161.220 Definitions for KRS 161.220 to 161.716 and 161.990.

As used in KRS 161.220 to 161.716 and 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.220 to 161.716 and 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, employees participating in the system pursuant to KRS 196.167(3)(b)1., and any full-time teacher or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The Education Professional Standards Board, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) Employees of the Council on Postsecondary Education who were employees of the Department for Adult Education and Literacy and who were members

of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600;

(h) The Office of Career and Technical Education, except that the executive director shall not be a member;

(i) The Office of Vocational Rehabilitation;

(j) The Kentucky Educational Collaborative for State Agency Children;

(k) The Governor's Scholars Program;

(l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(m) Employees of the former Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the former Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;

(n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance, and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the former Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620;

(o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the former Cabinet for Workforce Development and the commissioners of the former Department for Adult Education and Literacy and the former Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000; and

(p) Employees of the Kentucky Department of Education only who are graduates of a four (4) year college or university, notwithstanding a substitution clause within a job classification, and who are serving in a professional job classification as defined by the department.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up member contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up member contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for members of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave if the individual becomes a member before July 1, 2008, or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as

compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation. For an individual who becomes a member on or after July 1, 2008, annual compensation shall not include lump-sum payments upon termination of employment for accumulated annual or compensatory leave;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section;

(13) "Regular interest" means interest at three percent (3%) per annum, except for an individual who becomes a member on or after July 1, 2008, "regular interest" means interest at two and one-half percent (2.5%) per annum for purposes of crediting interest to the teacher savings account or any other contributions made by the employee that are refundable to the employee upon termination of employment;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up member contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The

retirement plan year is concurrent with this fiscal year. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up member contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;

(21) "Full-time" means employment in a position that requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year basis;

(22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400;

(23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of this section and as limited by subsection (9) of this section, earned by the member during the most recent period of contributing service, either consecutive or nonconsecutive, that is sufficient to provide the member with one (1) full year of service credit in the Kentucky Teachers' Retirement System, and which compensation is used in calculating the member's initial retirement allowance, excluding bonuses, retirement incentives, payments for accumulated sick, annual, personal and compensatory leave, and any other lump-sum payment. For an individual who becomes a member on or after July 1, 2008, payments for annual or compensatory leave shall not be included in determining the member's last annual compensation;

(24) "Participant" means a member, as defined by subsection (4) of this section, or an annuitant, as defined by subsection (15) of this section;

(25) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:

(a) Is issued by a court or administrative agency; and

(b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee; and

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

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 104, sec. 4, effective April 8, 2010; ch. 148, sec. 9, effective July 15, 2010; and ch. 164, sec. 3, effective July 1, 2010. -- Amended 2008 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 29, effective June 27, 2008. -- Amended 2008 Ky. Acts ch. 78, sec. 2, effective July 1, 2008. -- Amended 2006 Ky. Acts ch. 211, sec. 91, effective July 12, 2006. -- Amended 2004 Ky. Acts ch. 121, sec. 1, effective July 1, 2004. -- Amended 2002 Ky. Acts ch. 275, sec. 3, effective July 1, 2002; and ch. 300, sec. 4, effective July 15, 2002. -- Amended 2001 Ky. Acts ch. 51, sec. 1, effective June 21, 2001; and ch. 137, sec. 15, effective June 21, 2001. -- Amended 2000 Ky. Acts ch. 498, sec. 5, effective July 1, 2000. -- Amended 1998 Ky. Acts ch. 50, sec. 3, effective July 1, 1998; and ch. 515, sec. 2, effective July 1, 1998. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 68, effective May 30, 1997. -- Amended 1996 Ky. Acts ch. 271, sec. 10, effective July 15, 1996; and ch. 359, sec. 2, effective July 1, 1996. -- Amended 1994 Ky. Acts ch. 369, sec. 1, effective July 1, 1994; and ch. 469, sec. 34, effective July 15, 1994. â€“ Amended 1992 Ky. Acts ch. 192, sec. 1, effective July 1, 1992; and ch. 357, sec. 2, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 442, sec. 1, effective July 13, 1990; ch. 470, sec. 54, effective July 13, 1990; and ch. 476, Pt. IV, sec. 243, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 363, sec. 1, effective July 1, 1988. -- Amended 1986 Ky. Acts ch. 440, sec. 1, effective July 1, 1986. -- Amended 1984 Ky. Acts ch. 253, sec. 3, effective July 1, 1984; and ch. 302, sec. 1, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 166, sec. 11, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 152, sec. 1, effective March 28, 1978. -- Amended 1976 Ky. Acts ch. 351, sec. 1, effective July 1, 1976. -- Amended 1974 Ky. Acts ch. 395, sec. 1. -- Amended 1972 Ky. Acts ch. 82, sec. 1. -- Amended 1968 Ky. Acts ch. 136, sec. 1. -- Amended 1966 Ky. Acts ch. 16, sec. 1; and ch. 255, sec. 152. -- Amended 1964 Ky. Acts ch. 43, sec. 1. -- Amended 1962 Ky. Acts ch. 64, sec. 1. -- Amended 1960 Ky. Acts ch. 44, sec. 1. -- Amended 1954 Ky. Acts ch. 196, secs. 1 and 2. -- Amended 1946 Ky. Acts ch. 111, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4506b-2.

Legislative Research Commission Note (7/15/2010). This section was amended by 2010 Ky. Acts chs. 104, 148, and 164, which do not appear to be in conflict and have been codified together.

Legislative Research Commission Note (7/13/90). This section was amended by three Acts. Where those Acts are not in conflict, they have been compiled together. Where a conflict exists, the Act which was last enacted by the General Assembly prevails.