

FINANCE AND ADMINISTRATION CABINET
Kentucky Public Pensions Authority
(Amendment)

105 KAR 1:390. Employment after retirement.

RELATES TO: KRS 15.420(2)(a), 16.010, 16.505, 61.505, 61.510, 61.565, 61.590, 61.637, 61.675, 61.702, 70.291 - 70.293, 78.510, 78.545, 78.5540, 78.625, 78.635, 95.022, 158.441, 164.952, 26 U.S.C. 401(a), 26 C.F.R. 1.401-1, 1.401(a)-1

STATUTORY AUTHORITY: KRS 61.505(1)(g), 61.590, 61.637(18), 78.5540(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g) authorizes the Kentucky Public Pensions Authority to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with KRS 16.505 to 16.652, ~~61.505~~, 61.510 to 61.705, and 78.510 to 78.852. KRS 61.637(18) and 78.5540(5) requires the Kentucky Public Pensions Authority to promulgate administrative regulations to implement the requirements of KRS 61.637 and 78.5540. This administrative regulation concerns the administration of KRS 61.637 and 78.5540 in conjunction with federal law regarding bona fide separation from service and changes in employment relationship if a retired member returns to employment with a participating employer in a retirement system operated by the Kentucky Public Pensions Authority. 26 C.F.R. 1.401-1(a)(2) requires that a qualified plan expressly provide in its statutes and administrative regulations (plan documents) how it shall administer its plan in accordance with federal law in order to maintain the tax qualified status of the plan. This administrative regulation is necessary to maintain the tax qualified status of the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System under 26 U.S.C. 401(a), and to comply with the provisions established in 26 C.F.R. 1.401-1(b)(1)(i) and 1.401(a)-1.

Section 1. Definitions.

(1) "Bona fide separation from service" means:

(a) A cessation of the employment relationship between the member and the member's employer; and

(b) There is no prearranged agreement. [{"Agency" means:}]

~~[(a)] [Prior to April 1, 2021, the Kentucky Retirement Systems, which administered the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System; and]~~

~~[(b)] [Beginning April 1, 2021, the Kentucky Public Pensions Authority, which is authorized to carry out the day-to-day administrative needs of the Kentucky Retirement Systems (comprised of the State Police Retirement System and the Kentucky Employees Retirement System) and the County Employees Retirement System.]~~

(2) "Employee" means a retired member who is performing services for an employer in a manner that demonstrates an employment relationship under the common law factors used by the Internal Revenue Service.

(3) [{"Employer" is defined by KRS 16.505(3), 61.510(6), and 78.510(7).}]

~~[(4)] [{"File" means a form has been received at the retirement office by mail, fax, secure email, in-person delivery, or upload via Self Service on the Web site maintained by the agency (if available).}]~~

~~[(5)] [{"Fiscal Year" is defined by KRS 16.505(32), 61.510(19), and 78.510(19).}]~~

~~[(6)] [{"Hazardous position" is defined by KRS 78.510(42).}]~~

~~[(7)] [{"Member" is defined by KRS 16.505(21), 61.510(8), and 78.510(8).}]~~

~~[(8)] [{"Month" is defined by KRS 16.505(34), 61.510(35), and 78.510(32).}]~~

- ~~[(9)] ["Nonhazardous position" is defined by KRS 61.510(44) and 78.510(41).]~~
- ~~[(10)] "Non-participating position" means any position of employment with a participating employer other than a regular full-time position or a regular full-time officer position.~~
- ~~[(11)] ["Participating employer" means any employer that participates in one (1) of the systems operated by the agency.]~~
- ~~(4) [(12)] "Participating position" means a regular full-time position or a regular full-time officer position.~~
- ~~(5) "Prearranged agreement" means a verbal or written, explicit or implicit agreement:~~
- ~~(a) Between the retired member and his or her employer for the retired member to reemploy with the employer within twelve (12) months after the retired member's effective retirement date; and~~
- ~~(b) That occurred prior to the retired member's effective retirement date.~~
- ~~[(13)] ["Reemployment" means the retired member's first date of employment with a participating employer following his or her most recent retirement date.]~~
- ~~[(14)] ["Regular full-time officer position" is defined by KRS 16.505(22).]~~
- ~~[(15)] ["Regular full-time position" is defined by KRS 61.510(21), 61.680(6), 78.510(21), and 78.545(16).]~~
- ~~[(16)] ["Retired member" is defined by KRS 16.505(11), 61.510(24), and 78.510(23).]~~
- ~~(6) [(17)] "Retirement date" means the member's effective retirement date as described in KRS 61.590(5) and 78.545(4).~~
- ~~[(18)] ["Retirement office" is defined by KRS 16.505(28), 61.510(31), and 78.510(29).]~~
- ~~[(19)] ["School board" is defined by KRS 78.510(4).]~~
- ~~[(20)] ["Service" is defined by KRS 16.505(6), 61.510(9), and 78.510(9).]~~
- ~~[(21)] ["Systems" means the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System.]~~
- ~~[(22)] ["Volunteer" is defined by KRS 61.510(42) and 78.510(39).]~~

Section 2. Form 6000 Certification.

- (1) In order to retire with the systems~~[operated by the agency]~~, an eligible member shall complete and file a valid~~[submit a]~~ Form 6000, Notification of Retirement, which~~[as incorporated by reference in 105 KAR 1:200. The Form 6000, Notification of Retirement,]~~ shall comply with the requirements of KRS 61.590, KRS 78.545, and 105 KAR 1:200.
- (2) The agency shall not process a Form 6000, Notification of Retirement, until the member certifies on the Form 6000 that there is no prearranged agreement for reemployment with a participating employer after the member's retirement date.

Section 3. Employment After Retirement.

- (1) A retired member who is reemployed with a participating employer in any position, including participating positions and non-participating positions, shall have:
- (a) A bona fide separation from service~~[as provided in subsection (2) of this section];~~ and
- (b) A break in service as provided in subsection (3) of this section.
- (2)
- (a) A retired member who is reemployed with a participating employer in any position, including participating positions and non-participating positions shall not have a prearranged agreement. ~~["Bona fide separation from service" as provided in this section shall include a cessation of the employment relationship between the member and the member's employer without a prearranged agreement when the member retires that he or she will return to work for any participating employer in any capacity.]~~
- ~~[(b)] ["Prearranged agreement" as provided in this section shall not include reemployment accepted more than twelve (12) months after the member's retirement~~

date.]

(b) ~~[(e)]~~ An elected official who is reelected and takes office in the same elected position as he or she held prior to retirement within twelve (12) months after his or her effective retirement date shall be deemed to have a prearranged agreement. ~~[official's retirement shall be voided due to the existence of a prearranged agreement if, within twelve (12) months of retirement, the official is reelected and takes office in the same position as the elected official held prior to retirement.]~~

(3) "Break in service" as provided in this section shall require that:

(a) For effective retirement dates prior to January 1, 2024:

1. A member who retired from a hazardous position shall have a one (1) month break in service before returning to work with any participating employer in a regular full-time hazardous participating position.

2. ~~[(b)]~~ Except as provided in subparagraph 1. of this paragraph ~~[paragraph(a) of this subsection],~~ a member who retired from a hazardous or nonhazardous position shall have a three (3) month break in service before returning to work with any participating employer in a participating or nonparticipating position.

(b) For effective retirement dates beginning January 1, 2024, a member who retired from a hazardous or nonhazardous position shall have a one (1) month break in service before returning to work with any participating employer in a participating or nonparticipating position.

(4) If a retired member seeks reemployment with a participating employer within twelve (12) months of his or her retirement date, then the following shall be filed ~~[at the retirement office]~~:

(a) A valid Form 6751, Employer Certification Regarding Reemployment, completed by the ~~[The]~~ participating employer, which shall certify that there was no prearranged agreement ~~[on a completed Form 6751, Employer Certification Regarding Reemployment];~~

(b) A valid Form 6754, Member Reemployment Certification, completed by the retired member; and

(c) Any other information requested by the agency from the participating employer and the retired member pursuant to KRS 61.637(8) and 78.5540(2)(a).

(5)

(a) The agency shall issue a final determination to the retired member no later than thirty (30) calendar days after receipt of all required forms and additional requested information.

(b) If the agency determines that the retired member failed to comply with any of the requirements of this section or federal law ~~[have a bona fide separation from service or a break in service and returned to work with any participating employer in any position, including a participating position or a non-participating position],~~ the retired member's retirement shall be voided and he or she shall repay all retirement allowances, dependent child payments, and hospital and medical insurance ~~[health]~~ plan premiums paid by the systems.

Section 4. Independent Contractors and Leased Employees.

(1) If a retired member seeks to provide services to a participating employer as an independent contractor, under a professional services contract, or as a leased employee within twelve (12) months of the retired member's retirement date, then the following shall be filed ~~[at the retirement office]~~:

(a) A valid Form 6752, Employer Certification of Independent Contractor/Leased Employee, completed by the participating employer;

(b) A valid Form 6754, Member Reemployment Certification, completed by the retired member;

- (c) A complete copy of any contract under which services are provided by the retired member to the participating employer; and
 - (d) Any other information requested by the agency from the participating employer and the retired member pursuant to KRS 61.637(9) and 78.5540(2)(b).
- (2) The agency shall apply common law factors used by the Internal Revenue Service (IRS), in accordance with IRS Publication 1779, to determine whether a retired member is an employee of the participating employer or an independent contractor of the participating employer.
- (3)
- (a) The agency shall issue a final determination to the retired member no later than thirty (30) calendar days after receipt of all required forms and requested information.
 - (b) If the agency determines that the retired member is an employee of the participating employer, rather than an independent contractor or leased employee through a leasing company, staffing agency, or other entity:
 - 1. The retired member shall be subject to the provisions of Section 3 of this administrative regulation and shall have a "bona fide separation from service" and "break in service"; and
 - 2. The employer shall do the following:
 - a. Report the retired member as required by KRS 61.675, KRS 78.625, and 105 KAR 1:145;
 - b. Pay employer contributions for the retired member as specified by KRS 61.565, 61.702, and 78.635; and
 - c. Reimburse the systems for the cost of hospital and medical~~health~~ insurance plan premiums paid by the systems for the retired member.
 - (c) If the agency determines that the retired member is an independent contractor or leased employee through a leasing company, staffing agency, or other entity, the retired member may still be required to observe a bona fide separation from service to the extent required by federal law.

Section 5. Volunteers.

- (1) If a retired member seeks to volunteer with a participating employer within twelve (12) months of the retired member's retirement date, then the following shall be filed~~at the retirement office~~:
- (a) A valid Form 6753, Employer Certification of Volunteer, completed by the participating employer;
 - (b) A valid Form 6754, Member Reemployment Certification, completed by the retired member; and
 - (c) Any other information requested by the agency from the participating employer and retired member pursuant to KRS 61.637(8) and 78.5540(2)(a).
- (2)
- (a) The agency shall issue a final determination to the retired member no later than thirty (30) calendar days after receipt of all required forms and requested information.
 - (b) If the Agency determines that the retired member is an employee of the participating employer, rather than a volunteer:
 - 1. The retired member shall be subject to the provisions of Section 3 of this administrative regulation and shall have a "bona fide separation from service" and "break in service"; and
 - 2. The employer shall do the following:
 - a. Report the retired member as required by KRS 61.675, 78.625, and 105 KAR 1:145;
 - b. Pay employer contributions for the retired member as specified by KRS 61.565, 61.702, and 78.635; and

c. Reimburse the systems for the cost of hospital and medical~~[health]~~ insurance plan premiums paid by the systems for the retired member.

(c) If the agency determines that the retired member is a volunteer, the retired member may still be required to observe a bona fide separation from service to the extent required by federal law.

Section 6. Hospital and Medical ~~[Health]~~ Insurance Plan Premium Reimbursements for Retired Members Reemployed by Multiple Participating Employers.

(1) This section shall only apply to a retired member who is reemployed by a participating employer on or after September 1, 2008 in accordance with KRS 61.637(17) and 78.5540(4).

(2) If a retired member is reemployed by multiple participating employers in a month in two (2) or more~~[positions that qualify as]~~ regular full-time positions, one (1) regular full-time position and one or more part-time positions pursuant to KRS 61.680(6) and 78.545, or multiple part-time positions pursuant to KRS 61.680(6) and 78.545, then:

(a) Each ~~[each]~~ participating employer shall be responsible for reimbursing the systems for a portion of the hospital and medical~~[health]~~ insurance plan premium paid by the systems to provide coverage for the retired member for that month; and

(b) The portion shall be ~~[that is]~~ equal to the cost of the premium divided by the number of participating employers that are not exempt from reimbursement of hospital and medical~~[health]~~ insurance plan premiums.

(3) ~~[(2)]~~ Participating employers that are exempt from reimbursement of hospital and medical~~[health]~~ insurance plan premiums under Section 7 of this administrative regulation, or by virtue of being a school board employing the retired member for eighty (80) calendar days or less during the fiscal year, are not responsible for hospital and medical~~[health]~~ insurance plan premiums under this section.

Section 7. Exemption for Payment Of Employer Contributions and Reimbursement of Hospital and Medical~~[Health]~~ Insurance Plan Premiums for Retired Members Reemployed as Police Officers and School Resource Officers.

(1) This section shall only apply to a retired member who is reemployed by a participating employer on or after September 1, 2008 in accordance with KRS 61.637(17) and 78.5540(4).

(2)

(a) A participating employer shall be exempt from paying employer contributions and from reimbursing the systems for the cost of the hospital and medical~~[health]~~ insurance plan premiums paid by the systems for a retired member reemployed as a police officer pursuant to KRS 70.291 to 70.293 for a term of appointment of no more than one (1) year if a valid~~[completed]~~ Form 6760, County Police or Sheriff Appointment of Retired Police Officer, and the supporting documentation required by the Form 6760 are on file ~~[at the retirement office]~~ prior to the start of the retired member's term of appointment.

(b) If a valid~~[completed]~~ Form 6760, County Police or Sheriff Appointment of Retired Police Officer, and the supporting documentation required by the Form 6760 are not on file ~~[at the retirement office]~~ prior to the start of the retired member's term of appointment as a police officer pursuant to KRS 70.291 to 70.293, then the participating employer shall be exempt from paying employer contributions and reimbursements of hospital and medical~~[health]~~ insurance plan premiums for a retired member reemployed as a police officer pursuant to KRS 70.291 to 70.293 effective in the month after a valid~~[completed]~~ Form 6760 and supporting documentation are on file ~~[at the retirement office]~~.

(3) ~~[(2)]~~

(a) For each subsequent term of reappointment after the initial term of appointment listed on the ~~valid~~~~completed~~ Form 6760, County Police or Sheriff Appointment of Retired Police Officer, described in subsection (1) of this section, the participating employer shall be exempt from paying employer contributions and from reimbursing the systems for the cost of the ~~hospital and medical~~~~health~~ insurance ~~plan~~ premiums paid by the systems for a retired member reemployed as a police officer pursuant to KRS 70.291 to 70.293 for a term of reappointment of no more than one (1) year if a ~~valid~~~~completed~~ Form 6764, Recertification of Retired Police Officer, is on file ~~at the retirement office~~ prior to the start of the retired member's term of reappointment.

(b) If a ~~valid~~~~completed~~ Form 6764, Recertification of Retired Police Officer, is not on file ~~at the retirement office~~ prior to the start of the retired member's term of reappointment as a police officer pursuant to KRS 70.291 to 70.293, then the participating employer shall be exempt from paying employer contributions and reimbursements of ~~hospital and medical~~~~health~~ insurance ~~plan~~ premiums for a retired member reemployed as a police officer pursuant to KRS 70.291 to 70.293 effective in the month after a ~~valid~~~~completed~~ Form 6764 and supporting documentation are on file ~~at the retirement office~~.

(4) ~~(3)~~

(a) A participating employer shall be exempt from paying employer contributions and from reimbursing the systems for the cost of the ~~hospital and medical~~~~health~~ insurance ~~plan~~ premiums paid by the systems to provide coverage for a retired member reemployed as a school resource officer pursuant to KRS 158.441 for a term of appointment of no more than one (1) year if a ~~valid~~~~completed~~ Form 6766, Appointment of Retired School Resource Officer, and the supporting documentation required by the Form 6766 are on file ~~at the retirement office~~ prior to the start of the retired member's term appointment.

(b) If a ~~valid~~~~completed~~ Form 6766, Appointment of Retired School Resource Officer, and the supporting documentation required by the Form 6766 are not on file ~~at the retirement office~~ prior to the start of the retired member's term appointment, then the participating employer shall be exempt from paying employer contributions and reimbursements of ~~hospital and medical~~~~health~~ insurance ~~plan~~ premiums for a retired member reemployed as a school resource officer pursuant to KRS 158.441 effective in the month after a ~~valid~~~~completed~~ Form 6766 and supporting documentation are on file ~~at the retirement office~~.

(5) ~~(4)~~

(a) A participating employer shall be exempt from paying employer contributions and from reimbursing the systems for the cost of the ~~hospital and medical~~~~health~~ insurance ~~plan~~ premiums paid by the systems for a retired member reemployed as a Kentucky State Police school resource officer pursuant to KRS 158.441 for a term of appointment of no more than one (1) year if a ~~valid~~~~completed~~ Form 6767, Appointment of Kentucky State Police School Resource Officer, and the supporting documentation required by the Form 6767 are on file ~~at the retirement office~~ prior to the start of the retired member's term appointment.

(b) If a ~~valid~~~~completed~~ Form 6767, Appointment of Kentucky State Police School Resource Officer, and the supporting documentation required by the Form 6767 are not on file ~~at the retirement office~~ prior to the start of the retired member's term appointment, then the participating employer shall be exempt from paying employer contributions and reimbursements of ~~hospital and medical~~~~health~~ insurance ~~plan~~ premiums for a retired member reemployed as a Kentucky State Police school resource officer pursuant to KRS 158.441 effective in the month after a ~~valid~~~~completed~~ Form 6767 and supporting documentation are on file ~~at the retirement office~~.

(6) ~~(5)~~

(a) A participating employer shall be exempt from paying employer contributions and from reimbursing the systems for the cost of the hospital and medical~~[health]~~ insurance plan premiums paid by the systems for a retired member reemployed as a police officer by a postsecondary institution pursuant to KRS 164.952 for a term of appointment of no more than one (1) year if a valid~~[completed]~~ Form 6768, Postsecondary Institution Appointment of Retired Police Officer, and the supporting documentation required by the Form 6768 are on file ~~[at the retirement office]~~ prior to the start of the retired member's term appointment.

(b) If a valid~~[completed]~~ Form 6768, Postsecondary Institution Appointment of Retired Police Officer, and the supporting documentation required by the Form 6768 are not on file ~~[at the retirement office]~~ prior to the start of the retired member's term appointment, then the participating employer shall be exempt from paying employer contributions and reimbursements of hospital and medical~~[health]~~ insurance plan premiums for a retired member reemployed as a police officer by a postsecondary institution pursuant to KRS 164.952 in the month after a valid~~[completed]~~ Form 6768 and supporting documentation are on file ~~[at the retirement office]~~.

~~(7)~~ ~~[(6)]~~ A participating employer shall not be eligible for exemption from payment of employer contributions or from reimbursing the systems for the costs of hospital and medical~~[health]~~ insurance plan premiums for any retired members reemployed as a police officer pursuant to KRS 95.022 unless a valid Form 6769, Certification of Employed Police Officers Calendar Year 2015, is on file ~~[at the retirement office]~~.

~~(8)~~ ~~[(7)]~~

(a) A participating employer with a valid Form 6769, Certification of Employed Police Officers Calendar Year 2015, on file ~~[at the retirement office]~~ shall be exempt from paying employer contributions and from reimbursing the systems for the costs of hospital and medical~~[health]~~ insurance plan premiums for a retired member reemployed as a police officer pursuant to KRS 95.022 for a term of appointment of no more than one (1) year if a valid~~[completed]~~ Form 6770, City Appointment of Retired Police Officer, and the supporting documentation required by the Form 6770 are on file ~~[at the retirement office]~~ prior to the start of the retired member's term of appointment.

(b) If a valid~~[completed]~~ Form 6770, City Appointment of Retired Police Officer, and the supporting documentation required by the Form 6770 are not on file ~~[at the retirement office]~~ prior to the start of the retired member's term of appointment, then the participating employer with a valid Form 6769, Certification of Employed Police Officers Calendar Year 2015, on file ~~[at the retirement office]~~ shall be exempt from paying employer contributions and reimbursements of hospital and medical~~[health]~~ insurance plan premiums for a retired member reemployed as a police officer pursuant to KRS 95.022 effective in the month after a valid~~[completed]~~ Form 6770 and supporting documentation are on file ~~[at the retirement office]~~.

~~(9)~~ ~~[(8)]~~

(a) For each ~~[Each]~~ subsequent term of reappointment after the initial term of appointment listed on the valid~~[completed]~~ Form 6770, City Appointment of Retired Police Officer, described in subsection (7) of this section, the participating employer with a valid Form 6769, Certification of Employed Police Officers Calendar Year 2015, on file shall be exempt from paying employer contributions and hospital and medical~~[health]~~ insurance plan premiums paid by the systems for a retired member reemployed as a police officer pursuant to KRS 95.022 for a term of reappointment of no more than one (1) year if a valid~~[completed]~~ Form 6774, City Recertification of Retired Police Officer, is on file ~~[at the retirement office]~~ prior to the start of the retired member's term of reappointment.

(b) If a valid~~[completed]~~ Form 6774, City Recertification of Retired Police Officer, is not on file ~~[at the retirement office]~~ prior to the start of the retired member's term of

reappointment, then the participating employer shall be exempt from paying employer contributions and reimbursements of hospital and medical~~health~~ insurance plan premiums for retired member reemployed as a police officer pursuant to KRS 95.022 in the month after a valid~~completed~~ Form 6774 is on file ~~at the retirement office~~.

(10) If the appropriate form and as indicated in this subsection is not on file, the employer shall not be exempt from paying employer contributions and reimbursement of hospital and medical insurance plan premiums.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form 6000, "Notification of Retirement", June 2023;

~~(b) Form 6751, "Employer Certification Regarding Reemployment~~], December 2023~~[March 2022];~~

~~(c) [(b)] Form 6752, "Employer Certification of Independent Contractor/Leased Employee~~], December 2023~~[April 2021];~~

~~(d) [(c)] Form 6753, "Employer Certification of Volunteer~~], December 2023~~[April 2021];~~

~~(e) [(d)] Form 6754, "Member Reemployment Certification~~], December 2023~~[April 2021];~~

~~(f) [(e)] Form 6760, "County Police or Sheriff Appointment of Retired Police Officer~~], December 2023~~[March 2022];~~

~~(g) [(f)] Form 6764, "Recertification of Retired Police Officer~~], December 2023~~[June 2019];~~

~~(h) [(g)] Form 6766, "Appointment of Retired School Resource Officer~~], December 2023~~[March 2022];~~

~~(i) [(h)] Form 6767, "Appointment of Kentucky State Police School Resource Officer~~], December 2023~~[March 2022];~~

~~(j) [(i)] Form 6768, "Postsecondary Institution Appointment of Retired Police Officer~~], December 2023~~[March 2022];~~

~~(k) [(j)] Form 6769, "Certification of Employed Police Officers Calendar Year 2015~~], December 2023~~[July 2016];~~

~~(l) [(k)] Form 6770, "City Appointment of Retired Police Officer~~], December 2023~~[March 2022];~~

~~(m) [(l)] Form 6774, "City Recertification of Retired Police Officer~~], December 2023~~[July 2016];~~ and

~~(n) [(m)] Internal Revenue Service Publication 1779, "Independent Contractor or Employee~~], March 2012.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, from 8:00 a.m. to 4:30 p.m. This material is also available on the Authority's Web site at kyret.ky.gov.

DAVID L. EAGER, Executive Director

APPROVED BY AGENCY: December 6, 2023

FILED WITH LRC: December 7, 2023 at 10:20 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing to allow for public comment on this administrative regulation shall be held on February 21, 2024 at 10:00 a.m. Eastern Time at the Kentucky Public Pensions Authority (KPPA), 1270 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in presenting a public comment at this hearing shall notify this agency in writing no later than five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing was received by that

date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until February 29, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person. KPPA shall file a response with the Regulations Compiler to any public comments received, whether at the public comment hearing or in writing, via a Statement of Consideration no later than the 15th day of the month following the end of the public comment period, or upon filing a written request for extension, no later than the 15th day of the second month following the end of the public comment period.

CONTACT PERSON: Jessica Beaubien, Policy Specialist, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, email Legal.Non-Advocacy@kyret.ky.gov, phone (502) 696-8800 ext. 8570, fax (502) 696-8615.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jessica Beaubien

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation concerns the administration of KRS 61.637 and 78.5540 in conjunction with federal law regarding bona fide separation from service and changes in employment relationship if a retired member returns to work with a participating employer in a retirement system operated by the Kentucky Public Pensions Authority. 26 C.F.R. 1.401-1(a)(2) requires that a qualified plan expressly provide in its statutes and administrative regulations (plan documents) how it shall administer its plan in accordance with federal law in order to maintain the tax qualified status of the plan.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to maintain the qualified tax status of the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System under 26 U.S.C. 401(a), and to comply with the provisions established in 26 C.F.R. 1.401-1(b)(1)(i) and 1.401(a)-1.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation conforms to the procedures and requirements for retired members and participating employers prior to the reemployment of a retired reemployed participant.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation will assist in the effective administration of the statutes by establishing the procedures and requirements for retired members and participating employers prior to the reemployment of a retiree with a participating employer in accordance with KRS 61.637 and 78.5540. The regulation outlines certification and notification requirements of both retirees and participating employers.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This amendment contains technical changes, changes to reflect legislative enactments (HB 506 – 2023), and form changes.

(b) The necessity of the amendment to this administrative regulation:

The amendment is necessary to implement make technical changes, changes to reflect legislative enactments (HB 506 – 2023), and form changes.

(c) How the amendment conforms to the content of the authorizing statutes:

The amendment conforms to the content of the authorizing statutes by outlining the processes and procedures for administration of retired reemployed requirements as authorized by KRS 61.505, 61.637, and 78.5540.

(d) How the amendment will assist in the effective administration of the statutes:

The amendment will assist in the effective administration of the statutes by outlining the processes and procedures for administration of retired reemployed requirements

as authorized by KRS 61.505, 61.637, and 78.5540.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

Retirees seeking reemployment with a participating employer within twelve (12) months of their initial retirement date, the Kentucky Public Pensions Authority, and employers participating in the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Regulated entities will be minimally impacted by these changes.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

Aside from some limited exceptions, the employer shall remit employer contributions on all creditable compensation earned by the employee during the period of reemployment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

This administrative regulation is necessary to maintain the tax qualified status of the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System under 26 U.S.C. 401(a), and to comply with the provisions established in 26 C.F.R. 1.401-1(b)(1)(i) and 1.401(a)-1. Moreover, compliance with this regulation will allow retired members to return to work with participating employers without the voiding of their retirement. Participating employers will be permitted to hire retired members. (5) Provide an estimate of how much it will cost to implement this administrative regulation:

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

The Kentucky Public Pensions Authority is already administering KRS 61.637 and 78.5540 and no additional cost will arise from implementation of this amendment.

(b) On a continuing basis:

The employer will be required to remit employer contributions on most retired members pursuant to KRS 61.637(17) and 78.5540.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

Administrative expenses of the Kentucky Public Pensions Authority are paid from the Retirement Allowance Account (trust and agency funds).

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

There is no increase in fees or funding required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied?

Tiering is not applied. All employers seeking to hire retired members are subject to the same processes and procedures.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

Kentucky Public Pensions Authority and all participating employers in the Kentucky Employees Retirement System, State Police Retirement System, and the County Employees Retirement System.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 61.637, 78.5540, and 26 U.S.C. 401(a).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

The employer will have to remit employer contributions on certain employees.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

None.

(c) How much will it cost to administer this program for the first year?

Ultimately, the cost to the Kentucky Public Pensions Authority should be negligible, as KRS 61.637 and 78.5540 are already being administered by the Kentucky Public Pensions Authority.

(d) How much will it cost to administer this program for subsequent years?

Ultimately, the cost to the Kentucky Public Pensions Authority should be negligible, as KRS 61.637 and 78.5540 are already being administered by the Kentucky Public Pensions Authority.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):Unknown.

Expenditures (+/-):Negligible.

Other Explanation:

The cost of administrating this amendment will be negligible for the KPPA. There should be no changes to costs for participating employers based on this amendment, or to revenue for the KPPA as a result of this amendment.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

None.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

None.

(c) How much will it cost the regulated entities for the first year?

None.

(d) How much will it cost the regulated entities for subsequent years?

None.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):None.

Expenditures (+/-):None.

Other Explanation:

There should be no significant change to costs for the KPPA and participating employers.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]. This administrative regulation will not have a major economic impact on the Kentucky Public Pensions Authority because there is no negative or adverse economic impact of these amendments that exceeds \$500,000.