GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2021 REGULAR SESSION

SENATE BILL NO. 214

AS ENACTED

TUESDAY, MARCH 16, 2021

RECEIVED AND FILED
DATE 3/17/21
1:45pm
MICHAEL G. ADAMS
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY

1 AN ACT relating to cessation of participation by Kentucky Employees Retirement
2 System employers, making an appropriation therefor, and declaring an emergency.
3 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***
4 ➔Section 1. KRS 61.522 (Effective until April 1, 2021) is amended to read as
5 follows:
6 Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to the
7 contrary:
8 (1) For purposes of this section:
9 (a) "Active member" means a member who is participating in the system;
10 (b) "Employer" means the governing body of a department, as defined by KRS
11 61.510, or a county as defined by KRS 78.510;
12 (c) "Employer's effective cessation date" means:
13 1. The last day of the system's plan year in the year in which the employer
14 has elected to cease participation in the system, provided the employer
15 has met the requirements of this section and has given the Kentucky
16 Retirement Systems sufficient notice as provided by administrative
17 regulations promulgated by the systems; or
18 2. For Kentucky Employees Retirement System employers making an
19 election to cease participating under the provisions of subsection (8) of
20 this section, it shall be June 30, 2021; and
21 (d) "Inactive member" means a member who is not participating with the system;
22 (2) Any employer participating in the Kentucky Employees Retirement System or the
23 County Employees Retirement System on July 1, 2015, except as limited by
24 subsection (6) of this section, may:
25 (a) Voluntarily cease participation in its respective retirement system subject to
26 the requirements and restrictions of this section;
27 (b) Be required to involuntarily cease participation in the system under the

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1 provisions of this section if the board has determined the employer is no
2 longer qualified to participate in a governmental plan or has failed to comply
3 with the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852; or
4 (c) If the employer is participating in the Kentucky Employees Retirement
5 System, request an estimate of the cost of voluntarily ceasing participation in
6 the system prior to officially making a request to cease participation. For those
7 Kentucky Employees Retirement System nonhazardous employers who are
8 considering ceasing participating in the system under the provisions of
9 subsection (8) of this section on June 30, 2021, the request for an estimate to
10 voluntarily cease participating must be made prior to December 31, 2019, and
11 the estimate shall be provided to that employer within sixty (60) days of the
12 request, except that no estimate shall be required to be provided prior to
13 January 31, 2020;
14 (3) (a) If an employer desires to voluntarily cease participation in the Kentucky
15 Employees Retirement System or the County Employees Retirement System
16 as provided by subsection (2)(a) of this section:
17 1. The employer shall adopt a resolution requesting to cease participation
18 in the system and shall submit the resolution to the board for its
19 approval. The board shall not be able to deny a resolution to cease
20 participation in the Kentucky Employees Retirement System for any
21 employer who seeks to voluntarily cease participation in the system as
22 provided by subsection (8) of this section;
23 2. Except as provided by subsection (8)(d) of this section, the cessation of
24 participation in the system shall apply to all employees of the employer;
25 3. The employer shall pay for all administrative costs of an actuarial study
26 to be completed by the Kentucky Retirement Systems' consulting actuary
27 and for any other administrative costs for discontinuing participation in

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

1 employer makes an election for employees to continue to participate in
2 the system as provided by subsection (8)(d)2. of this section, the cost
3 shall also include the present value of future normal costs of those
4 employees who will continue to participate in the system after the
5 employer's effective cessation date. The full actuarial cost shall not
6 include any employee who seeks a transfer of his or her account balance
7 within sixty (60) days of the employer's effective cessation date as
8 provided by subparagraph 5. of this paragraph. The actuarial cost shall
9 be fixed, and the employer shall not be subject to any increases or
10 subsequent adjustments, once the lump sum is paid or the installment
11 payments have commenced; and
12 7. Kentucky Employees Retirement System employers ceasing
13 participating under the provisions of subsection (8) of this section who
14 elect to pay their actuarial costs by a lump sum shall ***pay***~~[make]~~ the
15 ***entire costs***~~[full lump-sum payment]~~***, in one (1) or more payments, so***
16 ***that the full actuarial costs are paid*** by June 30, 2022.~~[, and shall pay]~~
17 Interest on the ***unpaid*** principal amount ***of the full actuarial costs shall***
18 ***begin***~~[beginning]~~ on July 1, 2021, ***and accrue***~~[equal to a rate of five and~~
19 ~~one-quarter percent (5.25%) per annum for pension costs and at a rate of~~
20 ~~six and one-quarter percent (6.25%) per annum for retiree health costs]~~
21 until the ***full actuarial costs are paid***~~[lump-sum payment is made]~~. ***If***
22 ***the ceasing employer makes a payment prior to July 1, 2021, the***
23 ***ceasing employer shall receive a credit against their full actuarial***
24 ***costs to be determined as of June 30, 2021, that is equal to the amount***
25 ***of the prior payment plus interest for the period beginning on the date***
26 ***of the prior payment and ending on June 30, 2021. If a final payment***
27 ***is due by June 30, 2022, for an employer who has made a payment or***

1 ***payments on or before June 30, 2021, it shall be equal to any unpaid***
2 ***actuarial costs due plus interest as of the date of final payment. If the***
3 ***payment or payments made by the ceasing employer exceed the final***
4 ***full actuarial costs of ceasing participation, the employer shall by***
5 ***June 30, 2022, be refunded an amount equal to the overpayment plus***
6 ***interest for the period beginning on the date of the overpayment and***
7 ***ending on the date the refund is paid to the employer.*** If the ceasing
8 employer fails to make the full lump-sum payment by June 30, 2022, the
9 ceasing employer shall make installments as provided by subsection
10 (8)(g) of this section, and the ceasing employer shall have the costs
11 recalculated based upon making installment payments as provided by
12 this section and shall be required to make up any missed installment
13 payments as determined by the system. ***For purposes of this***
14 ***subparagraph, "interest" shall be equal to a rate of five and one-***
15 ***quarter percent (5.25%) per annum for pension costs and at a rate of***
16 ***six and one-quarter percent (6.25%) per annum for retiree health***
17 ***costs.***
18 (b) If the board determines an employer must involuntarily cease participation in
19 the system as provided by subsection (2)(b) of this section:
20 1. The cessation of participation in the system shall apply to all employees
21 of the employer;
22 2. The employer shall pay for all administrative costs of an actuarial study
23 to be completed by the Kentucky Retirement Systems' consulting actuary
24 and for any other administrative costs for discontinuing participation in
25 the system as determined by the board and as provided by this section;
26 and
27 3. The employer shall pay by lump sum to the system the full actuarial cost

1 of the benefits accrued by its current and former employees in the
2 system as determined separately for the pension fund and the insurance
3 fund by the actuarial study required by subparagraph 2. of this
4 paragraph. The actuarial cost shall be fixed, and the employer shall not
5 be subject to any increases or subsequent adjustments, once the lump
6 sum is paid.
7 A Kentucky Employees Retirement System employer who ceases participation
8 in the systems under this paragraph shall not establish or contribute to on
9 behalf of its employees a defined benefit plan which by its nature can have an
10 unfunded liability;
11 (4) Any employee hired on or after the employer's effective cessation date by an
12 employer who has ceased participation in the system as provided by this section
13 shall not, regardless of his or her membership date in the systems administered by
14 Kentucky Retirement Systems, be eligible to participate in the Kentucky Employees
15 Retirement System or the County Employees Retirement System through the
16 employer that ceased participation for the duration of his or her employment with
17 that employer;
18 (5) If an employer has ceased participation in the system as provided by this section:
19 (a) The rights of recipients and the vested rights of inactive members accrued as
20 of the employer's effective cessation date shall not be impaired or reduced in
21 any manner as a result of the employer ceasing participation in the system; and
22 (b) Except as provided by subsection (8)(d)2. of this section, employees of the
23 employer ceasing participation shall accrue benefits through the employer's
24 effective cessation date but shall not accrue any additional benefits in the
25 Kentucky Employees Retirement System or the County Employees Retirement
26 System, including earning years of service credit through the ceased employer,
27 after the employer's effective cessation date for as long as they remain

1 employed by the employer. The day after the employer's effective cessation
2 date, each employee described by this paragraph, except as provided by
3 subsection (8)(d)2. of this section, shall be considered an inactive member
4 with respect to his or her employment with the employer that ceased
5 participation and, subject to the provisions and limitations of KRS 61.510 to
6 61.705 and 78.510 to 78.852, shall:
7 1. Retain his or her accounts with the Kentucky Employees Retirement
8 System or the County Employees Retirement System and have those
9 accounts credited with interest in accordance with KRS 61.510 to
10 61.705 and 78.510 to 78.852;
11 2. Retain his or her vested rights in accordance with paragraph (a) of this
12 subsection; and
13 3. Be eligible to take a refund of his or her accumulated account balance in
14 accordance with KRS 61.625 or any other available distribution if
15 eligible;
16 (6) (a) Kentucky Employees Retirement System employers who are county attorney
17 offices, Commonwealth's attorney offices, local and district health
18 departments governed by KRS Chapter 212, master commissioners, executive
19 branch agencies whose employees are subject to KRS 18A.005 to 18A.200,
20 state-administered retirement systems, state-supported universities and
21 community colleges, property valuation administration offices, or employers
22 in the legislative or judicial branch of Kentucky state government, shall not be
23 eligible to voluntarily discontinue participation in the Kentucky Employees
24 Retirement System, except that:
25 1. Any employer who is a nonstock nonprofit corporation organized under
26 KRS Chapter 273 may voluntarily cease participation; and
27 2. Local and district health departments governed by KRS Chapter 212,

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

1 subsection (8) of this section who pay the costs of ceasing participation by
2 lump-sum payment by June 30, 2022, and who do make an election for
3 employees to continue to participate in the system after the employer's
4 effective cessation date as provided by subsection (8)(d)2. of this section;
5 (d) Three and one-half percent (3.5%) for those Kentucky Employees Retirement
6 System employers who voluntarily cease participation under the provisions of
7 subsection (8) of this section who pay the costs of ceasing participation by
8 installment payments and who do not make an election for employees to
9 continue to participate in the system after the employer's effective cessation
10 date as provided by subsection (8)(d)3. of this section; or
11 (e) Three percent (3%) for those Kentucky Employees Retirement System
12 employers who voluntarily cease participation under the provisions of
13 subsection (8) of this section who pay the costs of ceasing participation by
14 installment payments and who do make an election for employees to continue
15 to participate in the system after the employer's effective cessation date as
16 provided by subsection (8)(d)2. of this section;
17 (8) Notwithstanding the provisions of this section, any Kentucky Employees
18 Retirement System employer who is eligible to voluntarily cease participating as
19 provided by subsection (6) of this section may, on or after April 1, 2020, but prior to
20 May 1, 2021, except that in the case of university or community college employers
21 it shall be prior to January 1, 2021, elect to voluntarily cease participating in the
22 systems for its nonhazardous employees by submitting a resolution in accordance
23 with subsection (3)(a)1. of this section. If an employer makes an election to
24 voluntarily cease participation by submitting a resolution as provided by this
25 subsection:
26 (a) The board shall accept any election to cease participation on or before June
27 30, 2021, and the employer's effective cessation date shall be June 30, 2021.

1 Prior to May 1, 2021, or January 1, 2021, in the case of university or
2 community college employers, the employer may rescind a previously
3 submitted election to cease participation;
4 (b) Nonhazardous employees hired on or after the employer's effective cessation
5 date by an employer who has ceased participation in the system as provided by
6 this section shall not, regardless of his or her membership date in the systems
7 administered by Kentucky Retirement Systems, be eligible to participate in the
8 Kentucky Employees Retirement System through the employer that ceased
9 participation for the duration of his or her employment with that ceasing
10 employer;
11 (c) Nonhazardous employees hired prior to the employer's effective cessation
12 date, who began participating in the systems administered by Kentucky
13 Retirement Systems on or after January 1, 2014, and who are participating in
14 the hybrid cash balance plan as provided by KRS 61.597, shall continue to
15 contribute and earn service credit in the systems through the employer's
16 effective cessation date. After the employer's effective cessation date, the
17 employee shall participate in the alternative retirement plan established by the
18 employer as provided by subsection (3)(a)4. of this section. A nonhazardous
19 employee covered by this paragraph who elects to transfer his or her account
20 balance within sixty (60) days of the employer's effective cessation date as
21 provided by subsection (3)(a)5. of this section, shall, notwithstanding KRS
22 61.597, receive a transfer of the employee's accumulated account balance,
23 including the entire accumulated employer credit, regardless of the employee's
24 years of service credit;
25 (d) 1. The employer shall, in the resolution submitted in accordance with
26 subsection (3)(a)1. of this section, make an election as to whether or not
27 nonhazardous employees hired prior to the employer's effective

1 cessation date, who began participating in the systems administered by
2 Kentucky Retirement Systems prior to January 1, 2014, who are
3 participating in the systems administered by Kentucky Retirement
4 Systems through the employer, will continue to participate in the system
5 after the employer's effective cessation date.
6 2. If the employer makes an election for the employees described by this
7 paragraph to continue participating in the system after the employer's
8 effective cessation date, these employees will continue to contribute and
9 earn service credit in the systems for as long as they remain employed by
10 the employer in a regular full-time position that is eligible to participate
11 in the systems, except in the event the employer fails to make
12 installment payments as provided by KRS 61.675(4). Any costs for the
13 present value of future normal costs of the employees covered by this
14 subparagraph who will contribute and earn service in the system after
15 the employer's effective cessation date shall be included in the cost
16 calculation established by subsection (7) of this section.
17 3. If the employer does not make an election for the employees described
18 by this paragraph to continue participating in the system after the
19 employer's effective cessation date, these employees shall continue to
20 contribute and earn service credit in the systems through the employer's
21 effective cessation date. After the employer's effective cessation date,
22 these employees shall participate in the alternative retirement plan
23 established by the employer as provided by subsection (3)(a)4. of this
24 section;
25 (e) The cost of ceasing participating to an individual employer shall be equal to
26 the cost determined under subsection (7) of this section and shall include the
27 costs of those employees who continue to participate in the system as

1 provided by paragraph (d)2. of this subsection;
2 (f) The employer may pay the full actuarial cost of ceasing participation by lump-
3 sum payment or in installments as provided by paragraph (g) of this
4 subsection;
5 (g) If the employer elects to pay the costs in installment payments, the cost of
6 ceasing participation as provided by this subsection shall be financed by the
7 systems using the following method:
8 1. Annual payments occurring on or after July 1, 2021, shall be a set dollar
9 value and shall be paid in monthly installments. In fiscal year 2021-
10 2022, the set dollar value shall be equal to the higher of the actual
11 contributions paid by the employer in fiscal year 2020-2021 or the
12 annualized average of the creditable compensation reported to the
13 systems by the ceasing employer over the last sixty (60) months
14 occurring prior to July 1, 2019, for which contributions were paid by the
15 ceasing employer, and multiplied by an employer rate of forty-nine and
16 forty-seven one-hundredths percent (49.47%). Annual payments, for
17 fiscal years occurring on or after July 1, 2022, which shall be paid
18 monthly, shall be increased by one and one-half percent (1.5%) annually
19 and shall be paid until the cost as provided by subsection (7) of this
20 section and as adjusted annually by subparagraphs 2. and 3. of this
21 paragraph are paid in full or until an employer as described by
22 subparagraph 4. of this paragraph has paid for thirty (30) years from the
23 effective cessation date;
24 2. Interest shall be assigned to the principal amount annually beginning on
25 July 1, 2021, and for each July 1 thereafter, that is equal to a rate of five
26 and one-quarter percent (5.25%) per annum for pension costs and at a
27 rate of six and one-quarter percent (6.25%) per annum for retiree health

costs;

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

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

1 needed by appropriation in the biennial executive branch budget.
2 An employer ceasing participation who is making installment payments as
3 provided by this paragraph may at any time pay off a portion of the remaining
4 balance or the entire remaining balance and shall not be charged any interest
5 for periods beyond the pay-off date for the balance that is paid off;
6 (h) Kentucky Employees Retirement System employers eligible to cease
7 participation under the provisions of this subsection who do not make an
8 election to cease participation in the system prior to May 1, 2021, or prior to
9 January 1, 2021, in the case of university and community college employers,
10 shall be required to pay the full actuarially determined contributions
11 established by KRS 61.565 and 61.702 for fiscal years occurring on or after
12 July 1, 2021; and
13 (i) Kentucky Employees Retirement System employers who elect to cease
14 participation in the system as provided by this subsection who are currently
15 receiving a distribution of general fund appropriations in the biennial
16 executive branch budget under the provisions of 2018 Ky. Acts ch. 169, Part I,
17 G., 4., (5), 2018 Ky. Acts ch. 169, Part I, G., 5., (2), or 2018 Ky. Acts ch. 169,
18 Part I, G., 9., (2) to help pay employer contributions to the system shall
19 continue to receive the same level of distribution of general fund
20 appropriations to help pay the costs of ceasing participation until such time
21 that the employer's full actuarial costs of ceasing participation are paid off;
22 (9) The Kentucky Retirement Systems shall promulgate administrative regulations
23 pursuant to KRS Chapter 13A to administer this section;
24 (10) (a) Any employer who voluntarily ceases participation, or who is required to
25 involuntarily cease participation as provided in this section, shall hold the
26 Commonwealth and the Kentucky Retirement Systems, including board
27 members and employees of the Kentucky Retirement Systems, harmless from

1 damages, attorney's fees and costs from legal claims for any cause of action
2 brought by any member or retired member of the departing employer related
3 to the employer's cessation of participation as set forth in this section.
4 (b) Any employer who is voluntarily ceasing participation under the provisions of
5 subsection (8) of this section shall be required to pledge any security in any
6 relevant real estate, chattel paper, deposit accounts, documents, goods covered
7 by documents, instruments, investment property, letters of credit rights, and
8 money to the costs of ceasing participation until all costs of ceasing
9 participation are paid in full; and
10 (11) Notwithstanding any other provision of statute to the contrary, the provisions of
11 KRS 61.510 to 61.705 and 78.510 to 78.852, and the administrative regulations
12 promulgated thereunder, shall prevail regarding any question of participation in the
13 systems of any employer or any employee of an employer who ceases participation
14 in the Kentucky Employees Retirement System.
15 ➔Section 2. KRS 61.522 (Effective April 1, 2021) is amended to read as follows:
16 Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to the
17 contrary:
18 (1) For purposes of this section:
19 (a) "Active member" means a member who is participating in the system;
20 (b) "Employer" means the governing body of a department, as defined by KRS
21 61.510;
22 (c) "Employer's effective cessation date" means:
23 1. The last day of the system's plan year in the year in which the employer
24 has elected to cease participation in the system, provided the employer
25 has met the requirements of this section and has given the Kentucky
26 Retirement Systems sufficient notice as provided by administrative
27 regulations promulgated by the systems; or

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

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

1 effective cessation date is an irrevocable waiver of the right to obtain
2 service credits in the system for the time worked for the employer
3 ceasing participation;
4 6. The employer shall pay to the system by lump sum or in installments as
5 provided by subsection (8) of this section, if eligible, the full actuarial
6 cost, except as provided by subsection (8)(g)4. of this section, of the
7 benefits accrued by its current and former employees in the system as
8 determined separately for the pension fund and the insurance fund by the
9 actuarial study required by subparagraph 3. of this paragraph. If the
10 employer makes an election for employees to continue to participate in
11 the system as provided by subsection (8)(d)2. of this section, the cost
12 shall also include the present value of future normal costs of those
13 employees who will continue to participate in the system after the
14 employer's effective cessation date. The full actuarial cost shall not
15 include any employee who seeks a transfer of his or her account balance
16 within sixty (60) days of the employer's effective cessation date as
17 provided by subparagraph 5. of this paragraph. The actuarial cost shall
18 be fixed, and the employer shall not be subject to any increases or
19 subsequent adjustments, once the lump sum is paid or the installment
20 payments have commenced; and
21 7. Kentucky Employees Retirement System employers ceasing
22 participating under the provisions of subsection (8) of this section who
23 elect to pay their actuarial costs by a lump sum shall ***pay***~~[make]~~ the
24 ***entire costs***~~[full lump sum payment]~~***, in one (1) or more payments, so***
25 ***that the full actuarial costs are paid*** by June 30, 2022.~~[, and shall pay]~~
26 Interest on the ***unpaid*** principal amount ***of the full actuarial costs shall***
27 ***begin***~~[beginning]~~ on July 1, 2021, ***and accrue***~~[equal to a rate of five and~~

1 ~~one-quarter percent (5.25%) per annum for pension costs and at a rate of~~
2 ~~six and one-quarter percent (6.25%) per annum for retiree health costs]~~
3 until the ***full actuarial costs are paid***[~~lump-sum payment is made~~]. ***If***
4 ***the ceasing employer makes a payment prior to July 1, 2021, the***
5 ***ceasing employer shall receive a credit against their full actuarial***
6 ***costs to be determined as of June 30, 2021, that is equal to the amount***
7 ***of the prior payment plus interest for the period beginning on the date***
8 ***of the prior payment and ending on June 30, 2021. If a final payment***
9 ***is due by June 30, 2022, for an employer who has made a payment or***
10 ***payments on or before June 30, 2021, it shall be equal to any unpaid***
11 ***actuarial costs due plus interest as of the date of final payment. If the***
12 ***payment or payments made by the ceasing employer exceed the final***
13 ***full actuarial costs of ceasing participation, the employer shall by***
14 ***June 30, 2022, be refunded an amount equal to the overpayment plus***
15 ***interest for the period beginning on the date of the overpayment and***
16 ***ending on the date the refund is paid to the employer.*** If the ceasing
17 employer fails to make the full lump-sum payment by June 30, 2022, the
18 ceasing employer shall make installments as provided by subsection
19 (8)(g) of this section, and the ceasing employer shall have the costs
20 recalculated based upon making installment payments as provided by
21 this section and shall be required to make up any missed installment
22 payments as determined by the system. ***For purposes of this***
23 ***subparagraph, "interest" shall be equal to a rate of five and one-***
24 ***quarter percent (5.25%) per annum for pension costs and at a rate of***
25 ***six and one-quarter percent (6.25%) per annum for retiree health***
26 ***costs.***
27 (b) If the board determines an employer must involuntarily cease participation in

1 the system as provided by subsection (2)(b) of this section:
2 1. The cessation of participation in the system shall apply to all employees
3 of the employer;
4 2. The employer shall pay for all administrative costs of an actuarial study
5 to be completed by the Kentucky Retirement Systems' consulting actuary
6 and for any other administrative costs for discontinuing participation in
7 the system as determined by the board and as provided by this section;
8 and
9 3. The employer shall pay by lump sum to the system the full actuarial cost
10 of the benefits accrued by its current and former employees in the
11 system as determined separately for the pension fund and the insurance
12 fund by the actuarial study required by subparagraph 2. of this
13 paragraph. The actuarial cost shall be fixed, and the employer shall not
14 be subject to any increases or subsequent adjustments, once the lump
15 sum is paid.
16 A Kentucky Employees Retirement System employer who ceases participation
17 in the systems under this paragraph shall not establish or contribute to on
18 behalf of its employees a defined benefit plan which by its nature can have an
19 unfunded liability;
20 (4) Any employee hired on or after the employer's effective cessation date by an
21 employer who has ceased participation in the system as provided by this section
22 shall not, regardless of his or her membership date in the systems administered by
23 Kentucky Retirement Systems, be eligible to participate in the Kentucky Employees
24 Retirement System through the employer that ceased participation for the duration
25 of his or her employment with that employer;
26 (5) If an employer has ceased participation in the system as provided by this section:
27 (a) The rights of recipients and the vested rights of inactive members accrued as

1 of the employer's effective cessation date shall not be impaired or reduced in
2 any manner as a result of the employer ceasing participation in the system; and
3 (b) Except as provided by subsection (8)(d)2. of this section, employees of the
4 employer ceasing participation shall accrue benefits through the employer's
5 effective cessation date but shall not accrue any additional benefits in the
6 Kentucky Employees Retirement System, including earning years of service
7 credit through the ceased employer, after the employer's effective cessation
8 date for as long as they remain employed by the employer. The day after the
9 employer's effective cessation date, each employee described by this
10 paragraph, except as provided by subsection (8)(d)2. of this section, shall be
11 considered an inactive member with respect to his or her employment with the
12 employer that ceased participation and, subject to the provisions and
13 limitations of KRS 61.510 to 61.705, shall:
14 1. Retain his or her accounts with the Kentucky Employees Retirement
15 System and have those accounts credited with interest in accordance
16 with KRS 61.510 to 61.705;
17 2. Retain his or her vested rights in accordance with paragraph (a) of this
18 subsection; and
19 3. Be eligible to take a refund of his or her accumulated account balance in
20 accordance with KRS 61.625 or any other available distribution if
21 eligible;
22 (6) Kentucky Employees Retirement System employers who are county attorney
23 offices, Commonwealth's attorney offices, local and district health departments
24 governed by KRS Chapter 212, master commissioners, executive branch agencies
25 whose employees are subject to KRS 18A.005 to 18A.200, state-administered
26 retirement systems, state-supported universities and community colleges, property
27 valuation administration offices, or employers in the legislative or judicial branch of

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

1 (c) Three and one-half percent (3.5%) for those Kentucky Employees Retirement
2 System employers who voluntarily cease participation under the provisions of
3 subsection (8) of this section who pay the costs of ceasing participation by
4 lump-sum payment by June 30, 2022, and who do make an election for
5 employees to continue to participate in the system after the employer's
6 effective cessation date as provided by subsection (8)(d)2. of this section;
7 (d) Three and one-half percent (3.5%) for those Kentucky Employees Retirement
8 System employers who voluntarily cease participation under the provisions of
9 subsection (8) of this section who pay the costs of ceasing participation by
10 installment payments and who do not make an election for employees to
11 continue to participate in the system after the employer's effective cessation
12 date as provided by subsection (8)(d)3. of this section; or
13 (e) Three percent (3%) for those Kentucky Employees Retirement System
14 employers who voluntarily cease participation under the provisions of
15 subsection (8) of this section who pay the costs of ceasing participation by
16 installment payments and who do make an election for employees to continue
17 to participate in the system after the employer's effective cessation date as
18 provided by subsection (8)(d)2. of this section;
19 (8) Notwithstanding the provisions of this section, any Kentucky Employees
20 Retirement System employer who is eligible to voluntarily cease participating as
21 provided by subsection (6) of this section may, on or after April 1, 2020, but prior to
22 May 1, 2021, except in the case of university or community college employers it
23 shall be prior to January 1, 2021, elect to voluntarily cease participating in the
24 systems for its nonhazardous employees by submitting a resolution in accordance
25 with subsection (3)(a)1. of this section. If an employer makes an election to
26 voluntarily cease participation by submitting a resolution as provided by this
27 subsection:

1 (a) The board shall accept any election to cease participation on or before June
2 30, 2021, and the employer's effective cessation date shall be June 30, 2021.
3 Prior to May 1, 2021, or January 1, 2021, in the case of university or
4 community college employers, the employer may rescind a previously
5 submitted election to cease participation;
6 (b) Nonhazardous employees hired on or after the employer's effective cessation
7 date by an employer who has ceased participation in the system as provided by
8 this section shall not, regardless of his or her membership date in the systems
9 administered by Kentucky Retirement Systems, be eligible to participate in the
10 Kentucky Employees Retirement System through the employer that ceased
11 participation for the duration of his or her employment with that ceasing
12 employer;
13 (c) Nonhazardous employees hired prior to the employer's effective cessation
14 date, who began participating in the systems administered by Kentucky
15 Retirement Systems on or after January 1, 2014, and who are participating in
16 the hybrid cash balance plan as provided by KRS 61.597, shall continue to
17 contribute and earn service credit in the systems through the employer's
18 effective cessation date. After the employer's effective cessation date, the
19 employee shall participate in the alternative retirement plan established by the
20 employer as provided by subsection (3)(a)4. of this section. A nonhazardous
21 employee covered by this paragraph who elects to transfer his or her account
22 balance within sixty (60) days of the employer's effective cessation date as
23 provided by subsection (3)(a)5. of this section, shall, notwithstanding KRS
24 61.597, receive a transfer of the employee's accumulated account balance,
25 including the entire accumulated employer credit, regardless of the employee's
26 years of service credit;
27 (d) 1. The employer shall, in the resolution submitted in accordance with

1 subsection (3)(a)1. of this section, make an election as to whether or not
2 nonhazardous employees hired prior to the employer's effective
3 cessation date, who began participating in the systems administered by
4 Kentucky Retirement Systems prior to January 1, 2014, who are
5 participating in the systems administered by Kentucky Retirement
6 Systems through the employer, will continue to participate in the system
7 after the employer's effective cessation date.
8 2. If the employer makes an election for the employees described by this
9 paragraph to continue participating in the system after the employer's
10 effective cessation date, these employees will continue to contribute and
11 earn service credit in the systems for as long as they remain employed by
12 the employer in a regular full-time position that is eligible to participate
13 in the systems, except in the event the employer fails to make
14 installment payments as provided by KRS 61.675(4). Any costs for the
15 present value of future normal costs of the employees covered by this
16 subparagraph who will contribute and earn service in the system after
17 the employer's effective cessation date shall be included in the cost
18 calculation established by subsection (7) of this section.
19 3. If the employer does not make an election for the employees described
20 by this paragraph to continue participating in the system after the
21 employer's effective cessation date, these employees shall continue to
22 contribute and earn service credit in the systems through the employer's
23 effective cessation date. After the employer's effective cessation date,
24 these employees shall participate in the alternative retirement plan
25 established by the employer as provided by subsection (3)(a)4. of this
26 section;
27 (e) The cost of ceasing participating to an individual employer shall be equal to

1 the cost determined under subsection (7) of this section and shall include the
2 costs of those employees who continue to participate in the system as
3 provided by paragraph (d)2. of this subsection;
4 (f) The employer may pay the full actuarial cost of ceasing participation by lump-
5 sum payment or in installments as provided by paragraph (g) of this
6 subsection;
7 (g) If the employer elects to pay the costs in installment payments, the cost of
8 ceasing participation as provided by this subsection shall be financed by the
9 systems using the following method:
10 1. Annual payments occurring on or after July 1, 2021, shall be a set dollar
11 value and shall be paid in monthly installments. In fiscal year 2021-
12 2022, the set dollar value shall be equal to the higher of the actual
13 contributions paid by the employer in fiscal year 2020-2021 or the
14 annualized average of the creditable compensation reported to the
15 systems by the ceasing employer over the last sixty (60) months
16 occurring prior to July 1, 2019, for which contributions were paid by the
17 ceasing employer, and multiplied by an employer rate of forty-nine and
18 forty-seven one-hundredths percent (49.47%). Annual payments, for
19 fiscal years occurring on or after July 1, 2022, which shall be paid
20 monthly, shall be increased by one and one-half percent (1.5%) annually
21 and shall be paid until the cost as provided by subsection (7) of this
22 section and as adjusted annually by subparagraphs 2. and 3. of this
23 paragraph are paid in full or until an employer as described by
24 subparagraph 4. of this paragraph has paid for thirty (30) years from the
25 effective cessation date;
26 2. Interest shall be assigned to the principal amount annually beginning on
27 July 1, 2021, and for each July 1 thereafter, that is equal to a rate of five

1 and one-quarter percent (5.25%) per annum for pension costs and at a
2 rate of six and one-quarter percent (6.25%) per annum for retiree health
3 costs;
4 3. If an employer is not projected by the systems to pay off the full
5 actuarial costs to cease participation with interest as provided by
6 subparagraph 2. of this paragraph at the conclusion of the thirty (30) year
7 installment period from the employer's effective cessation date, and the
8 employer makes an election for employees to continue to participate in
9 the system after the employer's effective cessation date as provided by
10 paragraph (d)2. of this subsection, then the systems shall adjust the base
11 value for the first annual payments occurring on or after July 1, 2021, in
12 order to keep the maximum period of installments to thirty (30) years;
13 and
14 4. If an employer is not projected by the systems to pay off the full
15 actuarial costs to cease participation with interest as provided by
16 subparagraph 2. of this paragraph at the conclusion of the thirty (30) year
17 installment period from the employer's effective cessation date, and the
18 employer does not make an election for employees to continue to
19 participate in the system after the employer's effective cessation date as
20 provided by paragraph (d)3. of this subsection, the employer shall pay
21 the amount determined by subparagraph 1. of this paragraph for thirty
22 (30) years from the effective cessation date and no additional costs shall
23 be billed to a ceasing employer after the conclusion of the thirty (30)
24 year period nor shall the employer be subject to adjustments under
25 subparagraph 3. of this paragraph. The system may request in future
26 biennial executive branch budgets the additional funding needed on an
27 annual basis to fully pay off the installments at the conclusion of the

1 thirty (30) year period for the employers described by this paragraph,
2 and it is the intent of the General Assembly to pay the additional funding
3 needed by appropriation in the biennial executive branch budget.
4 An employer ceasing participation who is making installment payments as
5 provided by this paragraph may at any time pay off a portion of the remaining
6 balance or the entire remaining balance and shall not be charged any interest
7 for periods beyond the pay-off date for the balance that is paid off;
8 (h) Kentucky Employees Retirement System employers eligible to cease
9 participation under the provisions of this subsection who do not make an
10 election to cease participation in the system prior to May 1, 2021, or prior to
11 January 1, 2021, in the case of university and community college employers,
12 shall be required to pay the full actuarially determined contributions
13 established by KRS 61.565 and 61.702 for fiscal years occurring on or after
14 July 1, 2021; and
15 (i) Kentucky Employees Retirement System employers who elect to cease
16 participation in the system as provided by this subsection who are currently
17 receiving a distribution of general fund appropriations in the biennial
18 executive branch budget under the provisions of 2018 Ky. Acts ch. 169, Part I,
19 G., 4., (5), 2018 Ky. Acts ch. 169, Part I, G., 5., (2), or 2018 Ky. Acts ch. 169,
20 Part I, G., 9., (2) to help pay employer contributions to the system shall
21 continue to receive the same level of distribution of general fund
22 appropriations to help pay the costs of ceasing participation until such time
23 that the employer's full actuarial costs of ceasing participation are paid off;
24 (9) The Kentucky Retirement Systems shall promulgate administrative regulations
25 pursuant to KRS Chapter 13A to administer this section;
26 (10) (a) Any employer who voluntarily ceases participation, or who is required to
27 involuntarily cease participation as provided in this section, shall hold the

1 Commonwealth and the Kentucky Retirement Systems, including board
2 members and employees of the Kentucky Retirement Systems, harmless from
3 damages, attorney's fees and costs from legal claims for any cause of action
4 brought by any member or retired member of the departing employer related
5 to the employer's cessation of participation as set forth in this section.
6 (b) Any employer who is voluntarily ceasing participation under the provisions of
7 subsection (8) of this section shall be required to pledge any security in any
8 relevant real estate, chattel paper, deposit accounts, documents, goods covered
9 by documents, instruments, investment property, letters of credit rights, and
10 money to the costs of ceasing participation until all costs of ceasing
11 participation are paid in full; and
12 (11) Notwithstanding any other provision of statute to the contrary, the provisions of
13 KRS 61.510 to 61.705, and the administrative regulations promulgated thereunder,
14 shall prevail regarding any question of participation in the systems of any employer
15 or any employee of an employer who ceases participation in the Kentucky
16 Employees Retirement System.
17 ➔Section 3. Northern Kentucky University is hereby authorized to issue agency
18 bonds in fiscal year 2020-2021 in an amount not to exceed three hundred twenty million
19 dollars ($320,000,000) for the actuarial costs of voluntarily ceasing participation in the
20 Kentucky Employees Retirement System as provided by KRS 61.522. The Kentucky
21 Asset/Liability Commission is authorized to issue notes to finance this authorization.
22 Notwithstanding KRS 56.8605(9) and (14), funding notes or project notes issued pursuant
23 to the above authorization may have a final maturity of up to thirty (30) years. The
24 provisions of KRS 164A.608 shall apply to any debt issuance made by the Kentucky
25 Asset/Liability Commission pursuant to the above authorization.
26 ➔Section 4. Whereas employers ceasing participation in the system desire to
27 make prompt payments for any actuarial costs, an emergency is declared to exist, and this

1 Act takes effect upon its passage and approval by the Governor or upon its otherwise
2 becoming law.

President of Senate

Speaker-House of Representatives

Attest: Chief Clerk of Senate

Approved Governor

Date 3-17-2021