GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2009 REGULAR SESSION

HOUSE BILL NO. 204

TUESDAY, MARCH 3, 2009

The following bill was reported to the Senate from the House and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

AN ACT relating to the county employees retirement system.

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

1 ➔Section 1. KRS 78.510 is amended to read as follows:

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

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

4 (2) "Board" means the board of trustees of the system as provided in KRS 78.780;

5 (3) "County" means any county, or nonprofit organization created and governed by a
6 county, counties, or elected county officers, sheriff and his employees, county clerk
7 and his employees, circuit clerk and his deputies, former circuit clerks or former
8 circuit clerk deputies, or political subdivision or instrumentality, including school
9 boards, charter county government, or urban-county government participating in the
10 system by order appropriate to its governmental structure, as provided in KRS
11 78.530, and if the board is willing to accept the agency, organization, or
12 corporation, the board being hereby granted the authority to determine the eligibility
13 of the agency to participate;

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

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

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

25 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected

1 officials of a county, or any authority of the county having the power to appoint or
2 elect an employee to office or employment in the county;
3 (8) "Member" means any employee who is included in the membership of the system or
4 any former employee whose membership has not been terminated under KRS
5 61.535;
6 (9) "Service" means the total of current service and prior service as defined in this
7 section;
8 (10) "Current service" means the number of years and months of employment as an
9 employee, on and after July 1, 1958, for which creditable compensation is paid and
10 employee contributions deducted, except as otherwise provided;
11 (11) "Prior service" means the number of years and completed months, expressed as a
12 fraction of a year, of employment as an employee, prior to July 1, 1958, for which
13 creditable compensation was paid. An employee shall be credited with one (1)
14 month of prior service only in those months he received compensation for at least
15 one hundred (100) hours of work. Twelve (12) months of current service in the
16 system shall be required to validate prior service;
17 (12) "Accumulated contributions" means the sum of all amounts deducted from the
18 compensation of a member and credited to his individual account in the members'
19 contribution account, including employee contributions picked up after August 1,
20 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts,
21 and any other amounts the member shall have contributed thereto, including interest
22 credited thereon;
23 (13) "Creditable compensation" means all salary, wages, and fees, including payments
24 for compensatory time, paid to the employee as a result of services performed for
25 the employer or for time during which the member is on paid leave, which are
26 includable on the member's federal form W-2 wage and tax statement under the
27 heading "wages, tips, other compensation", including employee contributions

1 picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus,
2 severance pay, or employer-provided payment for purchase of service credit shall be
3 included as creditable compensation but shall be averaged over the employee's
4 service with the system in which it is recorded if it is equal to or greater than one
5 thousand dollars ($1,000). If compensation includes maintenance and other
6 perquisites, the board shall fix the value of that part of the compensation not paid in
7 money. Living allowances, expense reimbursements, lump-sum payments for
8 accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other
9 items determined by the board shall be excluded. Creditable compensation shall
10 also include amounts that are not includable in the member's gross income by virtue
11 of the member having taken a voluntary salary reduction provided for under
12 applicable provisions of the Internal Revenue Code. Creditable compensation shall
13 also include elective amounts for qualified transportation fringes paid or made
14 available on or after January 1, 2001, for calendar years on or after January 1, 2001,
15 that are not includable in the gross income of the employee by reason of 26 U.S.C.
16 sec. 132(f)(4). For employees who begin participating on or after September 1,
17 2008, creditable compensation shall not include payments for compensatory time;
18 (14) "Final compensation" means:
19 (a) For a member who begins participating before September 1, 2008, who is not
20 employed in a hazardous position, as provided in KRS 61.592, the creditable
21 compensation of the member during the five (5) fiscal years he was paid at the
22 highest average monthly rate divided by the number of months of service
23 credit during that five (5) year period multiplied by twelve (12). The five (5)
24 years may be fractional and need not be consecutive. If the number of months
25 of service credit during the five (5) year period is less than forty-eight (48),
26 one (1) or more additional fiscal years shall be used;
27 (b) For a member who is not employed in a hazardous position, as provided in

1 KRS 61.592, whose effective retirement date is between August 1, 2001, and
2 January 1, 2009, and whose total service credit is at least twenty-seven (27)
3 years and whose age and years of service total at least seventy-five (75), final
4 compensation means the creditable compensation of the member during the
5 three (3) fiscal years the member was paid at the highest average monthly rate
6 divided by the number of months of service credit during that three (3) year
7 period multiplied by twelve (12). The three (3) years may be fractional and
8 need not be consecutive. If the number of months of service credit during the
9 three (3) year period is less than twenty-four (24), one (1) or more additional
10 fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the
11 funding for this paragraph shall be provided from existing funds of the
12 retirement allowance;
13 (c) For a member who begins participating before September 1, 2008, who is
14 employed in a hazardous position, as provided in KRS 61.592, the creditable
15 compensation of the member during the three (3) fiscal years he was paid at
16 the highest average monthly rate divided by the number of months of service
17 credit during that three (3) year period multiplied by twelve (12). The three (3)
18 years may be fractional and need not be consecutive. If the number of months
19 of service credit during the three (3) year period is less than twenty-four (24),
20 one (1) or more additional fiscal years shall be used;
21 (d) For a member who begins participating on or after September 1, 2008, who is
22 not employed in a hazardous position, as provided in KRS 61.592, the
23 creditable compensation of the member during the five (5) complete fiscal
24 years immediately preceding retirement divided by five (5). Each fiscal year
25 used to determine final compensation must contain twelve (12) months of
26 service credit; or
27 (e) For a member who begins participating on or after September 1, 2008, who is

1 employed in a hazardous position, as provided in KRS 61.592, the creditable
2 compensation of the member during the three (3) complete fiscal years he was
3 paid at the highest average monthly rate divided by three (3). Each fiscal year
4 used to determine final compensation must contain twelve (12) months of
5 service credit;
6 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
7 calculated during the twelve (12) month period immediately preceding the
8 member's effective retirement date, and shall include employee contributions picked
9 up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to
10 the system by the employer and the following equivalents shall be used to convert
11 the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
12 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half
13 (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve
14 (12) months, one (1) year;
15 (16) "Retirement allowance" means the retirement payments to which a member is
16 entitled;
17 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
18 basis of the actuarial tables as are from time to time adopted by the board, except in
19 case of disability retirement, the options authorized by KRS 61.635 shall be
20 computed by adding ten (10) years to the age of the member. No disability
21 retirement option shall be less than the same option computed under early
22 retirement;
23 (18) "Normal retirement date" means the sixty-fifth birthday of a member unless
24 otherwise provided in KRS 78.510 to 78.852;
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;
27 (20) "Agency reporting official" means the person designated by the participating agency

1 who shall be responsible for forwarding all employer and employee contributions
2 and a record of the contributions to the system and for performing other
3 administrative duties pursuant to the provisions of KRS 78.510 to 78.852;
4 (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean
5 all positions that average one hundred (100) or more hours per month, determined
6 by using the number of hours actually worked in a calendar or fiscal year, or eighty
7 (80) or more hours per month in the case of noncertified employees of school
8 boards, determined by using the number of hours actually worked in a calendar or
9 school year, unless otherwise specified, except:
10 (a) Seasonal positions, which although temporary in duration, are positions which
11 coincide in duration with a particular season or seasons of the year and that
12 may recur regularly from year to year, in which case the period of time shall
13 not exceed ***nine (9) months, except for employees of school boards, in which***
14 ***case the period of time shall not exceed*** six (6) months[~~ in any event~~];
15 (b) Emergency positions that are positions that do not exceed thirty (30) working
16 days and are nonrenewable;
17 (c) Temporary, also referred to as probationary, positions that are positions of
18 employment with a participating agency for a period of time not to exceed
19 twelve (12) months and not renewable; or
20 (d) Part-time positions that are positions that may be permanent in duration, but
21 that require less than a calendar or fiscal year average of one hundred (100)
22 hours of work per month, determined by using the number of months actually
23 worked within a calendar or fiscal year, in the performance of duty, except in
24 case of noncertified employees of school boards, the school term average shall
25 be eighty (80) hours of work per month, determined by using the number of
26 months actually worked in a calendar or school year, in the performance of
27 duty;

1 (22) "Alternate participation plan" means a method of participation in the system as
2 provided for by KRS 78.530(3);
3 (23) "Retired member" means any former member receiving a retirement allowance or
4 any former member who has on file at the retirement office the necessary
5 documents for retirement benefits and is no longer contributing to the system;
6 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
7 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
8 pay. The rate shall be certified by the employer;
9 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the
10 member in accordance with KRS 61.542 or 61.705 to receive any available benefits
11 in the event of the member's death. As used in KRS 61.702, beneficiary shall not
12 mean an estate, trust, or trustee;
13 (26) "Recipient" means the retired member, the person or persons designated as
14 beneficiary by the member and drawing a retirement allowance as a result of the
15 member's death, or a dependent child drawing a retirement allowance. An alternate
16 payee of a qualified domestic relations order shall be considered a recipient only for
17 purposes of KRS 61.691;
18 (27) "Person" means a natural person;
19 (28) "School term or year" means the twelve (12) months from July 1 through the
20 following June 30;
21 (29) "Retirement office" means the Kentucky Retirement Systems office building in
22 Frankfort;
23 (30) "Delayed contribution payment" means an amount paid by an employee for current
24 service obtained under KRS 61.552. The amount shall be determined using the
25 same formula in KRS 61.5525, except the determination of the actuarial cost for
26 classified employees of a school board shall be based on their final compensation,
27 and the payment shall not be picked up by the employer. A delayed contribution

1 payment shall be deposited to the member's contribution account and considered as
2 accumulated contributions of the individual member. In determining payments
3 under this subsection, the formula found in this subsection shall prevail over the one
4 found in KRS 212.434;
5 (31) "Participating" means an employee is currently earning service credit in the system
6 as provided in KRS 78.615; and
7 (32) "Month" means a calendar month.

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date March 24, 2009