatomical, physiological, or psychological abnormalities that can
4 be observed; psychiatric signs which are medically demonstrable phenomena
5 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
6 or contact with reality; or laboratory findings which are anatomical, physiological,
7 or psychological phenomena that can be shown by medically acceptable laboratory
8 diagnostic techniques, including but not limited to chemical tests,
9 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 10 (34) "Participating" means an employee is currently earning service credit in the system
11 as provided in KRS 61.543;
- 12 (35) "Month" means a calendar month;
- 13 (36) "Membership date" means:
- 14 (a) The date upon which the member began participating in the system as
15 provided in KRS 61.543;
- 16 (b) For a member electing to participate in the system pursuant to KRS
17 196.167(4) or 311A.022(2) who has not previously participated in the system
18 or the Kentucky Teachers' Retirement System, the date the member began
19 participating in a defined contribution plan that meets the requirements of 26
20 U.S.C. sec. 403(b);
- 21 (c) For members bound by an educational contract as a conditional employee to
22 the state of Kentucky prior to December 31, 2003, the date on which the
23 educational contract became effective; or
- 24 (d) For a member participating in the system pursuant to KRS 31.045, the earlier
25 of the date upon which the member began participating in the system under
26 paragraph (a) of this subsection or the date the member began employment
27 with the Louisville and Jefferson County Public Defender Corporation;

- 1 (37) "Participant" means a member, as defined by subsection (8) of this section, or a
2 retired member, as defined by subsection (24) of this section;
- 3 (38) "Qualified domestic relations order" means any judgment, decree, or order,
4 including approval of a property settlement agreement, that:
- 5 (a) Is issued by a court or administrative agency; and
6 (b) Relates to the provision of child support, alimony payments, or marital
7 property rights to an alternate payee;
- 8 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
9 participant, who is designated to be paid retirement benefits in a qualified domestic
10 relations order;
- 11 (40) "Accumulated employer credit" mean the employer pay credit deposited to the
12 member's account and interest credited on such amounts as provided by KRS
13 16.583 and 61.597;
- 14 (41) "Accumulated account balance" means:
- 15 (a) For members who began participating in the system prior to January 1, 2014,
16 the member's accumulated contributions; or
17 (b) For members who began participating in the system on or after January 1,
18 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,
19 the combined sum of the member's accumulated contributions and the
20 member's accumulated employer credit;
- 21 (42) "Volunteer" means an individual who:
- 22 (a) Freely and without pressure or coercion performs hours of service for an
23 employer participating in one (1) of the systems administered by Kentucky
24 Retirement Systems without receipt of compensation for services rendered,
25 except for reimbursement of actual expenses, payment of a nominal fee to
26 offset the costs of performing the voluntary services, or both; and
27 (b) If a retired member, does not become an employee, leased employee, or

1 independent contractor of the employer for which he or she is performing
2 volunteer services for a period of at least twelve (12) months following the
3 retired member's most recent retirement date;

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

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

12 (45) "Monthly average pay" means:

13 (a) In the case of a member who dies as a direct result of an act in line of duty as
14 defined in KRS 16.505 or who dies as a result of a duty-related injury as
15 defined in KRS 61.621, the higher of the member's monthly final rate of pay
16 or the average monthly creditable compensation earned by the deceased
17 member during his or her last twelve (12) months of employment; or

18 (b) In the case where a member becomes totally and permanently disabled as a
19 direct result of an act in line of duty as defined in KRS 16.505 or becomes
20 disabled as a result of a duty-related injury as defined in KRS 61.621 and is
21 eligible for the benefits provided by KRS 61.621(5)(a), the higher of the
22 member's monthly final rate of pay or the average monthly creditable
23 compensation earned by the disabled member during his or her last twelve
24 (12) months of employment prior to the date the act in line of duty or duty-
25 related injury occurred;

26 (46) "Authority" means the Kentucky Public Pensions Authority as provided by KRS
27 61.505;

1 (47) "Executive director" means the executive director of the Kentucky Public Pensions
2 Authority;

3 (48) "Instructional staff" means the employees of a state college or university
4 participating under KRS 61.520 who are:

5 (a) Faculty;

6 (b) Staff responsible for teaching; or

7 (c) Other individuals employed in an administrative position that is eligible for
8 participation in the Teachers' Insurance and Annuity Association (TIAA) of
9 the Teachers' Retirement System;

10 (49) "Agency reporting official" means the person designated by the participating
11 employer who shall be responsible for forwarding all employer and employee
12 contributions and a record of the contributions to the System and for performing
13 other administrative duties pursuant to KRS 61.510 to 61.705;~~and~~

14 (50) "Gainful employment" means work in any capacity that is or may be performed
15 with regularity and is or may be usually done for pay, whether pay is received or
16 not received, including seasonal, volunteer, part-time, and on-call work; and

17 (51) "Special needs trust" means a trust described in 42 U.S.C. sec. 1396p(d)(4)(A).

18 Any reference to a trust includes a special needs trust, unless the context
19 otherwise requires.

20 ➔Section 4. KRS 61.623 is amended to read as follows:

21 (1) A recipient who begins receiving a retirement allowance August 1, 2000, or after,
22 from the Kentucky Employees Retirement System, the County Employees
23 Retirement System, or the State Police Retirement System shall have the retirement
24 allowance paid by electronic fund transfer to a financial institution designated by
25 the recipient except as provided by subsection (5) of this section.

26 (2) When an individual becomes eligible to receive a monthly retirement allowance, the
27 retirement system shall provide an authorization for deposit of retirement payment

1 form to the recipient to have the monthly retirement allowance deposited to an
2 account in a financial institution.

3 (3) The recipient shall provide the information and authorization required for the
4 electronic transfer of funds from the State Treasurer's office to the designated
5 financial institution.

6 (4) At any time while receiving a retirement allowance, the recipient may change the
7 designated institution by completing a new authorization for deposit of retirement
8 payment form and filing the form at the retirement office in Frankfort. The last
9 authorization for deposit of retirement payment on file at the retirement office shall
10 control the electronic transfer of the recipient's retirement allowance.

11 (5) (a) A recipient may request to be paid by check issued by the State Treasurer
12 instead of by electronic transfer by completing and filing at the retirement
13 office a request for payment by check form.

14 (b) The request shall be approved if:

15 1. The recipient certifies that he or she does not currently have an account
16 with a financial institution;~~{or}~~

17 2. The recipient's bank certifies that it does not participate in the electronic
18 funds transfer program; or

19 3. The recipient is the sole beneficiary of a special needs trust, and the
20 trustee of that trust certifies that a check may be made payable to the
21 sole beneficiary of a special needs trust.

22 (c) The retirement office shall, every five (5) years, require the recipient to certify
23 that the original conditions under which he or she requested payment by
24 check continue. If the original conditions do not exist, the recipient shall
25 complete an authorization for direct deposit of retirement payment form and
26 file it with the retirement office.

27 ➔Section 5. KRS 61.635 is amended to read as follows:

- 1 (1) Each member shall have the right to elect to have his or her retirement allowance
2 payable under any one (1) of the options set forth in this section in lieu of the
3 retirement allowance otherwise payable to the member upon retirement under any
4 of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.
5 The amount of any optional retirement allowance shall be actuarially equivalent to
6 the amount of retirement allowance otherwise payable to the member.
- 7 (2) Survivorship one hundred percent (100%). The member may elect to receive a
8 decreased retirement allowance during his or her lifetime and have the retirement
9 allowance continued after the member's death to his or her beneficiary during the
10 lifetime of the person.
- 11 (3) Survivorship sixty-six and two-thirds percent (66-2/3%). The member may elect to
12 receive a decreased retirement allowance during his or her lifetime and have two-
13 thirds (2/3) of the retirement allowance continue after the member's death to his or
14 her beneficiary during the lifetime of the person.
- 15 (4) Survivorship fifty percent (50%). The member may elect to receive a decreased
16 retirement allowance during his or her lifetime and have one-half (1/2) of the
17 retirement allowance continued after the member's death to his or her beneficiary
18 during the lifetime of the person.
- 19 (5) Life with ten (10) years certain. The member less than age seventy-six (76) may
20 elect to receive a monthly retirement allowance during his or her lifetime which
21 shall guarantee payments for one hundred twenty (120) months. If the member dies
22 before receiving payments for one hundred twenty (120) months, the member's
23 beneficiary shall receive the remaining payments monthly, for the duration of the
24 one hundred twenty (120) months' period. However, if the trust is designated as
25 beneficiary, the trustee of the trust may elect to receive a lump-sum payment which
26 shall be the actuarial equivalent to the remaining payments, or the trustee may elect
27 to continue the remaining monthly payments to the trust of the member. If the estate

1 is designated as beneficiary, the estate shall receive a lump-sum payment which
2 shall be the actuarial equivalent to the remaining payments.

3 (6) Life with fifteen (15) years certain. The member less than age sixty-eight (68) may
4 elect to receive a monthly retirement allowance during his or her lifetime which
5 shall guarantee payments for one hundred eighty (180) months. If the member dies
6 before receiving payments for one hundred eighty (180) months, the member's
7 beneficiary shall receive the remaining payments monthly for the duration of the
8 one hundred eighty (180) months' period. However, if the trust is designated as
9 beneficiary, the trustee of the trust may elect to receive a lump-sum payment which
10 shall be the actuarial equivalent to the remaining payments, or the trustee may elect
11 to continue the remaining payments to the trust of the member. If the estate is
12 designated as beneficiary, the estate shall receive a lump-sum payment which shall
13 be the actuarial equivalent to the remaining payments.

14 (7) Life with twenty (20) years certain. The member less than age sixty-two (62) may
15 elect to receive a monthly retirement allowance during his or her lifetime which
16 shall guarantee payments for two hundred forty (240) months. If the member dies
17 before receiving payments for two hundred forty (240) months, the member's
18 beneficiary shall receive the remaining payments for the duration of the two
19 hundred forty (240) months period. However, if the trust is beneficiary, the trustee
20 of the trust may elect to receive a lump-sum payment which shall be the actuarial
21 equivalent to the remaining payments, or the trustee may elect to continue the
22 remaining payments to the trust of the member. If the estate is designated as
23 beneficiary, the estate shall receive a lump-sum payment which shall be the
24 actuarial equivalent to the remaining payments.

25 (8) Social Security adjustment options. These options shall be available to any member
26 who has not attained age sixty-two (62) as follows:

27 (a) No survivor rights. The member may elect to receive an increased retirement

- 1 allowance from his or her effective retirement date through the month he or
2 she attains age sixty-two (62) at which time his or her retirement allowance
3 shall be decreased for the remainder of his or her lifetime;
- 4 (b) Survivor rights. The member may elect to receive an increased retirement
5 allowance from his or her effective retirement date through the month he or
6 she attains age sixty-two (62) based on the option payable under subsection
7 (2) of this section, if the retirement allowance shall be decreased in the month
8 following the month he or she attains age sixty-two (62), or the month
9 following the month he or she would have attained age sixty-two (62), in
10 event of the member's death, and have the retirement allowance continue after
11 the member's death to his or her beneficiary during the lifetime of the person.
- 12 (9) Beneficiary Social Security adjustment option. This option is available to the
13 beneficiary of a deceased member if the beneficiary, who is a person, has not
14 attained age sixty (60), and is eligible to receive Social Security payments at age
15 sixty (60). The beneficiary may elect to receive during his or her lifetime an
16 increased retirement allowance based on his or her annual benefit payable for life.
17 The payment shall begin on his or her effective retirement date and continue
18 through the month he or she attains age sixty (60) at which time his or her
19 retirement allowance shall be decreased for the remainder of his or her lifetime.
- 20 (10) Pop-up option. The member may elect to receive a decreased retirement allowance
21 during his or her lifetime and have the retirement allowance continued after the
22 member's death to his or her beneficiary during the lifetime of the person. If the
23 beneficiary dies prior to the member, or if the beneficiary is the member's spouse
24 and they divorce, the member's retirement allowance shall increase to the amount
25 that would have been payable as a single life annuity.
- 26 (11) Actuarial equivalent refund. A member who began participating in the system prior
27 to January 1, 2014, may elect to receive a one (1) time lump-sum payment which

1 shall be the actuarial equivalent of the amount payable for a period of sixty (60)
2 months under KRS 61.595 (1).

3 (12) Partial lump-sum option.

4 (a) No survivor rights. A member may elect to receive a one-time lump-sum
5 payment equal to twelve (12), twenty-four (24), thirty-six (36), forty-eight
6 (48), or sixty (60) monthly retirement allowances payable under the
7 applicable retirement formula for the system and receive a reduced monthly
8 retirement allowance payable for his or her lifetime. The lump-sum payment
9 shall be paid in the month the first monthly retirement allowance is payable.

10 (b) Survivor rights. A member may elect to receive a one-time lump-sum
11 payment equal to twelve (12), twenty-four (24), thirty-six (36), forty-eight
12 (48), or sixty (60) monthly retirement allowances payable under subsection
13 (2) of this section and receive a reduced monthly retirement allowance
14 payable for his or her lifetime. The lump-sum payment shall be paid in the
15 month the first monthly retirement allowance is payable. The reduced
16 retirement allowance shall be continued after the member's death to his or her
17 beneficiary during the lifetime of the person.

18 (c) In order to explain the partial lump-sum option to members, the Authority
19 shall:

- 20 1. Provide, for all retirement estimates that include the partial lump-sum
21 option, including estimates calculated by a member using an automatic
22 estimator available on the Authority's website, the additional months of
23 service a member would have to be employed in order to recoup the
24 actuarial reduction in his or her monthly retirement allowance from
25 selecting a partial lump-sum option at each payment level; and
- 26 2. Prepare and make available to all members and participating employers
27 in the form of a paper or electronic pamphlet or booklet a summary of

1 the partial lump-sum option, written in a manner that can be understood
2 by the average member and sufficiently accurate and comprehensive to
3 reasonably apprise them of the benefits and potential consequences,
4 including federal tax consequences, of taking a partial lump-sum option.

5 (13) The other provisions of this section notwithstanding, the beneficiary of a retired
6 member of the General Assembly shall, after the member's death, receive sixty-six
7 and two-thirds percent (66-2/3%) of the member's retirement allowance during his
8 or her lifetime if the member of the General Assembly began participating in the
9 system prior to January 1, 2014, and has elected this option and has made
10 contributions in accordance with subsection (14) of this section and of KRS 61.560.
11 The retirement allowance of the retired member of the General Assembly shall not
12 be actuarially reduced to provide for this survivor benefit.

13 (14) A member of the General Assembly who began participating in the system prior to
14 January 1, 2014, who wishes to obtain the survivorship option specified in
15 subsection (13) of this section shall so notify the Kentucky Public Pensions
16 Authority:

17 (a) Within thirty (30) days after first becoming a member of the General
18 Assembly if he or she is not a member of the General Assembly on July 15,
19 1980; or

20 (b) Within thirty (30) days after July 15, 1980, if he or she is a member of the
21 General Assembly on July 15, 1980.

22 (15) The system shall forward to members of the General Assembly a form on which a
23 member who began participating in the system prior to January 1, 2014, may elect
24 the option provided for in subsections (13) and (14) of this section.

25 (16) The options described in subsections (2), (3), (4), (8)(b), (10), (12)(b), and (13) of
26 this section shall be extended to the member only if the designated beneficiary is a
27 person, *If the beneficiary is a person who is the sole beneficiary of a special needs*

1 trust, the following shall apply:

2 (a) Upon the death of the retired member or beneficiary, the trustee of that trust
3 shall notify the authority of the death of the retired member or beneficiary;

4 (b) Any retirement allowance payments made to a special needs trust that are
5 not properly payable to the special needs trust shall be returned to the
6 authority and shall not be subject to claims for reimbursement from any
7 state for Medicaid benefits paid on behalf of the beneficiary of the special
8 needs trust under any Medicaid payback provision; and

9 (c) The authority may promulgate administrative regulations in accordance
10 with KRS Chapter 13A to administer this subsection.

11 ➔Section 6. KRS 61.640 is amended to read as follows:

12 (1) If a member dies prior to the first day of the month in which the member would
13 have received his or her first retirement allowance, the member's beneficiary shall
14 be eligible for the benefits provided by this section if the member had on file a
15 written designation of a beneficiary with the retirement office as provided by KRS
16 61.542 and the member met the following conditions at the date of his or her death:

17 (a) The member was eligible to retire under KRS 61.559(2) or (3), 61.5956(5)(a)
18 or (b), or 61.597(6)(a) or (b);

19 (b) The member was in active employment or on authorized leave of absence
20 with five (5) or more years of service credit and died prior to his or her normal
21 retirement date or was normal retirement age or older and had at least four (4)
22 years of service credit; or

23 (c) The member was not in active employment or on authorized leave of absence
24 with twelve (12) or more years of service credit and died prior to his or her
25 normal retirement date.

26 (2) If the beneficiary eligible for benefits as provided in subsection (1) of this section is
27 a single person or is the sole beneficiary of a special needs trust, then the

1 beneficiary may elect to receive:

2 (a) A monthly benefit payable for the life of the beneficiary that is equal to the
3 benefit that would have been paid had the member retired immediately prior
4 to his or her date of death and elected to receive benefits payable under the
5 survivorship one hundred percent (100%) option as provided in KRS
6 61.635(2);

7 (b) A monthly benefit payable for the life of the beneficiary under the beneficiary
8 Social Security adjustment option as provided in KRS 61.635(9) that is the
9 actuarial equivalent to the amount computed under paragraph (a) of this
10 subsection;

11 (c) A monthly benefit payable for a period of sixty (60) months that is the
12 actuarial equivalent to the amount computed under paragraph (a) of this
13 subsection;

14 (d) A monthly benefit payable for a period of one hundred twenty (120) months
15 that is the actuarial equivalent to the amount computed under paragraph (a) of
16 this subsection;

17 (e) If the member began participating in the system prior to January 1, 2014, a
18 monthly benefit payable for:

- 19 1. Sixty (60) months certain;
20 2. One hundred twenty (120) months certain;
21 3. The actuarial equivalent refund; or
22 4. The Social Security adjustment option;

23 that is equivalent to the benefit the member would have been entitled to
24 receive based on his or her years of service and final compensation at the date
25 of his or her death reduced by the survivorship fifty percent (50%) factor as
26 provided for in KRS 61.635(4), then reduced by fifty percent (50%), and that
27 is the actuarial equivalent to the amount computed under paragraph (a) of this

1 subsection; or

2 (f) The higher of a refund of the member's accumulated account balance as
3 described in KRS 61.625(1) or one (1) time lump-sum payment which shall
4 be the actuarial equivalent of the amount payable under paragraph (a) of this
5 subsection for a period of sixty (60) months.

6 (3) If the beneficiary eligible for benefits as provided by subsection (1) of this section
7 are multiple beneficiaries or a trust, *other than a special needs trust*, then the
8 multiple beneficiaries by consensus or the trustee may elect to receive the actuarial
9 equivalent amounts payable under subsection (2)(c), (d), (e), or (f) of this section
10 using the assumption that the beneficiary's age is the same as the member's age.

11 (4) If the beneficiary eligible for benefits as provided in subsection (1) of this section is
12 the member's estate, then the beneficiary shall receive the higher of a refund of the
13 member's accumulated account balance as described in KRS 61.625(1) or the one
14 (1) time lump-sum payment payable under subsection (2)(f) of this section, using
15 the assumption that the beneficiary's age is the same as the member's age.

16 (5) Payments of taxable distributions made pursuant to this section shall be subject to
17 state and federal income tax as appropriate.

18 ➔Section 7. KRS 78.510 is amended to read as follows:

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

20 (1) "System" means the County Employees Retirement System created by KRS 78.510
21 to 78.852;

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

23 (3) "County" means any county, or nonprofit organization created and governed by a
24 county, counties, or elected county officers, sheriff and his or her employees,
25 county clerk and his or her employees, circuit clerk and his or her deputies, former
26 circuit clerks or former circuit clerk deputies, or political subdivision or
27 instrumentality, including school boards, cities, charter county governments, urban-

- 1 county governments, consolidated local governments, or unified local governments
2 participating in the system by order appropriate to its governmental structure, as
3 provided in KRS 78.530, and if the board is willing to accept the agency,
4 organization, or corporation, the board being hereby granted the authority to
5 determine the eligibility of the agency to participate;
- 6 (4) "School board" means:
- 7 (a) Any board of education participating in the system by order appropriate to its
8 governmental structure, as provided in KRS 78.530, and if the board is willing
9 to accept the agency or corporation, the board being hereby granted the
10 authority to determine the eligibility of the agency to participate; or
- 11 (b) A public charter school as defined in KRS 160.1590 if the public charter
12 school satisfies the criteria set by the Internal Revenue Service to participate
13 in a governmental retirement plan;
- 14 (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- 15 (6) "Employee" means every regular full-time appointed or elective officer or
16 employee of a participating county and the coroner of a participating county,
17 whether or not he or she qualifies as a regular full-time officer. The term shall not
18 include persons engaged as independent contractors, seasonal, emergency,
19 temporary, and part-time workers. In case of any doubt, the board shall determine if
20 a person is an employee within the meaning of KRS 78.510 to 78.852;
- 21 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected
22 officials of a county, or any authority of the county having the power to appoint or
23 elect an employee to office or employment in the county;
- 24 (8) "Member" means any employee who is included in the membership of the system
25 or any former employee whose membership has not ceased under KRS 78.535;
- 26 (9) "Service" means the total of current service and prior service as defined in this
27 section;

- 1 (10) "Current service" means the number of years and months of employment as an
2 employee, on and after July 1, 1958, for which creditable compensation is paid and
3 employee contributions deducted, except as otherwise provided;
- 4 (11) "Prior service" means the number of years and completed months, expressed as a
5 fraction of a year, of employment as an employee, prior to July 1, 1958, for which
6 creditable compensation was paid. An employee shall be credited with one (1)
7 month of prior service only in those months he or she received compensation for at
8 least one hundred (100) hours of work. Twelve (12) months of current service in the
9 system shall be required to validate prior service;
- 10 (12) "Accumulated contributions" means the sum of all amounts deducted from the
11 compensation of a member and credited to his or her individual account in the
12 members' account, including employee contributions picked up after August 1,
13 1982, pursuant to KRS 78.610(4), together with interest credited, on the amounts,
14 and any other amounts the member shall have contributed thereto, including interest
15 credited thereon. "Accumulated contributions" shall not include employee
16 contributions that are deposited into accounts established pursuant to 26 U.S.C. sec.
17 401(h) within the fund established in KRS 78.520, as prescribed by KRS
18 78.5536(3)(b);
- 19 (13) "Creditable compensation":
- 20 (a) Except as limited by paragraph (c) of this subsection, means all salary, wages,
21 and fees, including payments for compensatory time, paid to the employee as
22 a result of services performed for the employer or for time during which the
23 member is on paid leave, which are includable on the member's federal form
24 W-2 wage and tax statement under the heading "wages, tips, other
25 compensation", including employee contributions picked up after August 1,
26 1982, pursuant to KRS 78.610(4). The creditable compensation of fee officers
27 who receive salary, fees, maintenance, or other perquisites as a result of their

1 official duties is the gross amount received decreased by the cost of salary
2 paid deputies and clerks and the cost of office supplies and other official
3 expenses;

4 (b) Includes:

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

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

5 (c) Excludes:

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

17 (14) "Final compensation" means:

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

26 (b) For a member who is employed in a nonhazardous position, whose effective
27 retirement date is between August 1, 2001, and January 1, 2009, and whose

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

10 (c) For a member who begins participating before September 1, 2008, who is
11 employed in a hazardous position, as provided in KRS 78.5520, the creditable
12 compensation of the member during the three (3) fiscal years he or she was
13 paid at the highest average monthly rate divided by the number of months of
14 service credit during that three (3) year period multiplied by twelve (12). The
15 three (3) years may be fractional and need not be consecutive. If the number
16 of months of service credit during the three (3) year period is less than twenty-
17 four (24), one (1) or more additional fiscal years, which may contain less than
18 twelve (12) months of service credit, shall be used;

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

- 1 compensation calculation is at least sixty (60) months; or
- 2 (e) For a member who begins participating on or after September 1, 2008, but
- 3 prior to January 1, 2014, who is employed in a hazardous position as provided
- 4 in KRS 78.5520, the creditable compensation of the member during the three
- 5 (3) complete fiscal years he or she was paid at the highest average monthly
- 6 rate divided by three (3). Each fiscal year used to determine final
- 7 compensation must contain twelve (12) months of service credit. If the
- 8 member does not have three (3) complete fiscal years that each contain twelve
- 9 (12) months of service credit, then one (1) or more additional fiscal years,
- 10 which may contain less than twelve (12) months of service credit, shall be
- 11 added until the number of months in the final compensation calculation is at
- 12 least thirty-six (36) months;
- 13 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
- 14 calculated during the twelve (12) month period immediately preceding the
- 15 member's effective retirement date, and shall include employee contributions
- 16 picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be
- 17 certified to the system by the employer and the following equivalents shall be used
- 18 to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8)
- 19 hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-
- 20 half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks,
- 21 twelve (12) months, one (1) year;
- 22 (16) "Retirement allowance" means the retirement payments to which a member is
- 23 entitled;
- 24 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
- 25 basis of the actuarial tables adopted by the board. In cases of disability retirement,
- 26 the options authorized by KRS 61.635 shall be computed by adding ten (10) years
- 27 to the age of the member, unless the member has chosen the Social Security

1 adjustment option as provided for in KRS 61.635(8), in which case the member's
2 actual age shall be used. For members who begin participating in the system prior
3 to January 1, 2014, no disability retirement option shall be less than the same option
4 computed under early retirement;

5 (18) "Normal retirement date", unless otherwise provided in KRS 78.510 to 78.852,
6 means:

7 (a) For a member with service in a nonhazardous position, the sixty-fifth birthday
8 of a member;

9 (b) For a member with service in a hazardous position who begins participating
10 before September 1, 2008, the first day of the month following a member's
11 fifty-fifth birthday; or

12 (c) For a member with service in a hazardous position who begins participating
13 on or after September 1, 2008, the first day of the month following a
14 member's sixtieth birthday;

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

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

23 (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean
24 all positions that average one hundred (100) or more hours per month, determined
25 by using the number of hours actually worked in a calendar or fiscal year, or eighty
26 (80) or more hours per month in the case of noncertified employees of school
27 boards, determined by using the number of hours actually worked in a calendar or

1 school year, unless otherwise specified, except:

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

7 (b) Emergency positions which are positions utilized by the employer during:

8 1. An emergency as determined by the employer for a period not
9 exceeding thirty (30) working days and are nonrenewable; or

10 2. A state of emergency declared by the President of the United States or
11 the Governor of the Commonwealth of Kentucky that are created or
12 filled specifically for addressing the employer's needs during and as a
13 result of the declared emergency;

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

17 (d) Probationary positions which are positions of employment with a participating
18 employer that do not exceed twelve (12) months and that are used uniformly
19 by the participating agency on new employees who would otherwise be
20 eligible for participation in the system. Probationary positions shall not be
21 renewable by the participating employer for the same employee, unless the
22 employee has not been employed with the participating employer for a period
23 of at least twelve (12) months; or

24 (e) Part-time positions that are positions that may be permanent in duration, but
25 that require less than a calendar or fiscal year average of one hundred (100)
26 hours of work per month, determined by using the number of months actually
27 worked within a calendar or fiscal year, in the performance of duty, except in

1 case of noncertified employees of school boards, the school term average shall
2 be eighty (80) hours of work per month, determined by using the number of
3 months actually worked in a calendar or school year, in the performance of
4 duty;

5 (22) "Alternate participation plan" means a method of participation in the system as
6 provided for by KRS 78.530(3);

7 (23) "Retired member" means any former member receiving a retirement allowance or
8 any former member who has on file at the retirement office the necessary
9 documents for retirement benefits and is no longer contributing to the system;

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

13 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the
14 member in accordance with KRS 61.542 or 61.705 to receive any available benefits
15 in the event of the member's death, except when used in reference to the sole
16 beneficiary of a special needs trust. As used in KRS 78.5536, beneficiary shall not
17 mean an estate, trust, or trustee;

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

23 (27) "Person" means a natural person, including a sole beneficiary of a special needs
24 trust who is a single natural person designated by a member as his or her
25 beneficiary in accordance with KRS 61.542;

26 (28) "School term or year" means the twelve (12) months from July 1 through the
27 following June 30;

- 1 (29) "Retirement office" means the Kentucky Public Pensions Authority office building
2 in Frankfort, unless otherwise designated by the Kentucky Public Pensions
3 Authority;
- 4 (30) "Vested" for purposes of determining eligibility for purchasing service credit under
5 KRS 61.552 means the employee has at least forty-eight (48) months of service if
6 age sixty-five (65) or older or at least sixty (60) months of service if under the age
7 of sixty-five (65). For purposes of this subsection, "service" means service in the
8 systems administered by the Kentucky Retirement Systems and County Employees
9 Retirement System;
- 10 (31) "Participating" means an employee is currently earning service credit in the system
11 as provided in KRS 78.615;
- 12 (32) "Month" means a calendar month;
- 13 (33) "Membership date" means the date upon which the member began participating in
14 the system as provided in KRS 78.615;
- 15 (34) "Participant" means a member, as defined by subsection (8) of this section, or a
16 retired member, as defined by subsection (23) of this section;
- 17 (35) "Qualified domestic relations order" means any judgment, decree, or order,
18 including approval of a property settlement agreement, that:
- 19 (a) Is issued by a court or administrative agency; and
- 20 (b) Relates to the provision of child support, alimony payments, or marital
21 property rights to an alternate payee;
- 22 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
23 participant, who is designated to be paid retirement benefits in a qualified domestic
24 relations order;
- 25 (37) "Accumulated employer credit" means the employer pay credit deposited to the
26 member's account and interest credited on such amounts as provided by KRS
27 78.5512 and 78.5516;

1 (38) "Accumulated account balance" means:

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

4 (b) For members who began participating in the system on or after January 1,
5 2014, in the hybrid cash balance plan as provided by KRS 78.5512 and
6 78.5516, the combined sum of the member's accumulated contributions and
7 the member's accumulated employer credit;

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

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

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

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

25 (41) "Nonhazardous position" means a position that does not meet the requirements of
26 KRS 78.5520 or has not been approved by the board as a hazardous position;

27 (42) "Hazardous position" means a position that meets the requirements of KRS 78.5520

- 1 and has been approved by the board as hazardous;
- 2 (43) "Level-percentage-of-payroll amortization method" means a method of determining
3 the annual amortization payment on the unfunded actuarial accrued liability as
4 expressed as a percentage of payroll over a set period of years. Under this method,
5 the percentage of payroll shall be projected to remain constant for all years
6 remaining in the set period and the unfunded actuarially accrued liability shall be
7 projected to be fully amortized at the conclusion of the set period;
- 8 (44) "Increment" means twelve (12) months of service credit which are purchased. The
9 twelve (12) months need not be consecutive. The final increment may be less than
10 twelve (12) months;
- 11 (45) "Last day of paid employment" means the last date employer and employee
12 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
13 78.615 to the retirement office in order for the employee to receive current service
14 credit for the month. Last day of paid employment does not mean a date the
15 employee receives payment for accrued leave, whether by lump sum or otherwise,
16 if that date occurs twenty-four (24) or more months after previous contributions;
- 17 (46) "Objective medical evidence" means reports of examinations or treatments; medical
18 signs which are anatomical, physiological, or psychological abnormalities that can
19 be observed; psychiatric signs which are medically demonstrable phenomena
20 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
21 or contact with reality; or laboratory findings which are anatomical, physiological,
22 or psychological phenomena that can be shown by medically acceptable laboratory
23 diagnostic techniques, including but not limited to chemical tests,
24 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 25 (47) "Hazardous disability" as used in KRS 78.510 to 78.852 means a disability which
26 results in an employee's total incapacity to continue as an employee in a hazardous
27 position, but the employee is not necessarily deemed to be totally and permanently

1 disabled to engage in other occupations for remuneration or profit;

2 (48) "Act in line of duty" means, for employees in hazardous positions under KRS
3 78.5520:

4 (a) A single act occurring which was required in the performance of the principal
5 duties of the hazardous position as defined by the job description; or

6 (b) A single act of violence committed against the employee that is found to be
7 related to his or her job duties, whether or not it occurs at his or her job site;

8 (49) "Dependent child" means a child in the womb and a natural or legally adopted child
9 of the member who has neither attained age eighteen (18) nor married or who is an
10 unmarried full-time student who has not attained age twenty-two (22). Solely in the
11 case of a member who dies as a direct result of an act in line of duty as defined in
12 this section, dies as a result of a duty-related injury as defined in KRS 61.621,
13 becomes totally and permanently disabled as a direct result of an act in the line of
14 duty as defined in this section, or becomes disabled as a result of a duty-related
15 injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS
16 61.621(5)(a), "dependent child" also means a naturally or legally adopted disabled
17 child of the member, regardless of the child's age, if the child has been determined
18 to be eligible for federal Social Security disability benefits or is being claimed as a
19 qualifying child for tax purposes due to the child's total and permanent disability;

20 (50) "Normal retirement age" means the age at which the member meets the
21 requirements for his or her normal retirement date as provided by subsection (18) of
22 this section;

23 (51) "Disability retirement date" means the first day of the month following the last day
24 of paid employment;

25 (52) "Monthly average pay" means:

26 (a) In the case of a member who dies as a direct result of an act in line of duty as
27 defined in KRS 16.505 or who dies as a result of a duty-related injury as

1 defined in KRS 61.621, the higher of the member's monthly final rate of pay
2 or the average monthly creditable compensation earned by the deceased
3 member during his or her last twelve (12) months of employment; or

4 (b) In the case where a member becomes totally and permanently disabled as a
5 direct result of an act in line of duty as defined in KRS 16.505 or becomes
6 disabled as a result of a duty-related injury as defined in KRS 61.621 and is
7 eligible for the benefits provided by KRS 61.621(5)(a), the higher of the
8 member's monthly final rate of pay or the average monthly creditable
9 compensation earned by the disabled member during his or her last twelve
10 (12) months of employment prior to the date the act in line of duty or duty-
11 related injury occurred;

12 (53) "Authority" means the Kentucky Public Pensions Authority as provided by KRS
13 61.505;

14 (54) "Executive director" means the executive director of the Kentucky Public Pensions
15 Authority;~~and~~

16 (55) "Gainful employment" means work in any capacity that is or may be performed
17 with regularity and is or may be usually done for pay, whether pay is received or
18 not received, including seasonal, volunteer, part-time, and on-call work; and

19 (56) "Special needs trust" means a trust described in 42 U.S.C. sec. 1396p(d)(4)(A).
20 Any reference to a trust includes a special needs trust, unless the context
21 otherwise requires.

22 ➔Section 8. KRS 78.5532 is amended to read as follows:

23 (1) If a member dies prior to the first day of the month in which the member would
24 have received his or her first retirement allowance, the member's beneficiary shall
25 be eligible for the benefits provided by this section if the member had on file a
26 written designation of a beneficiary with the retirement office as provided by KRS
27 61.542 and the member met the following conditions at the date of his or her death:

- 1 (a) 1. The member had service in a nonhazardous position and was eligible to
2 retire under KRS 78.5510(2) or (3) or 78.5512(6); or
3 2. The member had service in a hazardous position and was eligible to
4 retire under KRS 78.5514(2) or (3) or 78.5516(6);
5 (b) The member was in active employment or on authorized leave of absence
6 with five (5) or more years of service credit and died prior to his or her normal
7 retirement date or in the case of a nonhazardous member, was normal
8 retirement age or older and had at least four (4) years of service credit; or
9 (c) The member was not in active employment or on authorized leave of absence
10 with twelve (12) or more years of service credit and died prior to his or her
11 normal retirement date.
12 (2) If the beneficiary eligible for benefits as provided in subsection (1) of this section is
13 a single person or the beneficiary of a special needs trust, then the beneficiary may
14 elect to receive:
15 (a) A monthly benefit payable for the life of the beneficiary that is equal to the
16 benefit that would have been paid had the member retired immediately prior
17 to his or her date of death and elected to receive benefits payable under the
18 survivorship one hundred percent (100%) option as provided in KRS
19 61.635(2);
20 (b) A monthly benefit payable for the life of the beneficiary under the beneficiary
21 Social Security adjustment option as provided in KRS 61.635(9) that is the
22 actuarial equivalent to the amount computed under paragraph (a) of this
23 subsection;
24 (c) A monthly benefit payable for a period of sixty (60) months that is the
25 actuarial equivalent to the amount computed under paragraph (a) of this
26 subsection;
27 (d) A monthly benefit payable for a period of one hundred twenty (120) months

- 1 that is the actuarial equivalent to the amount computed under paragraph (a) of
2 this subsection;
- 3 (e) If the member began participating prior to January 1, 2014, a monthly benefit
4 payable for a period of one hundred twenty (120) months that is equivalent to
5 the benefit the member would have been entitled to receive based on his or
6 her years of service and final compensation at the date of his or her death
7 reduced by the survivorship fifty percent (50%) factor as provided for in KRS
8 61.635(4), then reduced by fifty percent (50%), and that is the actuarial
9 equivalent to the amount computed under paragraph (a) of this subsection; or
- 10 (f) The higher of a refund of the member's accumulated account balance as
11 described in KRS 61.625(1) or one (1) time lump-sum payment which shall
12 be the actuarial equivalent of the amount payable under paragraph (a) of this
13 subsection for a period of sixty (60) months.
- 14 (3) If the beneficiary eligible for benefits as provided by subsection (1) of this section
15 is multiple beneficiaries or a trust, other than a special needs trust, then the
16 multiple beneficiaries by consensus or the trustee may elect to receive the actuarial
17 equivalent amounts payable under subsection (2)(c), (d), (e), or (f) of this section
18 using the assumption that the beneficiary's age is the same as the member's age.
- 19 (4) If the beneficiary eligible for benefits as provided in subsection (1) of this section is
20 the member's estate, then the beneficiary shall receive the higher of a refund of the
21 member's accumulated account balance as described in KRS 61.625(1) or the one
22 (1) time lump-sum payment payable under subsection (2)(f) of this section, using
23 the assumption that the beneficiary's age is the same as the member's age.
- 24 (5) Payments of taxable distributions made pursuant to this section shall be subject to
25 state and federal income tax as appropriate.
- 26 (6) (a) The beneficiary of a member with service in a nonhazardous position who
27 dies as a result of a duty-related injury may be eligible for benefits based upon

1 the definitions, criteria, and benefits specified by KRS 61.621.

2 (b) The beneficiary of a member with service in a hazardous position who dies as
3 a direct result of an act in line of duty may be eligible for benefits from the
4 system based upon the definitions, criteria, and benefits specified by KRS
5 78.5534.

6 ➔Section 9. KRS 161.525 is amended to read as follows:

7 (1) Upon death of a member in active contributing status at the time of death, who was
8 eligible to retire by reason of service, the spouse, if named as the primary
9 beneficiary of the member's retirement account, or in the absence of an eligible
10 spouse a legal dependent of the member, if named as the primary beneficiary, shall
11 be entitled to elect, in lieu of a refund of the member's accumulated account balance
12 or benefits provided in KRS 161.520, an annuity actuarially equivalent at the
13 attained age of the beneficiary to the annuity that would have been paid to the
14 deceased member had retirement been effective on the day immediately preceding
15 the member's death. Under the provisions of KRS 61.680, benefits shall be
16 processed as if the member retired for service. In exercising this right the spouse or
17 legal dependent shall be limited to selecting an option providing either a straight
18 life annuity with refundable balance or a term certain option. A spouse may receive
19 the annuity provided by this section at the same time as children are qualifying for
20 survivors' benefits under the provisions of KRS 161.520; however, a legal
21 dependent, other than a spouse, may not receive these payments if children have
22 qualified for benefits under that section.

23 (2) A spouse qualifying for an annuity under subsection (1) of this section may defer
24 the payments in order to reduce the actuarial discounts to be applied due to age.

25 (3) Upon death of a member in active contributing status at the time of his or her death,
26 who had a minimum of twenty-seven (27) years of service, the spouse, if named as
27 the primary beneficiary of the member's account shall be entitled to a monthly

1 minimum allowance of three hundred dollars (\$300) as the basic straight life
2 annuity. This provision applies to surviving spouses of members who were
3 receiving benefit payments under KRS 161.520 as of June 30, 1986, and to
4 surviving spouses of members who die on or after July 1, 1986.

5 **(4) If the surviving spouse or legal dependent eligible for a benefit under subsection**
6 **(1) of this section is the sole beneficiary of a special needs trust, the annuity**
7 **payments made under subsection (1) of this section shall be made payable to the**
8 **special needs trust.**

9 ➔Section 10. KRS 161.640 is amended to read as follows:

10 (1) Retirement annuities shall be payable monthly. The first payment to an annuitant
11 shall be made at the payment date at the end of one (1) full payment period after his
12 retirement and shall consist of one (1) regular monthly payment. Retirement for a
13 member receiving one (1) full year of service credit during a fiscal year shall be no
14 earlier than July 1 next following the end of such fiscal year. Notwithstanding any
15 other statutory provisions to the contrary, members filling positions that
16 customarily require twelve (12) months of service during a fiscal year cannot retire
17 prior to July 1 without a corresponding pro rata reduction in salary and service
18 credit. The board of trustees may determine which positions customarily require
19 twelve (12) months of service during a fiscal year.

20 (2) The board of trustees may enter into agreements with retired members for payroll
21 deductions when it is deemed in the best interest of the retired members and the
22 retirement system.

23 (3) (a) All new retirees, on or after July 1, 1998, shall receive their monthly annuity
24 checks by electronic fund transfer. All retiree, beneficiary, and survivor
25 monthly allowance payments, except as otherwise provided in paragraph (b)
26 **or (c)** of this subsection, shall be made by electronic fund transfer. Except as
27 provided in paragraph (b) **or (c)** of this subsection, all monthly payments shall

1 be made payable only to an account solely in the name of the retiree,
2 beneficiary, or survivor as an individual and natural person, or to a joint
3 account in the name of the retiree, beneficiary, or survivor as an individual
4 and natural person and another individual and natural person.

5 (b) If the retiree, beneficiary, or survivor is a resident of a nursing or assisted-care
6 home, monthly payments may be made to the order of the nursing or assisted-
7 care home for the benefit of the retiree, beneficiary, or survivor by including
8 the retiree's, beneficiary's, or survivor's name. Monthly annuity checks so paid
9 to a nursing or assisted-care home may be sent by mail rather than electronic
10 fund transfer.

11 (c) If the retiree, beneficiary, or survivor is the sole beneficiary of a special
12 needs trust:

13 1. Monthly payments shall be made to the order of the special needs
14 trust, and checks may be sent by mail to the special needs trust for the
15 benefit of the retiree, beneficiary, or survivor;

16 2. Upon the death of the retiree, beneficiary, or survivor of a special
17 needs trust, the trustee of that trust shall notify the Teachers'
18 Retirement System;

19 3. Any payments made to a special needs trust that are not properly
20 payable to the special needs trust shall be returned to the Teachers'
21 Retirement System and shall not be subject to claims for
22 reimbursement from any state for Medicaid benefits paid on behalf of
23 the beneficiary under any Medicaid payback provision, and any
24 overpayments of retirement allowance received by the special needs
25 trust shall be repaid to the Teachers' Retirement System; and

26 4. The Teachers' Retirement System may promulgate administrative
27 regulations in accordance with KRS Chapter 13A to administer this

1 paragraph.

2 ➔Section 11. KRS 161.700 is amended to read as follows:

3 (1) Except as otherwise provided by this section and KRS 161.655(5), the right of a
4 member to a retirement allowance and to the return of contributions, any benefit or
5 right accrued or accruing to any person under KRS 161.220 to 161.716, and the
6 money in the various funds established pursuant to KRS 161.220 to 161.716 are
7 hereby exempt from any state or municipal tax, and shall not be subject to
8 execution, garnishment, attachment, or other process, and shall not be assigned.

9 (2) Notwithstanding the provisions of subsection (1) of this section, retirement
10 allowances and other benefits accrued or accruing under KRS 161.220 to 161.716
11 to a person who is the beneficiary of a special needs trust may be assigned to the
12 trustee of that special needs trust. Any retirement allowances or other benefits
13 assigned to a special needs trust under this subsection, or accrued or accruing
14 under KRS 161.220 to 161.716 to a person who is the beneficiary of a special
15 needs trust, shall cease upon the death of the beneficiary of the special needs
16 trust and shall not be subject to state reimbursement for Medicaid benefits paid
17 on behalf of the beneficiary under a Medicaid payback provision.

18 ~~(3)~~~~(2)~~ Notwithstanding subsection (1) of this section, retirement benefits accrued or
19 accruing to any person under this retirement system on or after January 1, 1998,
20 shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS
21 141.010 and 141.0215.

22 ~~(4)~~~~(3)~~ Retirement allowance, disability allowance, accumulated account balance, or
23 any other benefit under the retirement system shall not be classified as marital
24 property pursuant to KRS 403.190(1), except to the extent permitted under KRS
25 403.190(4). Retirement allowance, disability allowance, accumulated contributions,
26 or any other benefit under the retirement system shall not be considered as an
27 economic circumstance during the division of marital property in an action for

1 dissolution of marriage pursuant to KRS 403.190(1)(d), except to the extent
2 permitted under KRS 403.190(4).

3 ~~(5)~~~~((4))~~ Qualified domestic relations orders issued by a court or administrative agency
4 shall be honored by the retirement system if:

5 (a) The benefits payable pursuant to the order meet the requirements of a
6 qualified domestic relations order as provided by 26 U.S.C. sec. 414(p). The
7 retirement system shall follow applicable provisions of 26 U.S.C. sec. 414(p)
8 in administering qualified domestic relations orders;

9 (b) The order meets the requirements established by the retirement system and by
10 subsections ~~(5)~~~~((4))~~ to ~~(13)~~~~((12))~~ of this section. The board of trustees of the
11 retirement system shall establish the requirements, procedures, and forms
12 necessary for the administration of qualified domestic relations order by
13 promulgation of administrative regulations in accordance with KRS Chapter
14 13A; and

15 (c) The order is on the form established by the retirement system pursuant to the
16 retirement system's authority provided under paragraph (b) of this subsection.

17 ~~(6)~~~~((5))~~ A qualified domestic relations order shall not:

18 (a) Require the retirement system to take any action not authorized under state or
19 federal law;

20 (b) Require the retirement system to provide any benefit, allowance, or other
21 payment not authorized under state or federal law;

22 (c) Grant or be construed to grant the alternate payee any separate right, title, or
23 interest in or to any retirement benefit other than to receive payments from the
24 participant's account in accordance with the administrative regulations
25 promulgated by the system and as provided by subsections ~~(5)~~~~((4))~~ to
26 ~~(13)~~~~((12))~~ of this section; or

27 (d) Grant any separate interest to any person other than the participant.

1 ~~(7)~~~~(6)~~ Any qualified domestic relations order submitted to the retirement system
2 shall specify the dollar amount or percentage amount of the participant's benefit to
3 be paid to the alternate payee. In calculating the amount to be paid to the alternate
4 payee, the court or administrative agency that is responsible for issuing the order
5 shall follow the requirements set forth in the administrative regulations promulgated
6 by the board of trustees. Notwithstanding any other statute to the contrary, the
7 board shall not be required to honor a qualified domestic relations order that does
8 not follow the requirements set forth in the administrative regulations promulgated
9 by the board of trustees.

10 ~~(8)~~~~(7)~~ If the qualified domestic relations order meets the requirements established by
11 the system and by subsections ~~(5)~~~~(4)~~ to ~~(13)~~~~(12)~~ of this section, payments to the
12 alternate payee shall be distributed under the following conditions:

13 (a) If the participant is retired and is receiving a monthly retirement allowance,
14 the month following the date the retirement system receives a qualified
15 domestic relations order that complies with the administrative regulations
16 promulgated by the retirement system and subsections ~~(5)~~~~(4)~~ to ~~(13)~~~~(12)~~ of
17 this section; or

18 (b) If the participant is not retired, the month of the participant's effective
19 retirement date in which the first retirement allowance is payable to the
20 participant or the month in which the participant receives a refund of his or
21 her accumulated account balance as provided by KRS 161.470(6).

22 ~~(9)~~~~(8)~~ An alternate payee's benefits and rights under a qualified domestic relations
23 order shall terminate upon the earlier of:

24 (a) The death of the participant;

25 (b) The death of the alternate payee; or

26 (c) The termination of benefits to the participant under any provision of KRS
27 161.220 to 161.716.

1 ~~(10)~~~~(9)~~ An alternate payee shall not receive a monthly payment under a qualified
2 domestic relations order if the participant is not receiving a monthly retirement
3 allowance.

4 ~~(11)~~~~(10)~~ The cost of living adjustment provided to the participant pursuant to KRS
5 161.620 shall be divided between the participant and alternate payee in a qualified
6 domestic relations order as follows:

7 (a) If the order specifies the alternate payee is to receive a percentage of the
8 participant's benefit, then the cost of living adjustment shall be divided
9 between the participant and the alternate payee based upon the percentage of
10 the total benefit each is receiving upon the participant's retirement or upon the
11 date the order is approved by the retirement system, whichever is later; or

12 (b) If the order specifies that the alternate payee is to receive a set dollar amount
13 of the participant's benefit, then the order shall specify that:

14 1. The cost of living adjustment shall be divided between the participant
15 and the alternate payee based upon the percentage of the total benefit
16 each is receiving upon the participant's retirement or upon the date the
17 order is approved by the retirement system, whichever is later; or

18 2. The alternate payee shall receive no cost of living adjustment.

19 If the order does not specify the division of the cost of living adjustment as
20 required by this paragraph, then no cost of living adjustment shall be payable
21 to the alternate payee. If no cost of living adjustment is provided to the
22 alternate payee, then the participant shall receive the full cost of living
23 adjustment he or she would have received if the order had not been applied to
24 the participant's account.

25 ~~(12)~~~~(11)~~ Except in cases involving child support payments, the retirement system may
26 charge reasonable and necessary fees and expenses to the recipient and the alternate
27 payee of a qualified domestic relations order for the administration of the qualified

1 domestic relations order by retirement system. All fees and expenses shall be
2 established by the administrative regulations promulgated by the board of trustees
3 of the retirement system. The qualified domestic relations order shall specify
4 whether the fees and expenses provided by this subsection shall be paid:

- 5 (a) Solely by the participant;
- 6 (b) Solely by the alternate payee; or
- 7 (c) Equally shared by the participant and alternate payee.

8 ~~(13)~~~~(12)~~ The retirement system shall honor a qualified domestic relations order issued
9 prior to July 15, 2010, for prospective benefit payments if the order or an amended
10 version of the order meets the requirements established by this section and the
11 administrative regulations promulgated by the retirement system. The order shall
12 not apply to benefit payments issued by the retirement system prior to the date the
13 order was approved by the retirement system.

14 ➔Section 12. KRS 21.420 is amended to read as follows:

- 15 (1) After the death of a member who began participating in the Judicial Retirement
16 Plan prior to January 1, 2014, who at the time of his or her death was receiving a
17 service retirement allowance (other than an actuarially reduced allowance under
18 subsection (3) of KRS 21.400), or was receiving a disability retirement allowance,
19 his or her surviving spouse is entitled to receive during his or her lifetime a
20 monthly allowance equal to one-half (1/2) of that he or she was receiving.
- 21 (2) (a) If a member who began participating in the Judicial Retirement Plan prior to
22 January 1, 2014, dies before retirement and before reaching normal retirement
23 age, without regard to length of service, his or her surviving spouse is entitled
24 to receive during his or her lifetime a monthly allowance equal to one-half
25 (1/2) of the monthly allowance the member would have received commencing
26 at his or her normal retirement date if he or she had continued in service until
27 that date and had then retired, computed however on the basis of his or her

1 final compensation at time of death.

2 (b) If a member who began participating in the Judicial Retirement Plan prior to
3 January 1, 2014, dies before retirement and after reaching normal retirement
4 age, his or her surviving spouse is entitled to receive during his or her
5 lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance
6 the member would have been entitled to, on the basis of his or her years of
7 service, had he or she retired on the date of his death.

8 (3) If a member who began participating in the Judicial Retirement Plan prior to
9 January 1, 2014, dies after retirement and was at the time of his or her death
10 receiving an actuarially reduced allowance under subsection (3) of KRS 21.400, or
11 was not at the time of his or her death receiving a retirement allowance but had
12 acquired the vested right under subsection (2) of KRS 21.400 to have received an
13 allowance upon reaching normal retirement age, his or her surviving spouse is
14 entitled to receive during his or her lifetime a monthly allowance equal to one-half
15 (1/2) of the monthly allowance the member would have received when he or she
16 reached normal retirement age.

17 (4) A member, or a retiree who began participating in the plan prior to January 1, 2014,
18 who has not commenced drawing retirement benefits pursuant to KRS 21.400, and
19 who dies without a spouse or eligible children entitled to survivor's benefits, may
20 designate a beneficiary who shall receive the accumulated contributions of the
21 member. A member, or a retiree who began participating in the plan on or after
22 January 1, 2014, who has not commenced drawing retirement benefits pursuant to
23 KRS 21.402, who dies without a spouse or eligible children entitled to survivor's
24 benefits, may designate a beneficiary who shall receive the accumulated account
25 balance of the member. **A trust, including a special needs trust, may be designated**
26 **as a beneficiary.** Absent a designation by the member or retiree, the accumulated
27 contributions or accumulated account balance, as applicable based upon the

- 1 member's participation date, shall be paid to the member's estate.
- 2 (5) A member who began participating in the plan prior to January 1, 2014, who
3 commences drawing retirement benefits pursuant to KRS 21.400 or 21.410, and
4 who dies without a spouse or eligible children entitled to survivor's benefits and
5 before the benefits received by the member equal the accumulated contributions of
6 the member, may designate a beneficiary who shall receive the balance of the
7 accumulated contributions of the member. A member who began participating in
8 the plan on or after January 1, 2014, who commences drawing retirement benefits
9 pursuant to KRS 21.402 or 21.410, and who dies without a spouse or eligible
10 children entitled to survivor's benefits and before the benefits received by the
11 member equal the accumulated account balance of the member, may designate a
12 beneficiary who shall receive the balance of the accumulated account balance of the
13 member. A trust, including a special needs trust, may be designated as a
14 beneficiary. Any benefits received shall be deducted from the accumulated
15 contributions or accumulated account balance. Absent a designation by the member,
16 the balance of the accumulated contributions or accumulated account balance, as
17 applicable based upon the member's participation date, shall be paid to the
18 member's estate.
- 19 (6) A member who begins participating in the Judicial Retirement Plan prior to January
20 1, 2014, may designate a beneficiary who shall receive the balance of the
21 accumulated contributions of the member, in the event survivor's benefits are being
22 paid pursuant to subsection (1), (2), or (3) of this section, and the survivor dies prior
23 to receiving benefits equal to the member's contributions. In this event, the
24 provisions of subsection (5) of this section shall apply as to offset and payment.
- 25 (7) A member who begins participating in the Judicial Retirement Plan prior to January
26 1, 2014, may, prior to the drawing of benefits, elect in writing to the executive
27 secretary of the Judicial Form Retirement System, to take an optional retirement

1 allowance which shall be actuarially equivalent to the amount of retirement
2 allowance otherwise payable to the member and the member's spouse. If the
3 member dies after retirement, the option chosen shall prevail over the provisions of
4 subsections (1) and (3) of this section. If the member dies prior to retirement, the
5 option chosen shall prevail over the provisions of subsection (2) of this section. The
6 options shall include:

7 (a) Survivorship one hundred percent (100%). The member may elect to receive a
8 decreased retirement allowance during the member's lifetime and have the
9 retirement allowance continued after death to the spouse during the lifetime of
10 the spouse.

11 (b) Survivorship sixty-six and two-thirds percent ($66 \frac{2}{3}\%$). The member may
12 elect to receive a decreased retirement allowance during the member's lifetime
13 and have two-thirds ($\frac{2}{3}$) of the retirement allowance continue after death to
14 the spouse during the lifetime of the spouse.

15 If a retiree, living or deceased, chose either of the optional retirement benefit
16 allowances specified in paragraphs (a) or (b) of this subsection from July 15, 1994,
17 to July 15, 1998, the optional allowance shall be adjusted accordingly, and the new
18 benefit shall commence August 1, 1998. Each recipient of benefits from the plan,
19 who retired from July 15, 1994, to July 15, 1998, shall have a one-time opportunity
20 to select an optional retirement allowance. The election by the recipient shall be
21 prior to August 1, 1998, at which time the new benefit shall commence. The option
22 chosen shall prevail, subsections (1), (2), and (3) of this section notwithstanding.

23 (8) For a member who begins participating in the Judicial Retirement Plan on or after
24 January 1, 2014:

25 (a) If the member dies prior to drawing a retirement allowance, then the surviving
26 spouse may elect to:

27 1. Take a refund of the member's accumulated account balance or

- 1 accumulated contributions as provided by KRS 21.402; or
- 2 2. If the member had at least five (5) years of service in the plan at the time
- 3 of his or her death, have the member's accumulated account balance
- 4 annuitized into a monthly benefit payable for life that is equal to the
- 5 benefit that would have been paid had the member retired immediately
- 6 prior to his or her date of death and elected to receive benefits payable
- 7 under the survivorship one hundred percent (100%) option as provided
- 8 by paragraph (b)1. of this subsection.

9 In lieu of the benefits provided by this paragraph to the surviving spouse, the

10 member may elect to have the benefits payable under this paragraph paid to

11 an individual dependent child by completing the forms provided prescribed by

12 the Judicial Form Retirement System. If no surviving spouse or dependent

13 children are eligible to receive benefits, then the provisions of subsection (4)

14 of this section shall apply to the member.

15 (b) If a member dies on or after the date the member begins drawing a retirement

16 allowance, the benefits payable to the surviving spouse shall be based upon

17 whether or not the member elects prior to retirement to receive an optional

18 retirement allowance. The election shall be in writing on the forms prescribed

19 by the Judicial Form Retirement System and shall be actuarially equivalent to

20 the amount of retirement allowance otherwise payable to the member. The

21 optional retirement allowances shall include:

- 22 1. Survivorship one hundred percent (100%). The member may elect to
- 23 receive a decreased retirement allowance during the member's lifetime
- 24 and have the retirement allowance continued after death to the spouse
- 25 during the lifetime of the spouse;
- 26 2. Survivorship sixty-six and two-thirds percent (66-2/3%). The member
- 27 may elect to receive a decreased retirement allowance during the

1 member's lifetime and have two-thirds (2/3) of the retirement allowance
2 continue after death to the spouse during the lifetime of the spouse; or
3 3. Survivorship fifty percent (50%). The member may elect to receive a
4 decreased retirement allowance during the member's lifetime and have
5 one-half (1/2) of the retirement allowance continue after death to the
6 spouse during the lifetime of the spouse.

7 In lieu of the benefits provided by this paragraph to the surviving spouse, the
8 member may elect prior to retirement to have the benefits payable under this
9 paragraph paid to an individual dependent child or to a special needs trust by
10 completing the forms provided by the Judicial Form Retirement System. If no
11 surviving spouse or dependent children are eligible to receive benefits, then
12 the provisions of subsection (5) of this section shall apply to the member.

13 (c) For purposes of this section a "dependent child" shall mean a child who is less
14 than twenty-one (21) years of age or a disabled child who is eligible for Social
15 Security disability benefits.

16 (9) (a) As used in this section, "special needs trust" means a trust described in 42
17 U.S.C. sec. 1396p(d)(4)(A).

18 (b) In any circumstances in which a surviving spouse would be entitled to any
19 allowance under this section, the monthly allowance that the surviving
20 spouse was receiving or is entitled to receive may be paid to a special needs
21 trust for the benefit of the surviving spouse.

22 ➔Section 13. KRS 21.425 is amended to read as follows:

23 (1) In any circumstances in which a surviving spouse would be entitled to any
24 allowance under KRS 21.420, but there is no surviving spouse or the surviving
25 spouse subsequently dies, and there is a surviving child or children of the member
26 under the age of twenty-one (21), or there is a disabled child or children, the
27 monthly allowance that the surviving spouse would have received or was receiving

1 shall be continued, as follows:

2 (a) If the member does not have a disabled child or children, the benefit shall
3 continue until there are no children remaining under the age of twenty-one
4 (21); or

5 (b) If the member has a disabled child or children, the benefit shall continue until
6 the death of the last remaining disabled child.

7 (2) A member may designate his or her child or children under the age of twenty-one
8 (21), or his or her disabled child or children, or a special needs trust as defined by
9 subsection (9) of Section 12 of this Act for the benefit of the disabled child, to
10 receive the death benefit payable under KRS 21.420 instead of his or her spouse, or
11 he or she may designate that his or her spouse shall receive a percentage of the
12 death benefit, and his or her child or children under the age of twenty-one (21), or
13 his or her disabled child or children, or a special needs trust as defined by
14 subsection (9) of Section 12 of this Act for the benefit of a disabled child, shall
15 receive the remainder. The member making such a choice shall designate his or her
16 beneficiary or beneficiaries in writing to the manager of the Judicial Form
17 Retirement System on a form provided by the manager.

18 (3) For purposes of this section, "disabled" means an individual determined by the
19 Social Security Administration to be entitled to total disability benefits.

20 (4) Subsections (1) to (3) of this section shall not apply to a member who begins
21 participating in the Judicial Retirement Plan on or after January 1, 2014.