SB151 is the pension bill that was passed on March 29, 2018. Although the process by which this legislation was pushed through the House and Senate was reprehensible, it's important now to focus on the substance of the legislation so we understand the effect of the law.

First, what is NOT in SB151

It would not be appropriate to consider what is included in SB151 without first reflecting on what the collective efforts of JCTA, KEA, and the other members of the Kentucky Public Pension Coalition and our allies were able to remove and/or keep out of SB151. All the proposals below appeared in either the Governor's "Keeping the Promise" plan from the fall of 2017 or a version of SB1 introduced during the legislative session:

- **3% Pay cut for teachers to pay for medical insurance**
- **Total elimination of use of sick days to calculate pensions for most teachers**
- **Elimination of High-3 retirement at age 55**
- **Elimination of 3.0 multiplier after 30 years of service**
- **Private sector Defined Contribution plan for future teachers**
- **Closing TRS to new teachers (thereby reducing TRS returns by 1.5%)**
- **Freezing or reducing COLAs for current retirees**
- **Freezing or reducing COLAs for future retirees**
- **Elimination of disability retirement for future teachers**
- **Elimination of the law requiring districts to provide teachers a minimum of 10 sick days per year**
- **Elimination of the law requiring sick day rollover from year to year**
- **Elimination of the authority of the Public Pension Oversight Board to review and audit educators' pension system (protecting the interests of employees and the public)**
- **Shifting to a pension board without a majority of the representatives elected by educators**
- **Immediate implementation of Level Dollar Funding at an additional cost of $250 million per year**

Thanks to the engagement of JCTA and KEA members and our allies all over the state, we collectively stood up for ourselves and backed down the Governor and legislature on all these horrendous proposals. So even as we are rightfully outraged not only by the absolutely unnecessary negative changes in SB151, but also by the reprehensible, undemocratic, non-transparent, and outright illegal manner in which the bill was jammed through the General Assembly in less than a day, it is also important for us to collectively recognize our empowered accomplishments in having stood up to incredible power to successfully get all these devastatingly horrible provisions removed from the final bill that passed.

Second, what IS in SB151

Current Active Teachers

Sick Leave: Limits the impact of sick leave payments on retirement benefits to the amount of sick leave accrued as of December 31, 2018.

> **Discussion:** A recent Attorney General's analysis found this provision to be a violation of the inviolable contract for employees hired prior to 2008. (The legislature made changes to the statute in 2008 that had the effect of removing inviolable protection of this benefit for new hires after June 30, 2008.) *It is important to note that in response to the Governor's draconian proposals in the fall of 2017, a coalition of educational stakeholders that included KEA, JCTA, the KY School Boards Association, the KY Association of School Administrators, and the KY Association of School Superintendents proposed an alternative "Shared Responsibility" plan that included this provision. This plan was shared with KEA and JCTA membership and approved by the KEA and JCTA Boards of Directors at the time.*

Current Retired Teachers

Return to Work: Maintains the same provisions as current law except teachers who retire after January 1, 2019 will no longer be required to make payments into a second retirement account when they return to work.

> **Discussion:** This is generally a positive change because most teachers who return to work (and are limited in the number of days that they can work in retirement) are not likely to work long enough to become vested in a second TRS retirement account they are required to pay into. Without vesting, only the members contributions with 3% interest can be withdrawn from the second account. This change will mean these TRS deductions will not be subtracted from return to work teachers' paychecks.

Future Teachers

Hybrid Cash Balance plan: Places future teachers in a hybrid cash balance plan and limits the scope of the inviolable contract to only protect the account balance in the cash balance plan.

Details:

- Puts teachers in same type of cash balance plan that KRS employees have been in since 2013.
- Employee contribution rate will be the same as current teachers' rate (9.105% of pay).
- Total Employer contribution will be 8% (state 6% plus local school districts 2%).
- Cash balance accounts will receive annual interest payments equal to 85% of the 10-year net return TRS achieves.
- Upon retirement, interest payments end and the account can be cashed out or rolled into a not-for-profit lifetime annuity account managed by TRS (TRS indicates a COLA option for the annuity will be available).

- Retirement Eligibility: Minimum age 57 with “Rule of 87” (age + service = 87) or Age 65 w/ 5 years of service.
- Portability: Members are immediately vested for employee contributions and interest credits on employee contributions. Members are fully vested for employer credit and investment returns on employer credits after 5 years.
- Voluntary ''Opt-In:'' Current TRS members with less than 5 years of service may elect to roll over their accumulated contributions in to the new hybrid cash balance plan.
- Members eligible for retiree health/disability/death before-retirement benefits similar to current members.
- Does not include the current $2,000 pre-retirement life insurance benefit.
- Does not include the current $5,000 post-retirement life insurance benefit payable to deceased retired members with at least 5 years of service.
- Can still accumulate unused sick leave and be paid by the district, if board policy allows; however, sick leave payments do not impact retirement benefits.
- ''Inviolable contract'' will be limited to the account balance in the cash balance plan.

Discussion: There are major reasons to be concerned about placing future teachers into a cash balance hybrid plan like this. There are also considerations that, to some extent, mitigate the negativity of the cash balance (CB) plan design, particularly as compared to other alternatives considered by the legislature.

Risk: The CB plan places the retirement security of future teachers at risk because retirement benefits will depend on the investment returns TRS is able to achieve. This particularly problematic for educators because they do not have the safety net of Social Security to insure a minimum retirement income.

Diminished Scope of inviolable contract Protections: Because the inviolable contract will only protect account balances for future teachers, it is possible for the plan design to be changed by future legislatures. However, because SB151 limits the state’s contribution to a modest fixed contribution of 6% of pay and by design CB plans cannot have unfunded liabilities, the pressure for future legislatures to make changes is far less than with a DB plan design.

Impact on Educator Recruitment: There is every reason to believe that SB151 will negatively impact the ability of Kentucky school districts to attract and keep quality educators. On the front end, when competing with other states that offer prospective teachers a defined retirement benefit, the lack of certainty offered by the new CB plan will make employment in Kentucky schools less attractive. Also, the enhanced portability of the new CB plan will make it easier for Kentucky teachers to leave the state and take their retirement benefits with them.

Impact on TRS: SB151’s CB plan will keep new educators in TRS, which will allow TRS to remain an “ageless” system. This is extremely important because the Governor’s proposal to place new hires in a 401(a) plan would have closed TRS to new hires and, in doing so, would have caused TRS to become an aging system with no young members entering it. This was projected to reduce the long-term investment returns of TRS by about 1.5% for current DB plan members. The CB plan avoids this negative impact. Also, keeping new educators in TRS maintains a unified educator voice to advocate for TRS.

Likely CB Retirement Benefits Compared to Current DB Plan: Because the retirement benefits of the new CB plan depend on the future performance of TRS investments, it is not possible to say with certainty how the retirement benefits will compare to the DB plan; however, it is possible, based on past performance, to consider what is likely.

The unions in the KY Public Pension Coalition hired a national pension expert, William (Flick) Fornia, to assess this question. His analysis indicated that for a 30-year employee, the CB benefits are likely to be at least comparable to current DB benefits. Specifically, for the CB plan to offer similar benefits to the DB plan, TRS will need to have a long-term (30 year) average rate of return of approximately 6.75%. If the return is lower than this, the CB benefits will be less than current DB benefits. If the return is higher, the CB plan will have higher benefits than current DB plan. To put this in context, the current assumed rate of return for TRS matches the median for public sector retirement systems at 7.5%. The 30-year rate of return for TRS for the past 30 years is approximately 8%. But, of course, no one knows what the future performance of TRS will be.

Mr. Fornia indicated that for shorter periods of service, such as those entering teaching as a second career, the CB plan design is less advantageous than current DB plan design because they are not likely to stay in the plan for 30 years, which is the timeframe the most optimistic actuarial assessment assumes.

Impact on School Districts: The new CB plan will gradually place a financial burden on local school districts because districts will be required to pay 2% of payroll for CB plan members' retirement benefits. Since this extra 2% will only apply to new hires after January 1, 2019, the immediate impact will not be great, but will grow over time as more CB plan members are hired.

0% Guarantee: CB plan advocates tout the plan's 0% guarantee as a major benefit. It is not. The fine print of the bill says this a 10-year average return guarantee, meaning TRS would have to average a negative return over a period of 10 years for this guarantee to be utilized. TRS has never encountered a negative rate of return over a 10-year period, not even during periods that included the dot com bust of 1999 and the Great Recession of 2008.

Retirement Annuity: Upon retirement, CB accounts stop earning interest because the expectation is that they will be rolled over into lifetime annuities that pay a defined benefit, similar to a DB pension (or into some other retirement plan). Because the annuity will be administered by TRS and will include large numbers of participants, average life expectancies for the entire group and the TRS anticipated rate of return of 7.5% can be used to calculate benefits. And, unlike private sector annuities, there will be no profit margin to diminish returns. Based on discussions with TRS officials, it is anticipated that CB retirees will have options to select plans with or without COLA and survivor benefit provisions, similar to the way current DB retirees select the level of survivor benefits they wish to have, with higher levels of optional benefits reducing monthly payments.

Retirement Age: The minimum retirement age for the DB plan will be age 57 with at least 30 years of service ("Rule of 87"). The current TRS DB plan sets eligibility for retirement at 27 years of service with no age requirement, so a teacher who begins teaching at 22 could possibly be eligible to retire at age 49. However, because of the incentives in the current system to reach at least age 55 with at least 27 years of service and a 3% multiplier for each year over 30, the current average TRS retirement age is 59. So, the minimum age in the CB plan is 2 years less than the current average age at which Kentucky teachers choose to retire.

Cost Savings Resulting from CB Plan: During floor debate in the Senate, the sponsor of SB151 acknowledged that SB151 will reduce the unfunded liability of TRS by less than 1%. Most of this tiny reduction will come from requiring school districts to pay an additional 2% for CB plan participants. In other words, the CB plan design itself saves the state almost nothing.

Other Relevant Provisions of SB151

ARC Payment Requirement: Retains current statutory fixed TRS funding percent of payroll as a base, but additionally establishes a statutory calculation and requirement to pay the full ARC.

Discussion: This is a very positive provision in the bill. The new language makes it a statutory requirement that the full ARC be calculated and fully paid by the state every year.

Conflict of Interest Provisions: No member of GA, public servant, trustee or employee of TRS board shall have any interest in the business of KRS while employed/serving AND for five (5) years following employment/service.

Discussion: This is a positive provision in the bill.

Level Dollar Funding: Gradually phases into level dollar funding by 2024 (using a 30-year amortization period with 5-year smoothed asset valuation method for TRS pension fund).

Discussion: The level dollar funding method improves the TRS unfunded liability faster than a traditional ARC payment schedule, but significantly increases state pension payments in the short term. This phased-in approach is a compromise between pure level dollar funding and a traditional ARC payment schedule.

Progress Reporting: Requires KRS/TRS staff to provide updates to the Public Pension Oversight Board on the implementation of reform.