AN ACT relating to the disclosure of public retirement information.

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

➔Section 1. KRS 61.661 is amended to read as follows:

(1) ***(a)*** Each current, former, or retired member's account shall be administered in a confidential manner***,*** and specific data regarding a current, former, or retired member shall not be released for publication***, except that:***

1. ~~[unless authorized by]~~The member ***or recipient may authorize the release of his or her account information***;~~[however,]~~

2. Kentucky Retirement Systems~~[The system]~~ may release account information to the employer or to other state and federal agencies as it deems necessary or in response to a lawful subpoena or order issued by a court of law***; or***

3. a. Upon request by any person, the systems shall release the following information from the accounts of any member or retired member of the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, if the member or retired member was a current or former officeholder in the Kentucky General Assembly:

i. The first and last name of the member or retired member;

ii. The system or systems in which the member has an account or from which the retired member is receiving a monthly retirement allowance;

iii. The status of the member or retired member, including but not limited to whether he or she is a contributing member, a member who is not currently contributing to the systems but has not retired, a retired member, or a retired member

who has returned to work following retirement with an agency participating in the systems;

iv. If the individual is a retired member, the monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year;

v. If the individual is a member who has not yet retired, the estimated monthly retirement allowance that he or she is eligible to receive at his or her normal retirement date based upon his or her service credit, final compensation, and accumulated account balance at the end of the most recently completed fiscal year; and

vi. The current employer or last participating employer of the member or retired member, if applicable.

b. No information shall be disclosed under the provisions of this subparagraph from an account that is paying benefits to a beneficiary due to the death of a member or retired member.

(b) A~~[The]~~ current, former, or retired member's account shall be exempt from the provisions of KRS 171.410 to 171.990.

(c) The release of information under paragraph (a)3. of this subsection shall not constitute a violation of the Open Records Act, KRS 61.870 to 61.884.

(2) ***(a)*** When a subpoena is served upon any employee of the Kentucky Retirement Systems, requiring production of any specific data regarding a current, former, or retired member, it is sufficient if the employee of the Kentucky Retirement Systems charged with the responsibility of being custodian of the original delivers within five (5) working days, by certified mail or by personal delivery, legible and durable copies of records, certified by the employee, or an affidavit stating the information required by the subpoena to the person

specified in the subpoena. The production of documents or an affidavit shall be in lieu of any personal testimony of any employee of the Kentucky Retirement Systems unless, after the production of documents or affidavit, a separate subpoena is served upon the systems specifically directing the testimony of an employee of the systems. When a subpoena is served on any employee of the systems requiring the employee to give deposition for any purpose, in the absence of a court order requiring the deposition of a specific employee, the systems may designate an employee to be deposed upon the matter referred to in the subpoena.

(b)[~~(3)~~] The certification ***required by this subsection*** shall be signed before a notary public by the employee and shall include the full name of the member ***or recipient***, the member's ***or recipient's*** Social Security number**,** and a legend substantially to the following effect: "The records are true and complete reproductions of the original or microfiched records which are housed in the retirement systems office. This certification is given in lieu of his or her personal appearance."

(c)[~~(4)~~] When an affidavit or copies of records are personally delivered, a receipt shall be presented to the person receiving the records for his signature and shall be immediately signed and returned to the person delivering the records. When an affidavit or copies of records are sent via certified mail, the receipt used by the postal authorities shall be sufficient to prove delivery and receipt of the affidavit or copies of records.

(d)[~~(5)~~] When the affidavit or copies of records are delivered to a party for use in deposition, they shall, after termination of the deposition, be delivered personally or by certified mail to the clerk of the court or other body before which the action or proceeding is pending. It shall be the responsibility of the party or attorney to transmit the receipt obtained to the employee of the

Kentucky Retirement Systems charged with responsibility of being custodian of the original. Upon issuance of a final order terminating the case and after the normal retention period for court records expires, the affidavit or copies of records shall be permanently disposed of by the clerk in a manner that protects the confidentiality of the information contained therein.

(e)[~~(6)~~] Records of the Kentucky Retirement Systems that are susceptible to photostatic reproduction may be proved as to foundation, identity, and authenticity without any preliminary testimony, by use of legible and durable copies, certified in accordance with the provisions of this ***subsection***[~~section~~].

➔Section 2. KRS 161.585 is amended to read as follows:

(1) [~~For purposes of this section, the term "records" shall include retirement estimates, affidavits, and other documents prepared by the Kentucky Teachers' Retirement System in response to information requested in a lawful subpoena or order issued by a court of law.~~

~~(2)~~]Each member's ***or annuitant's*** account shall be administered in a confidential manner**,** and specific data regarding a member ***or annuitant*** shall not be released for publication***, except that:***[~~ unless authorized by ~~]

(a) The member ***or annuitant may authorize the release of his or her account information***;[~~ however, ~~]

(b) The board of trustees may release member ***or annuitant*** account information to the employer or to other state and federal agencies as it deems necessary or in response to a lawful subpoena or order issued by a court of law***; or***

(c) 1. Upon request by any person, the system shall release the following information from the accounts of any member or annuitant of the Kentucky Teachers' Retirement System, if the member or annuitant was a current or former officeholder in the Kentucky General Assembly:

a. The first and last name of the member or annuitant;

b. The status of the member or annuitant, including but not limited to whether he or she is a contributing member, a member who is not contributing but has not retired, a retiree receiving a monthly retirement allowance, or a retiree who has returned to work following retirement with an agency participating in the system;

c. If the individual is an annuitant, the monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year;

d. If the individual is a member who has not yet retired, the estimated monthly retirement allowance that he or she is eligible to receive on the first date he or she would be eligible for an unreduced retirement allowance, using his or her service credit and final average salary at the end of the most recently completed fiscal year; and

e. The current or last participating employer of the member or annuitant, if applicable.

2. No information shall be disclosed under the provisions of this paragraph from an account that is paying benefits to a beneficiary due to the death of a member or annuitant.

(2) The release of information under subsection (1)(c) of this section shall not constitute a violation of the Open Records Act, KRS 61.870 to 61.884.

(3) Medical records which are included in a member's ***or annuitant's*** file maintained by the Teachers' Retirement System are confidential and shall not be released unless authorized by the member ***or annuitant*** in writing or as otherwise provided by law or in response to a lawful subpoena or order issued by a court of law.

(4) (a) When a subpoena is served upon any employee of the Kentucky Teachers' Retirement System requiring the production of any data, information, or records, it is sufficient if the employee of the Kentucky Teachers' Retirement System charged with the responsibility of being custodian of the original, or his or her designated staff, delivers within five (5) working days by certified mail or by personal delivery to the person specified in the subpoena either of the following:

1. Legible and durable copies of records certified by the employee or designated staff; or
2. An affidavit stating the information required by the subpoena.

(b) The production of records or an affidavit shall be in lieu of any personal testimony of any employee of the Kentucky Teachers' Retirement System unless, after the production of records or an affidavit, a separate subpoena is served upon the retirement system specifically directing the testimony of an employee of the retirement system. When a subpoena is served on any employee of the retirement system requiring the employee to give testimony or produce records for any purpose, in the absence of a court order requiring the testimony of or production of records by a specific employee, the system may designate an employee to give testimony or produce records upon the matter referred to in the subpoena. The board of trustees may promulgate an administrative regulation for the recovery of reasonable travel and administrative expenses for those occasions when an employee of the retirement system is required to travel from his or her home or office to provide testimony or records. Recoverable expenses may include the wages, salary, and overtime paid to the employee by the retirement system for the period of time that the employee is away from the office. The cost of these expenses shall be borne by the party issuing the subpoena compelling the

employee's travel. The board of trustees may also promulgate an administrative regulation establishing a reasonable fee for the copying, compiling, and mailing of requested records.

(c)[~~(5)~~] The certification ***required by this subsection*** shall be signed before a notary public by the employee and shall include the full name of the member ***or annuitant***, the member ***or annuitant*** identification number assigned to the member ***or annuitant*** by the retirement system, and a legend substantially to the following effect: "The records are true and complete reproductions of the original, microfiched, or electronically stored records which are housed in the retirement system's office. This certification is given in lieu of the undersigned's personal appearance."

(d)[~~(6)~~] When an affidavit or copies of records are personally delivered, a receipt shall be presented to the person receiving the records for his or her signature and shall be immediately signed and returned to the person delivering the records. When an affidavit or copies of records are sent via certified mail, the receipt used by the postal authorities shall be sufficient to prove receipt of the affidavit or copies of records.

(e)[~~(7)~~] When the affidavit or copies of records are delivered to a party for use in deposition they shall, after termination of the deposition, be delivered personally or by certified mail to the clerk of the court or other body before which the action or proceeding is pending.

(f)[~~(8)~~] Upon completion of delivery by the retirement system of copies of records by their deposit in the mail or by their personal delivery to the requesting party, the retirement system shall cease to have any responsibility or liability for the records and their continued maintenance in a confidential manner.

(g)[~~(9)~~] Records of the Kentucky Teachers' Retirement System that are

susceptible to reproduction may be proved as to foundation, identity, and authenticity without preliminary testimony, by use of legible and durable copies, certified in accordance with the provisions of this ***subsection***~~[section]~~.

(h)~~[(10)]~~ The provisions of this ***subsection***~~[section]~~ shall not be construed to prohibit the Kentucky Teachers' Retirement System from asserting any exemption, exception, or relief provided under the Kentucky Rules of Civil Procedure or other applicable law.

(5) For purposes of this section, "records" includes retirement estimates, affidavits, and other documents prepared by the Kentucky Teachers' Retirement System in response to information requested in a lawful subpoena or order issued by a court of law.

➔Section 3. KRS 21.540 is amended to read as follows:

(1) Except as provided in KRS 21.550, 21.560, and subsection (3) of this section, the board of trustees of the Judicial Form Retirement System shall be charged with the administration of that system and of KRS 21.350 to 21.510, and shall have all powers necessary thereto, including the power to promulgate all reasonable administrative regulations, pass upon questions of eligibility and disability, make employments for services, and to contract for fiduciary liability insurance, and for investment counseling, actuarial, auditing, and other professional services as required without the limitations of KRS 45A.045. The administrative expenses shall be paid out of an administrative account which shall be funded by transfers of the necessary money, in appropriate ratio, from the funds provided for in KRS 21.550 and 21.560.

(2) (a) A qualified domestic relations order issued by a court or administrative agency shall be honored by the Judicial Form Retirement System if the order is in compliance with the requirements established by the retirement system.

(b) Except in cases involving child support payments, the Judicial Form

Retirement System may charge reasonable and necessary fees and expenses to the participant and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by the retirement system. All fees and expenses shall be established by administrative regulations promulgated by the board of trustees of the retirement system. The qualified domestic relations order shall specify whether the fees and expenses provided by this subsection shall be paid:

1. Solely by the participant;
2. Solely by the alternate payee; or
3. Equally shared by the participant and alternate payee.

(c) For purposes of this subsection, a "qualified domestic relations order" shall mean any judgment, decree, or order, including approval of a property settlement agreement, that:

1. Is issued by a court or administrative agency; and
2. Relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a member.

(3) Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 21.345 to 21.580 and 6.500 to 6.577 shall conform with federal statutes or regulations and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance, and the board shall have the authority to promulgate administrative regulations, with retroactive effect if required under federal law, to conform the Legislators' Retirement Plan and the Judicial Retirement Plan with federal statutes and regulations and to meet the qualification requirements under 26 U.S.C. sec. 401(a).

(4) The Judicial Form Retirement System shall make available on a public Web site, a

listing of all system expenditures and a listing of each individual employed by the systems along with the employee's salary or wages. The system may provide the information through a Web site established by the executive or judicial branch to inform the public about executive or judicial branch agency expenditures and public employee salaries and wages. Nothing in this subsection shall require or compel the Judicial Form Retirement System to disclose information specific to the account of an individual member of the Legislators' Retirement Plan or the Judicial Retirement Plan.

(5) No trustee or employee of the board shall:

(a) Have any interest, direct or indirect, in the gains or profits of any investment or transaction made by the board, provided that the provisions of this paragraph shall not prohibit a member or retiree of one (1) of the retirement plans administered by the system from serving as a trustee;

(b) Directly or indirectly, for himself or herself or as an agent, use the assets of the system, except to make current and necessary payments authorized by the board;

(c) Become an endorser, surety, or obligor for moneys loaned by or borrowed from the board;

(d) Have a contract or agreement with the retirement system, individually or through a business owned by the trustee or the employee;

(e) Use his or her official position with the retirement system to obtain a financial gain or benefit or advantage for himself or herself or a family member;

(f) Use confidential information acquired during his or her tenure with the systems to further his or her own economic interests or that of another person; or

(g) Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official

position with the system. The provisions of this paragraph shall not prohibit:

1. A trustee from serving as a judge or member of the General Assembly; or

2. A trustee from serving on the board if the compensation is de minimus and incidental to the trustee's outside employment. If the compensation is more than de minimus, the trustee shall disclose the amount of the compensation to the other trustees and recuse himself or herself from any matters involving hiring or retaining a person or a business from whom more than de minimus amounts are received by the trustee. For purposes of this section, "de minimus" means an insignificant amount that does not raise a reasonable question as to the trustee's objectivity.

(6) Notwithstanding any other provision of KRS 6.500 to 6.577 and 21.345 to 21.580 to the contrary, no funds of the Legislators' Retirement Plan or the Judicial Retirement Plan, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to unregulated placement agents. For purposes of this subsection, "unregulated placement agent" means an individual or firm who solicits investments on behalf of an investment manager, private fund, or company issuing securities, who is prohibited by federal securities laws and regulations promulgated thereunder from receiving compensation for soliciting a government agency.

(7) (a) 1. Upon request by any person, the Judicial Form Retirement System shall release the following information from the accounts of any member or retiree of the Legislators' Retirement Plan or the Judicial Retirement Plan, if the member or retiree was a current or former officeholder in the Kentucky General Assembly:

a. The first and last name of the member or retiree;

b. The plan or plans in which the member has an account or from

which the retiree is receiving a monthly retirement allowance;

c. The status of the member or retiree, including but not limited to whether he or she is a contributing member, a member who is not currently contributing to the plans but has not retired, or a retiree drawing a monthly retirement allowance;

d. If the individual is a retiree, the monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year; and

e. If the individual is a member who has not yet retired, the estimated monthly retirement allowance that he or she is eligible to receive on the first date he or she would be eligible for an unreduced retirement allowance, using his or her service credit, final compensation, and accumulated account balance at the end of the most recently completed fiscal year.

2. No information shall be disclosed under the provisions of this paragraph from an account that is paying benefits to a beneficiary due to the death of a member or retiree.

(b) The release of information under paragraph (a) of this subsection shall not constitute a violation of the Open Records Act, KRS 61.870 to 61.884.