

FINANCE AND ADMINISTRATION CABINET
Kentucky Public Pensions Authority
(Amendment)

105 KAR 1:130. Hazardous position coverage.

RELATES TO: KRS 61.552, 61.560, 61.580, 61.592, 78.530, 78.545, 78.5520, 78.615, 78.650

STATUTORY AUTHORITY: KRS 61.505

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 61.592 and 78.5520 prescribe the manner in which an employer shall request hazardous position coverage for employees, and the requirements for converting nonhazardous position coverage to hazardous position coverage. This administrative regulation establishes the requirements, procedures, and forms for requesting, or converting to, hazardous position coverage.

Section 1. Definition. "Systems" means the Kentucky Employees Retirement System or the County Employees Retirement System.

Section 2. Hazardous Positions in the County Employees Retirement System.

(1) Pursuant to KRS 78.5520(2), County Employees Retirement System (CERS) employers shall classify a position as a hazardous position only when authorized by the CERS Board of Trustees.

(2) A CERS employer shall notify the agency of the intent to request authorization of a hazardous position from the CERS Board of Trustees. Once notified, the agency shall provide the employer with a hazardous position packet, including the date the completed packet shall be returned to be presented for authorization to the CERS Board of Trustees. The hazardous position packet stipulates that the employer shall submit:

(a) A resolution on the employer's letterhead stating the employer's intent to classify an eligible position as a hazardous position, and the desired effective date of the hazardous position classification;

(b) A valid Form 7011, HP-1, Hazardous Participation Certification (CERS), to certify that the position identified in paragraph (a) of this subsection meets the definition of a hazardous position and that sufficient funds have been budgeted for the required employer contributions;

(c) A job description for each position identified in this subsection;

(d) A valid Form 7025, Position Questionnaire, for each position identified in this subsection; and

(e) A valid Form 2011, HP-2, Hazardous Position Certification, to certify the effective date each employee began working in the position and the date of each employee's physical examination by a licensed physician.

(3)

(a) An employee who began participating in CERS prior to September 1, 2008 and was working in a CERS hazardous position prior to September 1, 2008, shall continue to participate as a hazardous position employee as long as he or she remains in a position that has been approved for hazardous position coverage.

(b) An employee who began participating in CERS prior to September 1, 2008 and is subsequently employed in a hazardous position, shall participate as a hazardous position employee as long as he or she remains in a position that has been approved for hazardous position coverage.

(c) An employee who began participating in CERS on or after September 1, 2008 in a position that was approved as a hazardous position prior to September 1, 2008, shall not be reported as a hazardous position employee until the position is approved by the CERS Board of Trustees as a hazardous position in accordance with Section 4(1) of this administrative regulation, even if the position was previously approved as a hazardous position.

Section 3. Hazardous Positions in the Kentucky Employees Retirement System.

(1) Pursuant to KRS 61.592(2), an employer in the Kentucky Employees Retirement System (KERS) shall classify a position as a hazardous position only when authorized by the Kentucky Retirement Systems (KRS) Board of Trustees.

(2) A KERS employer shall notify the agency of the intent to request authorization of a hazardous position from the KRS Board of Trustees. Once notified, the agency shall provide a hazardous position packet, including the date the completed packet shall be returned to be presented for authorization to the KRS Board of Trustees. The hazardous position packet stipulates that the employer shall submit:

(a) A valid Form 7013, HP-1, Hazardous Position Certification (KERS), to certify that the position identified in this subsection meets the definition of a hazardous position and that sufficient funds have been budgeted for the required employer contributions.

(b) A letter from the Governor's Office for Policy and Management verifying sufficient funds have been allocated for hazardous position contribution rates.

(c) A list of all positions identified in this subsection, which shall include the name, social security number, and position title of all affected individuals who are currently employed. For KERS employers reported by the Personnel Cabinet, the list of positions shall also include the unique eight-character Job ID used by the Personnel Cabinet which shall be different than a nonhazardous position Job ID.

(d) A job description for each position identified in this subsection.

(e) A valid Form 7025, Position Questionnaire, for each position identified in this subsection.

(f) A valid Form 2011, HP-2, Hazardous Position Certification, to certify the effective date each employee began working in the position and the date of each employee's physical examination by a licensed physician.

Section 4. Board of Trustees determination.

(1)

(a) The CERS Board of Trustees shall review all hazardous position classification requests and information provided by the CERS employer as indicated in Section 2 of this administrative regulation to determine if each position meets the requirements to be classified as a hazardous position.

(b) If the CERS hazardous position is authorized by the CERS Board of Trustees, the hazardous position effective date will be the first day of the month following the CERS Board of Trustees meeting at which it was authorized, unless the CERS Board of Trustees specifies a different date.

(2)

(a) The KRS Board of Trustees shall review all hazardous position requests and information provided by the KERS employer as indicated in Section 3 of this administrative regulation to determine if each position meets the requirements to be classified as a hazardous position.

(b) If the KERS hazardous position is authorized by the KRS Board of Trustees, the hazardous position effective date will be the first day of the month following the KRS Board of Trustees meeting at which it was authorized, unless a different date is specified by the Board.

Section 5. Hazardous Service Certification and Revocation.

(1)

(a) CERS and KERS employers shall compete and submit a valid Form 2011, HP-2, Hazardous Position Certification, at initial hire and each time an employee begins a new hazardous duty position or changes his or her hazardous duty position as required by KRS 61.592(5) and 78.5520(4).

(b) The employer shall retain a copy of the physical examination by a licensed physician and submit a copy to the agency.

(2) The CERS Board of Trustees shall have the authority to revoke a CERS employee's hazardous position classification pursuant to KRS 78.5520(2)(c).

Section 6. Conversion of Position from Nonhazardous to Hazardous.

(1)

(a) To convert nonhazardous service credit to hazardous service credit, a member shall:

1. Have membership date prior to January 1, 2014; and
2. Have previously worked in a nonhazardous position that has been converted to a hazardous position.

(b) The employer for the converted hazardous position shall have participated in the systems prior to the conversion pursuant to KRS 61.592(3)(c) and 78.5520(3)(a).

(c) Payment of the cost of converting shall be paid in accordance with subsection (3) of this section.

(2)

(a) To request the conversion of nonhazardous service credit to hazardous service credit, the employer shall complete and submit a valid Form 4150, Certification of Employment in a Hazardous Position, to verify employee and employer participation in accordance with subsection (1)(a) and (b).

(b) The agency shall review the Form 4150 and determine if the service credit is eligible for conversion. If eligible, the agency shall provide the member with the cost of converting.

(3)

(a) The cost of converting the nonhazardous service credit to hazardous service credit shall be paid by the member as provided by KRS 61.552(9) and 78.545, unless:

1. The employer elects to pay the cost; or
2. The county elects to pay the cost, pursuant to KRS 78.530(3)(a), (d), or (f), and the county requests and pays for an actuarial study to determine the cost.

(b) Payments made by the member shall not be picked up by the employer as described in KRS 61.560(4) and 78.615(1).

(c)

1. Payment is due in full thirty (30) days from the date the cost of converting the service credit is provided to the employee, or in accordance with a payment schedule made with the agency.

2. Payments made by an employer shall be deposited to the retirement allowance account of the appropriate retirement system as established in KRS 61.580 and 78.650, and these funds shall not be considered accumulated contributions of the individual employee.

3. Payments made by a member, including interest, shall be deposited into his or her account as established in KRS 61.575 and 78.640 and are included in the member's accumulated contributions.

4. If payment is not made in accordance with this paragraph, the service credit prior to hazardous position classification shall remain nonhazardous service credit.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Form 2011, HP-2, Hazardous Position Certification," November 2024;
 - (b) "Form 4150, Certification of Employment in a Hazardous Position", November 2024;
 - (c) "Form 7011, HP-1, Hazardous Participation Certification (CERS)", November 2024;
 - (d) "Form 7013, HP-1, Hazardous Participation Certification (KERS)", November 2024; and
 - (e) "Form 7025, Position Questionnaire", November 2024.
- (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, Monday through Friday, 8 a.m. and 4:30 p.m. This material is also available on the Kentucky Public Pensions Authority's Web site at kyret.ky.gov.

RYAN BARROW, Executive Director

APPROVED BY AGENCY: October 4, 2024

FILED WITH LRC: October 4, 2024 at 9:20 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing to allow for public comment on this administrative regulation shall be held on Thursday, December 26, 2024, at 2:00 p.m. 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 Tuesday, December 31, 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.

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