

**Technical Amendment
June 28, 2019**

105 KAR 1:130. Hazardous duty coverage.

RELATES TO: KRS 61.592, 78.530, 78.545(30)

STATUTORY AUTHORITY: KRS 61.645(9)(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(e) requires the Board of Trustees of the Kentucky Retirement Systems to promulgate administrative regulations necessary or proper in order to carry out the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. KRS 61.592(2) requires the board to promulgate administrative regulations prescribing the manner in which an employer shall request hazardous duty coverage for employees. This administrative regulation establishes the procedures and forms for requesting hazardous position coverage.

Section 1. Definitions.

(1) "County" is defined by KRS 78.510(3).

(2) "Department" is defined by KRS 61.510(3).

Section 2. If a county eligible to participate in the County Employees Retirement System chooses to provide hazardous duty coverage to all eligible employees, the county shall adopt an appropriate order to pay the required contributions and provide hazardous coverage to all eligible employees. Notwithstanding the three (3) month trial period set out in 105 KAR 1:120, Section 2, the county's request for participation in County Employees Retirement System shall be submitted to the Board of Trustees at the first quarterly meeting which occurs at least one (1) month after the adoption of the appropriate order. The effective date of hazardous position coverage in the order shall be the date of the county's participation in County Employees Retirement System.

Section 3.

(1) A department participating in the Kentucky Employees Retirement System may provide hazardous position coverage upon authorization by the governing authority. The governing authority shall make the request for hazardous position coverage in writing to the Board of Trustees of Kentucky Retirement Systems. If the position is approved, the effective date of hazardous position coverage shall be the first day of any month following the quarterly meeting of the board of trustees which occurs after the date of the request.

(2) A county participating in County Employees Retirement System may provide hazardous position coverage upon adoption of a resolution by its governing authority to transfer eligible positions from nonhazardous to hazardous position coverage. The governing authority shall make a written request for hazardous position coverage to the Board of Trustees of Kentucky Retirement Systems. If the position is approved for hazardous coverage, the effective date of hazardous position coverage shall be the first day of any month following the quarterly meeting of the Board of Trustees of Kentucky Retirement Systems in which the hazardous position coverage is approved unless a different date is approved by the Board of Trustees of Kentucky Retirement Systems.

(a)

1. Employees who began participating in County Employees Retirement System prior to September 1, 2008 and were working in hazardous covered positions in County Employees Retirement System prior to September 1, 2008, shall continue to participate as hazardous covered employees as long as they remain in a position that has been approved for hazardous coverage.

2. Employees who began participating in County Employees Retirement System prior to September 1, 2008 and are subsequently employed in hazardous covered

positions, shall participate as hazardous covered employees as long as they remain in a position that has been approved for hazardous coverage.

(b) Employees who begin participating in County Employees Retirement System on or after September 1, 2008 in a position that was approved for hazardous coverage prior to September 1, 2008, shall not be reported as hazardous covered employees until the county requests that the Board of Trustees of Kentucky Retirement Systems approve hazardous coverage for those positions that meet the criteria as set out in KRS 61.592(1)(b), and hazardous coverage is approved by the Board of Trustees of Kentucky Retirement Systems for those positions, even if the position has previously been approved for hazardous coverage.

Section 4.

(1) The department shall complete and submit the Form 7013, HP-1, Hazardous Participation Certification (KERS). The form shall be signed by the head of the department and by an individual who can attest that sufficient funds have been budgeted for the employer contributions. For departments of the Commonwealth of Kentucky, the department shall also submit a letter from the Governor's Office of Policy and Management verifying sufficient funds have been budgeted for employer contributions.

(2) The county shall complete and submit the "Form 7011, HP-1, Hazardous Participation Certification (CERS)". The form shall be signed by the agency head and by an individual who can attest that sufficient funds have been budgeted for the employer contributions.

Section 5. The county or department shall submit a description of the duties of each position for which hazardous coverage is requested.

(1) The agency shall complete Sections 1 and 3 of Form 7025, Position Questionnaire, for employees of a department and for employees of a county whose participation date was prior to September 1, 2008.

(2) The agency shall complete Sections 2 and 3 of Form 7025, Position Questionnaire, for employees of a county whose participation date was on or after September 1, 2008.

Section 6. The county or department shall complete and submit a Form 2011 HP-2, Hazardous Position Certification provided by the retirement system for each employee in a position for which the coverage has been requested. If there is any change in the employee's work assignment or classification, the county or department shall submit a new Form 2011, HP-2, Hazardous Position Certification, indicating the change in the position.

Section 7. If the county elects, pursuant to KRS 78.530(3)(a), (d) or (f), to pay the cost of providing hazardous coverage for current employees for past service in positions approved for hazardous coverage, the county shall request and pay for an actuarial study to determine the cost.

Section 8. Local government employers may be obligated by statutes outside KRS Chapter 61 to certify certain positions as hazardous.

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Form 2011, HP-2, Hazardous Position Certification," April 2009;

(b) "Form 7011, HP-1, Hazardous Participation Certification (CERS)", April 2009;

(c) "Form 7013, HP-1, Hazardous Participation Certification (KERS)", April 2009; and

(d) "Form 7025, Position Questionnaire", April 2009.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky, Monday through Friday, 8 a.m. and 4:30 p.m.

(18 Ky.R. 921; 1321; eff. 11-8-1991; 20 Ky.R. 827; eff. 12-6-1993; 35 Ky.R. 2472, 36 Ky.R. 19; eff. 7-29-2009; TAm eff. 6-28-2019; Crt eff. 6-28-2019.)

