GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

HOUSE BILL NO. 281

FRIDAY, MARCH 11, 2016

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

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

1 AN ACT relating to retirement benefits for local elected officials.

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

3 ➔Section 1. KRS 61.637 is amended to read as follows:

4 (1) A retired member who is receiving monthly retirement payments under any of the
5 provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed
6 as an employee by a participating agency prior to August 1, 1998, shall have his
7 retirement payments suspended for the duration of reemployment. Monthly
8 payments shall not be suspended for a retired member who is reemployed if he
9 anticipates that he will receive less than the maximum permissible earnings as
10 provided by the Federal Social Security Act in compensation as a result of
11 reemployment during the calendar year. The payments shall be suspended at the
12 beginning of the month in which the reemployment occurs.

13 (2) Employer and employee contributions shall be made as provided in KRS 61.510 to
14 61.705 and 78.510 to 78.852 on the compensation paid during reemployment,
15 except where monthly payments were not suspended as provided in subsection (1)
16 of this section or would not increase the retired member's last monthly retirement
17 allowance by at least one dollar ($1), and the member shall be credited with
18 additional service credit.

19 (3) In the month following the termination of reemployment, retirement allowance
20 payments shall be reinstated under the plan under which the member was receiving
21 payments prior to reemployment.

22 (4) (a) Notwithstanding the provisions of this section, the payments suspended in
23 accordance with subsection (1) of this section shall be paid retroactively to the
24 retired member, or his estate, if he does not receive more than the maximum
25 permissible earnings as provided by the Federal Social Security Act in
26 compensation from participating agencies during any calendar year of
27 reemployment.

1 (b) If the retired member is paid suspended payments retroactively in accordance
2 with this section, employee contributions deducted during his period of
3 reemployment, if any, shall be refunded to the retired employee, and no
4 service credit shall be earned for the period of reemployment.
5 (c) If the retired member is not eligible to be paid suspended payments for his
6 period of reemployment as an employee, his retirement allowance shall be
7 recomputed under the plan under which the member was receiving payments
8 prior to reemployment as follows:
9 1. The retired member's final compensation shall be recomputed using
10 creditable compensation for his period of reemployment; however, the
11 final compensation resulting from the recalculation shall not be less than
12 that of the member when his retirement allowance was last determined;
13 2. If the retired member initially retired on or subsequent to his normal
14 retirement date, his retirement allowance shall be recomputed by using
15 the formula in KRS 61.595(1);
16 3. If the retired member initially retired prior to his normal retirement date,
17 his retirement allowance shall be recomputed using the formula in KRS
18 61.595(2), except that the member's age used in computing benefits shall
19 be his age at the time of his initial retirement increased by the number of
20 months of service credit earned for service performed during
21 reemployment;
22 4. The retirement allowance payments resulting from the recomputation
23 under this subsection shall be payable in the month following the
24 termination of reemployment in lieu of payments under subparagraph 3.
25 The member shall not receive less in benefits as a result of the
26 recomputation than he was receiving prior to reemployment or would
27 receive as determined under KRS 61.691; and

1 5. Any retired member who was reemployed prior to March 26, 1974, shall
2 begin making contributions to the system in accordance with the
3 provisions of this section on the first day of the month following March
4 26, 1974.
5 (5) A retired member, or his estate, shall pay to the retirement fund the total amount of
6 payments which are not suspended in accordance with subsection (1) of this section
7 if the member received more than the maximum permissible earnings as provided
8 by the Federal Social Security Act in compensation from participating agencies
9 during any calendar year of reemployment, except the retired member or his estate
10 may repay the lesser of the total amount of payments which were not suspended or
11 fifty cents ($0.50) of each dollar earned over the maximum permissible earnings
12 during reemployment if under age sixty-five (65), or one dollar ($1) for every three
13 dollars ($3) earned if over age sixty-five (65).
14 (6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a
15 retired member who has been ordered reinstated by the Personnel Board under
16 authority of KRS 18A.095.
17 (b) A retired member who has been ordered reinstated by the Personnel Board
18 under authority of KRS 18A.095 or by court order or by order of the Human
19 Rights Commission and accepts employment by an agency participating in the
20 Kentucky Employees Retirement System or County Employees Retirement
21 System shall void his retirement by reimbursing the system in the full amount
22 of his retirement allowance payments received.
23 (7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this
24 section shall no longer apply to a retired member who is reemployed in a
25 position covered by the same retirement system from which the member
26 retired. Reemployed retired members shall be treated as new members upon
27 reemployment. Any retired member whose reemployment date preceded

1 August 1, 1998, who does not elect, within sixty (60) days of notification by
2 the retirement systems, to remain under the provisions of subsections (1) to
3 (4) of this section shall be deemed to have elected to participate under this
4 subsection.
5 (b) A retired member whose disability retirement was discontinued pursuant to
6 KRS 61.615 and who is reemployed in one (1) of the systems administered by
7 the Kentucky Retirement Systems prior to his or her normal retirement date
8 shall have his or her accounts combined upon termination for determining
9 eligibility for benefits. If the member is eligible for retirement, the member's
10 service and creditable compensation earned as a result of his or her
11 reemployment shall be used in the calculation of benefits, except that the
12 member's final compensation shall not be less than the final compensation last
13 used in determining his or her retirement allowance. The member shall not
14 change beneficiary or payment option designations. This provision shall apply
15 to members reemployed on or after August 1, 1998.
16 (8) A retired member or his employer shall notify the retirement system if he has
17 accepted employment with an agency that participates in the retirement system from
18 which the member retired.
19 (9) If the retired member is under a contract, the member shall submit a copy of that
20 contract to the retirement system, and the retirement system shall determine if the
21 member is an independent contractor for purposes of retirement benefits.
22 (10) If a member is receiving a retirement allowance, or has filed the forms required for
23 a retirement allowance, and is employed within one (1) month of the member's
24 initial retirement date in a position that is required to participate in the same
25 retirement system from which the member retired, the member's retirement shall be
26 voided and the member shall repay to the retirement system all benefits received.
27 The member shall contribute to the member account established for him prior to his

1 voided retirement. The retirement allowance for which the member shall be eligible
2 upon retirement shall be determined by total service and creditable compensation.
3 (11) (a) If a member of the Kentucky Employees Retirement System retires from a
4 department which participates in more than one (1) retirement system and is
5 reemployed within one (1) month of his initial retirement date by the same
6 department in a position participating in another retirement system, the retired
7 member's retirement allowance shall be suspended for the first month of his
8 retirement and the member shall repay to the retirement system all benefits
9 received for the month.
10 (b) A retired member of the County Employees Retirement System who after
11 initial retirement is hired by the county from which the member retired shall
12 be considered to have been hired by the same employer.
13 (12) (a) If a hazardous member who retired prior to age fifty-five (55), or a
14 nonhazardous member who retired prior to age sixty-five (65), is reemployed
15 within six (6) months of the member's termination by the same employer, the
16 member shall obtain from his previous and current employers a copy of the
17 job description established by the employers for the position and a statement
18 of the duties performed by the member for the position from which he retired
19 and for the position in which he has been reemployed.
20 (b) The job descriptions and statements of duties shall be filed with the retirement
21 office.
22 (13) If the retirement system determines that the retired member has been employed in a
23 position with the same principal duties as the position from which the member
24 retired:
25 (a) The member's retirement allowance shall be suspended during the period that
26 begins on the month in which the member is reemployed and ends six (6)
27 months after the member's termination;

1 (b) The retired member shall repay to the retirement system all benefits paid from
2 systems administered by Kentucky Retirement Systems under reciprocity,
3 including medical insurance benefits, that the member received after
4 reemployment began;
5 (c) Upon termination, or subsequent to expiration of the six (6) month period
6 from the date of termination, the retired member's retirement allowance based
7 on his initial retirement account shall no longer be suspended and the member
8 shall receive the amount to which he is entitled, including an increase as
9 provided by KRS 61.691;
10 (d) Except as provided in subsection (7) of this section, if the position in which a
11 retired member is employed after initial retirement is a regular full-time
12 position, the retired member shall contribute to a second member account
13 established for him in the retirement system. Service credit gained after the
14 member's date of reemployment shall be credited to the second member
15 account; and
16 (e) Upon termination, the retired member shall be entitled to benefits payable
17 from his second retirement account.
18 (14) (a) If the retirement system determines that the retired member has not been
19 reemployed in a position with the same principal duties as the position from
20 which he retired, the retired member shall continue to receive his retirement
21 allowance.
22 (b) If the position is a regular full-time position, the member shall contribute to a
23 second member account in the retirement system.
24 (15) (a) If a retired member is reemployed at least one (1) month after initial
25 retirement in a different position, or at least six (6) months after initial
26 retirement in the same position, and prior to normal retirement age, the retired
27 member shall contribute to a second member account in the retirement system

1 and continue to receive a retirement allowance from the first member account.
2 (b) Service credit gained after reemployment shall be credited to the second
3 member account. Upon termination, the retired member shall be entitled to
4 benefits payable from the second member account.
5 (16) A retired member who is reemployed and contributing to a second member account
6 shall not be eligible to purchase service credit under any of the provisions of KRS
7 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he was eligible to
8 purchase prior to his initial retirement.
9 (17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this
10 section, the following shall apply to retired members who are reemployed by an
11 agency participating in one (1) of the systems administered by Kentucky Retirement
12 Systems on or after September 1, 2008:
13 (a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is
14 receiving a retirement allowance from one (1) of the systems administered by
15 Kentucky Retirement Systems, or has filed the forms required to receive a
16 retirement allowance from one (1) of the systems administered by Kentucky
17 Retirement Systems, and is employed in a regular full-time position required
18 to participate in one (1) of the systems administered by Kentucky Retirement
19 Systems or is employed in a position that is not considered regular full-time
20 with an agency participating in one (1) of the systems administered by
21 Kentucky Retirement Systems within three (3) months following the member's
22 initial retirement date, the member's retirement shall be voided, and the
23 member shall repay to the retirement system all benefits received, including
24 any health insurance benefits. If the member is returning to work in a regular
25 full-time position required to participate in one (1) of the systems
26 administered by Kentucky Retirement Systems:
27 1. The member shall contribute to a member account established for him or

1 her in one (1) of the systems administered by Kentucky Retirement
2 Systems, and employer contributions shall be paid on behalf of the
3 member by the participating employer; and
4 2. Upon subsequent retirement, the member shall be eligible for a
5 retirement allowance based upon total service and creditable
6 compensation, including any additional service or creditable
7 compensation earned after his or her initial retirement was voided;
8 (b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is
9 receiving a retirement allowance from one (1) of the systems administered by
10 Kentucky Retirement Systems and is employed in a regular full-time position
11 required to participate in one (1) of the systems administered by Kentucky
12 Retirement Systems after a three (3) month period following the member's
13 initial retirement date, the member may continue to receive his or her
14 retirement allowance during the period of reemployment subject to the
15 following provisions:
16 1. Both the employee and participating agency shall certify in writing on a
17 form prescribed by the board that no prearranged agreement existed
18 between the employee and agency prior to the employee's retirement for
19 the employee to return to work with the participating agency. If an
20 elected official is reelected to a new term of office in the same position
21 and retires following the election but prior to taking the new term of
22 office, he or she shall be deemed by the system as having a prearranged
23 agreement under the provisions of this subparagraph and shall have his
24 or her retirement voided. If the participating agency or employer fail to
25 complete the certification, the member's retirement shall be voided and
26 the provisions of paragraph (a) of this subsection shall apply to the
27 member and the employer;

1 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to
2 the contrary, the member shall not contribute to the systems and shall
3 not earn any additional benefits for any work performed during the
4 period of reemployment;
5 3. Except as provided by KRS 70.291 to 70.293, the employer shall pay
6 employer contributions as specified by KRS 61.565 and 61.702 on all
7 creditable compensation earned by the employee during the period of
8 reemployment. The additional contributions paid shall be used to reduce
9 the unfunded actuarial liability of the systems; and
10 4. Except as provided by KRS 70.291 to 70.293, the employer shall be
11 required to reimburse the systems for the cost of the health insurance
12 premium paid by the systems to provide coverage for the retiree, not to
13 exceed the cost of the single premium. Effective July 1, 2015, local
14 school boards shall not be required to pay the reimbursement required by
15 this subparagraph for retirees employed by the board for eighty (80) days
16 or less during the fiscal year;
17 (c) If a member is receiving a retirement allowance from the State Police
18 Retirement System or from hazardous duty retirement coverage with the
19 Kentucky Employees Retirement System or the County Employees Retirement
20 System, or has filed the forms required to receive a retirement allowance from
21 the State Police Retirement System or from hazardous duty retirement
22 coverage with the Kentucky Employees Retirement System or the County
23 Employees Retirement System, and is employed in a regular full-time position
24 required to participate in the State Police Retirement System or in a hazardous
25 duty position with the Kentucky Employees Retirement System or the County
26 Employees Retirement System within one (1) month following the member's
27 initial retirement date, the member's retirement shall be voided, and the

1 member shall repay to the retirement system all benefits received, including
2 any health insurance benefits. If the member is returning to work in a regular
3 full-time position required to participate in one (1) of the systems
4 administered by Kentucky Retirement Systems:
5 1. The member shall contribute to a member account established for him or
6 her in one (1) of the systems administered by Kentucky Retirement
7 Systems, and employer contributions shall be paid on behalf of the
8 member by the participating employer; and
9 2. Upon subsequent retirement, the member shall be eligible for a
10 retirement allowance based upon total service and creditable
11 compensation, including any additional service or creditable
12 compensation earned after his or her initial retirement was voided;~~[and]~~
13 (d) If a member is receiving a retirement allowance from the State Police
14 Retirement System or from hazardous duty retirement coverage with the
15 Kentucky Employees Retirement System or the County Employees Retirement
16 System and is employed in a regular full-time position required to participate
17 in the State Police Retirement System or in a hazardous duty position with the
18 Kentucky Employees Retirement System or the County Employees Retirement
19 System after a one (1) month period following the member's initial retirement
20 date, the member may continue to receive his or her retirement allowance
21 during the period of reemployment subject to the following provisions:
22 1. Both the employee and participating agency shall certify in writing on a
23 form prescribed by the board that no prearranged agreement existed
24 between the employee and agency prior to the employee's retirement for
25 the employee to return to work with the participating agency. If an
26 elected official is reelected to a new term of office in the same position
27 and retires following the election but prior to taking the new term of

1 office, he or she shall be deemed by the system as having a prearranged
2 agreement under the provisions of this subparagraph and shall have his
3 or her retirement voided. If the participating agency or employer fail to
4 complete the certification, the member's retirement shall be voided and
5 the provisions of paragraph (c) of this subsection shall apply to the
6 member and the employer;
7 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to
8 the contrary, the member shall not contribute to the systems and shall
9 not earn any additional benefits for any work performed during the
10 period of reemployment;
11 3. Except as provided by KRS 70.291 to 70.293, the employer shall pay
12 employer contributions as specified by KRS 61.565 and 61.702 on all
13 creditable compensation earned by the employee during the period of
14 reemployment. The additional contributions paid shall be used to reduce
15 the unfunded actuarial liability of the systems; and
16 4. Except as provided by KRS 70.291 to 70.293, the employer shall be
17 required to reimburse the systems for the cost of the health insurance
18 premium paid by the systems to provide coverage for the retiree, not to
19 exceed the cost of the single premium***; and***
20 ***(e) Notwithstanding any provision of this section, any mayor or member of a***
21 ***city legislative body who has not participated in the County Employees***
22 ***Retirement System prior to retirement, but who is otherwise eligible to retire***
23 ***from the Kentucky Employees Retirement System or the State Police***
24 ***Retirement System, shall not be:***
25 ***1. Required to resign from his or her position as mayor or as a member***
26 ***of the city legislative body in order to begin drawing benefits from the***
27 ***Kentucky Employees Retirement System or the State Police Retirement***

1 ***System; or***

2 ***2. Subject to any provision of this section as it relates solely to his or her***

3 ***service as a mayor or member of the city legislative body.***

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date 8 APRIL 2016