

**FINANCE AND ADMINISTRATION CABINET**  
**Kentucky Public Pensions Authority**  
**(Amendment)**

**105 KAR 1:451. Quasi-governmental employer reports on independent contractors and leased employees.**

RELATES TO: KRS 61.5991, 61.510, 61.543, 61.552, 61.645, 61.675, 61.685

STATUTORY AUTHORITY: KRS 61.5991(1)(c), 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 all administrative regulations necessary or proper in order to carry out the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705, and to conform to federal statutes and regulations. KRS 61.5991 requires certain employers that participate in the Kentucky Employees Retirement System to report information to the Kentucky Public Pensions Authority on some persons providing services for the participating employer as an independent contractor, a leased employee, or via any other similar employment arrangement. This administrative regulation establishes quasi-governmental employer reports on independent contractors and leased employees.

Section 1. Definitions.

(1) "Contractor Wizard" means an online interactive form that guides employers to certify their non-contributing service providers by answering a series of questions broken into small, manageable steps ~~["Complete" means all required sections of a form are filled out, the form has been fully executed by an agency head, appointing authority, or authorized designee (such as the reporting official), and all supporting documentation required by the form is included with the form].~~

(2) "Core services independent contractor" means a person, either personally or through a company or other legal entity, who provides services for a quasi-governmental employer as an independent contractor, other than as a non-core services independent contractor.

(3) "Core services leased employee" means a person who provides services for a quasi-governmental employer as a leased employee through a staffing company, other than as a non-core services independent contractor.

(4) "Direct employment" means employees reported by the quasi-governmental employer in accordance with KRS 61.675 and 105 KAR 1:140.

(5) ~~["Employee" is defined by KRS 61.510(5).]~~

~~[(6)] ["File" means a form has been received at the retirement office by mail, fax, secure email, or in person delivery or via Employer Self Service on the Web site maintained by the agency (if available).]~~

~~[(7)] ["Fiscal year" is defined by KRS 61.510(19).]~~

~~[(8)] ["KPPA" means the administrative staff of the Kentucky Public Pensions Authority.]~~

~~[(9)] "Noncompliant" means the quasi-governmental employer falsifies, fails to provide, or withholds all, or a portion of, the required documentation or information within the time periods prescribed by this administrative regulation.~~

~~[(10)]~~ (6) "Non-core services independent contractor" is defined by KRS 61.5991(9).

~~[(11)]~~ (7) "Other employment arrangement" means:~~;~~

~~[(a)]~~ (a) ~~Means~~ any written agreement between a quasi-governmental employer and a third party (including a person, company, or other legal entity) for one (1) or more persons to provide services for the quasi-governmental employer in exchange for the third party receiving monetary compensation, remuneration, or profit that is not:

(a) Direct ~~;~~ and

~~[(b)]~~ (b) ~~Does not mean direct~~ employment;~~;~~ ~~any written agreement for one (1) or more persons to provide services for a quasi-governmental employer as~~

(b) ~~A [a] non-core services independent contractor or a non-core service leased employee agreement;~~ or

(c) ~~A person that would be considered [any written agreement for one (1) or more persons to provide services to a quasi-governmental employer if the persons would not be] in a regular full-time position if the person[persons] were directly employed by the quasi-governmental employer.~~

(8) ~~[(12)]~~ "Prior fiscal year" means the fiscal year beginning July 1 that is immediately prior to the fiscal year in which the agency~~[KPPA]~~ provides the report to the state budget director's office and the Legislative Research Commission required by KRS 61.5991(3).

(9) ~~[(13)]~~ "Quasi-governmental employer":

(a) Means an employer participating in the Kentucky Employees Retirement System that is a local or district health department governed by KRS Chapter 212, state-supported university or community college, mental health/mental retardation board, domestic violence shelter, rape crisis center, child advocacy center, or any other employer that is eligible to voluntarily cease participation in the Kentucky Employees Retirement System as provided by KRS 61.522; and

(b) Does not include county attorneys, the Council on State Governments (CSG), the Kentucky Educational Television (KET) Foundation, Association of Commonwealth's Attorneys, the Kentucky High School Athletic Association (KHSAA), the Municipal Power Association of Kentucky, the Kentucky Office of Bar Admissions, the Nursing Home Ombudsman, the Kentucky Association of Regional Programs (KARP), and the Kentucky Association of Sexual Assault Programs.

~~[(14)] ["Regular full-time position" is defined by KRS 61.510(21).]~~

## Section 2. Required ~~[Form for]~~ Annual Reporting.

(1)

(a) Quasi-governmental ~~[For the fiscal year beginning July 1, 2021, quasi-governmental]~~ employers shall report all persons providing services as core services independent contractors, core services leased employees, or through any other employment arrangement:

1. For fiscal years July 1, 2021 through June 30, 2023, by completing and submitting a[the] Form 6756, Annual Employer Certification of Non-Contributing Service Providers, on or before the applicable deadline of the fiscal year in which the Form 6756 was required;

2. For fiscal year July 1, 2023 through June 30, 2024, by completing and submitting the initial Form 6756, Annual Employer Certification of Non-Contributing Service Providers, or the initial Contractor Wizard on or before April 15, 2024; and~~[filing the Form 6756 at the retirement office on or before May 2, 2022.]~~

3. [(b)] Effective with the fiscal year beginning July 1, 2025[2022], and for each fiscal year thereafter,~~[quasi-governmental employers shall report all persons providing services as core services independent contractors, core services leased employees, or through any other employment arrangement]~~ by completing and submitting the initial Contractor Wizard~~[the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, and filing the Form 6756 at the retirement office. For each fiscal year beginning on or after July 1, 2022, the Form 6756 shall be filed at the retirement office]~~ on or before April 15 of the fiscal year in which the Contractor Wizard~~[Form 6756]~~ is required.

(b) ~~[(c)]~~ If a quasi-governmental employer contracts with~~[for]~~ any additional persons to provide services as core services independent contractors, core services leased employees, or through any other employment arrangement after the submission of a completed Contractor Wizard or Form 6756, Annual Employer Certification of Non-Contributing Service Providers, as applicable in accordance with paragraph (a)~~[or]~~

~~paragraph (b)~~ of this subsection, ~~[but prior to the end of the fiscal year,]~~ the quasi-governmental employer shall:

1. For fiscal year July 1, 2023 to June 30, 2024, submit [file at the retirement office] a completed supplemental Form 6756 or Contractor Wizard reflecting only those persons not previously reported on the initial Form 6756 or Contractor Wizard. The supplemental Form 6756 or Contractor Wizard shall be submitted[filed at the retirement office] on or before June 30, 2024[of the fiscal year in which the Form 6756 is required].

2. Effective with the fiscal year beginning July 1, 2024, submit a completed supplemental Contractor Wizard reflecting only those persons not previously reported on the initial Contractor Wizard. The supplemental Contractor Wizard shall be submitted on or before June 30 of the fiscal year in which the Contractor Wizard is required.

(c) All documentation required by the initial or supplemental Form 6756 or Contractor Wizard shall be submitted with the Form 6756 or Contractor Wizard.

(2)

(a) The following persons providing services as core services independent contractors, core services leased employees, or through any other employment arrangement [Persons exempted under Sections 5 and 6 of this administrative regulation] shall not be[required to be] listed on an initial or supplemental Contractor Wizard:[the Form 6756, Annual Employer Certification of Non-Contributing Service Providers.]

1. [(b)] Persons[ providing services as core services independent contractors, core services leased employees, or through any other employment arrangement] who would not qualify as an employee in a regular full-time position if directly employed by the quasi-governmental employer; and[shall not be listed on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers.]

2. [(c)] Persons[ providing services as core services independent contractors, core services leased employees, or through any other employment arrangement] who would be in a position reported to another state-administered retirement system if directly employed by the quasi-governmental employer[shall not be listed on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers].

(b) [(d)]

[1.] On the initial or supplemental Contractor Wizard, Quasi-governmental employers:

1. Shall indicate the number of people who meet a reporting exemption as provided in Section 5 of this administrative regulation;

2. May [may] choose to report persons who meet a reporting exemption as provided in Section 5 of this administrative regulation, and those[providing services as a non-core services independent contractor on an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers.]

[2.] [All] persons[ providing services to a quasi-governmental employer as a non-core services independent contractor who are included on an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers,] shall be treated in the same manner as all other persons listed on the Contractor Wizard[Form 6756], including determinations by the agency[KPPA] under Section 3 of this administrative regulation; and

3. Provide documentation required by the Contractor Wizard for persons marked as meeting a reporting exemption.

(3)

(a) [For the fiscal year beginning July 1, 2021, quasi-governmental employers that do not file at the retirement office a completed Form 6756, Annual Employer Certification of Non-Contributing Service Providers, on or before May 2, 2022 shall be reported as

~~noncompliant to the state budget director's office and the Legislative Research Commission in accordance with KRS 61.5991(2)(c) and 61.5991(3)(d).]~~

~~[(b)] [For each fiscal year beginning on or after July 1, 2022, quasi-governmental employers that do not file at the retirement office a completed Form 6756, Annual Employer Certification of Non-Contributing Service Providers, as required by subsection (1)(b) of this section shall be reported as noncompliant to the state budget director's office and the Legislative Research Commission in accordance with KRS 61.5991(2)(c) and 61.5991(3)(d).]~~

~~[(4)] [If a quasi-governmental employer files at the retirement office an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers, without the documentation required by the Form 6756, the Form 6756 shall not be complete and the quasi-governmental employer shall be noncompliant in accordance with KRS 61.5991(2)(c) and 61.5991(3)(d) unless a completed Form 6756 is later filed at the retirement office by the appropriate deadline established in subsections (1), (2), and (5) of this section.]~~

~~[(5)]~~

~~[(a)] After receiving an initial or supplemental Contractor Wizard [Form 6756, Annual Employer Certification of Non-Contributing Service Providers], the agency [KPPA] may notify the quasi-governmental employer that additional information is required.~~

~~(b) If additional information is required [by the KPPA], the agency [KPPA] shall notify the quasi-governmental employer in writing to the attention of the agency head, appointing authority, or authorized designee, such as the reporting official, and shall include the following in its notification:~~

- ~~1. A detailed description of the additional information required; and~~
- ~~2. A deadline by which the additional information required shall [must] be submitted [filed at the retirement office], which shall not be less than fourteen (14) calendar days, but may be longer than fourteen (14) calendar days.~~

~~(c) An initial or supplemental Contractor Wizard [Form 6756, Annual Employer Certification of Non-Contributing Service Providers] shall not be considered complete until all additional information requested by the agency is submitted [KPPA is on file at the retirement office].~~

~~(4)~~

~~(a) [(d)] Except as indicated in paragraph (b) of this subsection, a [If a quasi-governmental employer fails to provide the additional information to the KPPA by the deadline listed in the notification described in paragraph (b) of this subsection or by the deadline agreed upon by the KPPA and the quasi-governmental employer, then the] quasi-governmental employer shall be reported as noncompliant to the state budget director's office and the Legislative Research Commission in accordance with KRS 61.5991(2)(c) and 61.5991(3)(d) if: [ ]~~

- ~~1. It fails to submit a valid Contractor Wizard as required by subsections (1) through (2) of this section;~~
- ~~2. It submits an initial or supplemental Contractor Wizard without the documentation required by the Contractor Wizard; or~~
- ~~3. It fails to submit additional information requested in accordance with subsection (4) of this section.~~

~~(b) The quasi-governmental employer shall not be reported as noncompliant if, by the appropriate deadline provided in this section, it provides all missing information or documentation, including as applicable:~~

- ~~1. A completed valid Contractor Wizard in accordance with subsections (1) and (2) of this section;~~
- ~~2. The documentation required by the Contractor Wizard in accordance with subsections (1) and (2) of this section; or~~

3. Additional information requested in accordance with subsection (3) of this section.

~~(5)~~ ~~(6)~~ During an audit of the quasi-governmental employer conducted in accordance with KRS 61.5991(2)(a)2., 61.675, and 61.685:

(a) If the agency~~[KPPA]~~ discovers that a quasi-governmental employer has failed to list all persons~~[on a Form 6756, Annual Employer Certification of Non-Contributing Service Providers,]~~ as required by this administrative regulation on the Contractor Wizard, or for reporting prior to fiscal year 2025, a Form 6756, Annual Employer Certification of Non-Contributing Service Providers, then the quasi-governmental employer shall be reported as noncompliant to the state budget director's office and the Legislative Research Commission in accordance with KRS 61.5991(2)(c) and 61.5991(3)(d).

(b) If the agency~~[KPPA]~~ discovers persons performing services as an independent contractor or leased employee for a quasi-governmental employer in multiple part-time positions that, if combined, constitute a regular full-time position~~["regular full-time position"]~~, then the agency~~[KPPA]~~ shall make a determination of employee or independent contractor status in accordance with Section 3 of this administrative regulation.

Section 3. Determination of Employee or Independent Contractor.

(1) The agency~~[KPPA]~~ shall have the authority to determine which persons listed on an initial and supplemental Contractor Wizard~~:[Forms 6756, Annual Employer Certification of Non-Contributing Service Providers, should]~~

(a) Shall be reported as employees in regular full-time positions;~~or [and which persons listed on the initial and supplemental Forms 6756, Annual Employer Certification of Non-Contributing Service Providers, are]~~

(b) Are independent contractors.

(2) In determining whether a person listed on the initial and supplemental Contractor Wizard is an employee of the quasi-governmental employer or an independent contractor of the quasi-governmental employer, the agency:

(a) Shall ~~[The KPPA shall]~~ apply common law factors used by the Internal Revenue Service (IRS), in accordance with IRS Publication 1779; ~~and [ , to determine whether a person listed on the initial and supplemental Forms 6756, Annual Employer Certification of Non-Contributing Service Providers, is an employee of the quasi-governmental employer or an independent contractor of the quasi-governmental employer]~~

(b) May consider rules issued by the United States Department of Labor under federal wage and hour law.

(3)

~~(a)~~ If the agency~~[KPPA]~~ determines that a person listed on an initial or supplemental Contractor Wizard~~[Form 6756, Annual Employer Certification of Non-Contributing Service Providers,]~~ is an employee of the quasi-governmental employer in a regular full-time position, then the quasi-governmental employer shall:

(a) Remit ~~[remit]~~ all reports, records, contributions, and reimbursements for that person as an employee in a regular full-time position in accordance with KRS 61.675 and 105 KAR 1:140 effective the calendar month after the agency~~[KPPA]~~ has notified the quasi-governmental employer of its determination in accordance with Section 4 of this administrative regulation; ~~and [ .]~~

(b) For all periods during which the person was providing services to the quasi-governmental employer, submit:

1. A valid Form 4225, Verification of Past Employment, for that person; and ~~[If the KPPA determines that a person listed on an initial or supplemental Form 6756,~~

~~Annual Employer Certification of Non-Contributing Service Providers, is an employee of the quasi-governmental employer in a regular full-time position, then the quasi-governmental employer shall complete and file at the retirement office a Form 4225, Verification of Past Employment, for that person for all periods during which the person was providing services to the quasi-governmental employer.]~~

~~2. All relevant contracts and other documentation demonstrating the relationship between the quasi-governmental employer and the person. [If the KPPA determines that a person listed on an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers, is an employee of the quasi-governmental employer in a regular full-time position, then the quasi-governmental employer also shall submit all relevant contracts and other documentation demonstrating the relationship between the quasi-governmental employer and the person for all periods during which the person was providing services to the quasi-governmental employer.]~~

(4) ~~[(e)] [1.]~~ After reviewing the information from the quasi-governmental employer required by ~~subsection [paragraph] (3)(b) of this section [subsection]~~, if the agency ~~[KPPA]~~ determines that ~~a [the] person listed on an initial or supplemental Contractor Wizard~~ was an employee of the quasi-governmental employer in a regular full-time position for previous periods that were not reported by the quasi-governmental employer in accordance with KRS 61.543, KRS 61.675, and 105 KAR 1:140, then:

(a) ~~The [the] person shall be eligible to purchase omitted service in accordance with KRS 61.552(2) for the periods of his or her [their] previous employment by the quasi-governmental employer in a regular full-time position; and~~

(b) ~~[2.] The [After reviewing the information from the quasi-governmental employer required by paragraph (b) of this subsection, if the KPPA determines that the person was an employee in a regular full-time position for previous periods that were not reported by the quasi-governmental employer in accordance with KRS 61.543, KRS 61.675, and 105 KAR 1:140, then the] quasi-governmental employer shall be responsible for payment of delinquent omitted employer contributions in accordance with KRS 61.552(2) and 61.675(3)(b) for all periods of the person's previous employment by the quasi-governmental employer in a regular full-time position.~~

#### Section 4. Notification to Employers of Determination of Employment Relationship.

(1) ~~Each [For the] fiscal year [beginning July 1, 2021, and for each fiscal year thereafter,] quasi-governmental employers shall be notified by the agency [KPPA] of the determination of which persons shall [should] be reported as employees in regular full-time positions no later than September 30 of the subsequent fiscal year.~~

(2)

(a) ~~The agency [KPPA] shall notify the quasi-governmental employer of the determination of which persons listed on an initial or supplemental Contractor Wizard shall [Form 6756, Annual Employer Certification of Non-Contributing Service Providers, should] be reported as employees in regular full-time positions in one (1) notification letter.~~

(b) ~~The notification shall be sent to the agency head, appointing authority, or authorized designee, such as the reporting official.~~

(c) ~~The notification shall include:~~

1. ~~The name of each person who shall [should] be reported as an employee in regular full-time position in accordance with KRS 61.675 and 105 KAR 1:140;~~

2. ~~A description of the contract or other documents for [pursuant to which] each person who shall [should] be reported as an employee in a regular full-time position who are providing or have provided services to the quasi-governmental employer; and~~

3. A statement that all other persons listed on the initial or supplemental Contractor Wizard shall ~~Form 6756, Annual Employer Certification of Non-Contributing Service Providers, should~~ not be reported as employees in regular full-time positions.

Section 5. Reporting Exemptions ~~{Contracts for Professional Services That Have Not Historically Been Provided by Employees}~~.

(1) A person shall meet a reporting exemption if the ~~{quasi-governmental employer shall not be required to report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, if:}~~

~~{(a)}~~ ~~{The}~~ person is providing professional services as a core services independent contractor, core services leased employee, or through any other employment arrangement if the person provides services:

~~{(a)}~~ As a non-core services independent contractor or non-core services leased employee;

~~{(b)}~~ That ~~{that}~~ have not been performed by direct employees of the quasi-governmental employer since January 1, 2000~~[-]~~ and

~~{(b)}~~ ~~{The professional services}~~ have been ~~{performed}~~ or are being performed for the quasi-governmental employer under a contract on file~~{filed}~~ at the retirement office and determined by the agency~~{KPPA}~~ or the Kentucky Retirement Systems to represent services provided by an independent contractor; ~~or~~~~[-]~~

~~{(c)}~~ ~~{(2)}~~ That are ~~{Quasi-governmental employers may choose to report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, even if the person is providing professional services under a contract that have not historically been provided by employees.}~~

~~{Section 6.}~~ ~~{Original Contracts Entered Prior to January 1, 2021.}~~

~~{(1)}~~ ~~{A quasi-governmental employer shall not be required to report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, if the person is providing services to the quasi-governmental employer as a core services independent contractor, core services leased employee, or through any other employment arrangement}~~ under an original contract with the person or a company entered into prior to January 1, 2021 if~~[-]~~ ~~{unless one of the exceptions in subsections (2), (3), or (4) of this section applies.}~~

1. ~~{(2)}~~ The ~~{A quasi-governmental employer shall report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, if the person is providing services to the quasi-governmental employer as a core services independent contractor, core services leased employee, or through any other employment arrangement under an original contract with the person or a company entered into prior to January 1, 2021 if the}~~ term of the original contract has not expired, and the contract has not been renewed or continued;~~[-]~~

2. ~~{(3)}~~ The ~~{A quasi-governmental employer shall report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, if the person is providing services to the quasi-governmental employer as a core services independent contractor, core services leased employee, or through any other employment arrangement under an original contract with the person or a company entered into prior to January 1, 2021 if the}~~ contract has not been modified to encompass different services; and~~[-]~~

3. ~~{(4)}~~ The ~~{A quasi-governmental employer shall report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, if the person is providing services to the quasi-governmental employer as a core services independent contractor, core services leased employee, or through any other~~

~~employment arrangement under an original contract with a company entered into prior to January 1, 2021 if the] person was [not] included in the original contract.~~

~~(2) [(5)] [Quasi-governmental employers may choose to report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, even if the person is providing services to the quasi-governmental employer as a core services independent contractor, core services leased employee, or through any other employment arrangement under an original contract with the person or a company entered into prior to January 1, 2021.]~~

~~(a) When a quasi-governmental employer submits its Contractor Wizard in accordance with subsection (2) of this administrative regulation, it shall also submit the employment contract for people indicated as a reporting exemption, except as provided in paragraph (b)1. of this subsection.~~

~~(b) The agency shall review the contracts and determine if the person meets the requirements of a reporting exemption.~~

~~1. If a person is determined by the agency to meet a reporting exemption, the quasi-governmental employer shall not submit the contract in subsequent fiscal years as long as all terms and conditions of the approved contract remain unchanged.~~

~~2. If a person is determined by the agency to not meet a reporting exemption, the agency shall make a determination of employment status in accordance with Section 3 of this administrative regulation.~~

~~Section 6. [Section 7.] Report to the State Budget Director's Office and the Legislative Research Commission.~~

~~(1)~~

~~(a) To determine the number of employees of the quasi-governmental employer reported for the prior fiscal year in accordance with KRS 61.5991(3)(a), the agency[KPPA] shall add together all employees in regular full-time positions reported by the quasi-governmental employer pursuant to KRS 61.675 and 105 KAR 1:140 in the prior fiscal year.~~

~~(b) Persons listed on an initial or supplemental Contractor Wizard[~~Form 6756, Annual Employer Certification of Non-Contributing Service Providers,~~] for the prior fiscal year who are ultimately determined by the agency[KPPA] to be employees of the quasi-governmental employer in regular full-time positions shall not be included in the number of employees of the quasi-governmental employer for the prior fiscal year. These persons ~~shall~~may be included in the number of employees of the quasi-governmental employer in a regular full-time position for a subsequent fiscal year if the person is reported by the quasi-governmental employer in the subsequent fiscal year as an employee in a regular full-time position in accordance with KRS 61.675 and 105 KAR 1:140.~~

~~(2) To determine the number of persons providing services to the quasi-governmental employer who were not reported for the prior fiscal year in accordance with KRS 61.5991(3)(b), the agency[KPPA] shall use the total number of persons listed on initial and supplemental Contractor Wizards[~~Forms 6756, Annual Employer Certification of Non-Contributing Service Providers,~~] for the prior fiscal year.~~

~~(3) The agency[KPPA] shall report the following information for each quasi-governmental employer determined to have falsified data or been noncompliant in accordance with KRS 61.5991(3)(d):~~

~~(a) The name of the quasi-governmental employer;~~

~~(b) A description of the type of data falsified and the support the agency[KPPA] has for believing the data to be falsified, if applicable; and~~

~~(c) A description of the nature of the noncompliance, if applicable.~~

Section 7. Retired Reemployed. A retired member who is reemployed with a quasi-governmental employer providing services through an independent contractor, leased employee, or through any other employment arrangement shall also comply with KRS 61.637, 78.5540, and 105 KAR 1:390, including employees:

- (1) In participating positions and non-participating positions; and
- (2) Not reported on the Contractor Wizard.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Contractor Wizard", May 2024 ~~[Form 6756, "Annual Employer Certification of Non-Contributing Service Providers", September 2021];~~
- (b) Internal Revenue Service Publication 1779, "Independent Contractor or Employee", March 2023~~[2012];~~ ~~and~~
- (c) Form 4225, "Verification of Past Employment", March 2024;~~[April 2021.]~~ and
- (d) Form 6756, "Annual Employer Certification of Non-Contributing Service Providers", September 2021.

(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, 8:00 a.m. to 4:30 p.m. This material is also available on the agency's~~[Kentucky Public Pensions Authority's]~~ Web site at kyret.ky.gov.

*JOHN CHILTON, CEO*

APPROVED BY AGENCY: June 25, 2024

FILED WITH LRC: November 8, 2024 at 10:35 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing to allow for public comment on this administrative regulation shall be held on Tuesday, January 21, 2025, 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 January 31, 2025. 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 Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 696-8800 ext. 8570, fax (502) 696-8615, email [Legal.Non-Advocacy@kyret.ky.gov](mailto:Legal.Non-Advocacy@kyret.ky.gov).

## 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 establishes the forms, procedures, and requirements for certain quasi-governmental employers in the Kentucky Employees Retirement System that must provide information to the Kentucky Public Pensions Authority (KPPA) on some independent contractors, leased employees, and other persons providing services for the quasi-governmental employer under similar arrangements.

**(b) The necessity of this administrative regulation:**

This administrative regulation is necessary to establish the forms, procedures, and requirements for certain quasi-governmental employers in the Kentucky Employees Retirement System that must provide information to the KPPA on some independent contractors, leased employees, and other persons providing services for the quasi-governmental employer under similar arrangements.

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

This administrative regulation conforms to the authorizing statute by establishing the forms, procedures, and requirements for certain quasi-governmental employers in the Kentucky Employees Retirement System that must provide information to the KPPA on some independent contractors, leased employees, and other persons providing services for the quasi-governmental employer under similar arrangements in accordance with KRS 61.5991 and 61.645(9)(e). In particular, KRS 61.5591(1)(c) authorizes the promulgation of an administrative regulation to implement KRS 61.5991.

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

This administrative regulation assists in the effective administration of the statutes by establishing the forms, procedures, and requirements for certain quasi-governmental employers in the Kentucky Employees Retirement System that must provide information to the KPPA on some independent contractors, leased employees, and other persons providing services for the quasi-governmental employer under similar arrangements.

**(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:**

The amendment to this administrative regulation incorporates the Contractor Wizard that is required for certain employers to report independent contractors and leased employees. This amendment also updates language used throughout to be consistent with 105 KAR 1:001.

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

This amendment is necessary to update the language used throughout to be consistent with 105 KAR 1:001. Additionally, the amendment is necessary to incorporate the Contractor Wizard that is required for employers to report independent contractors and leased employees.

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

The amendment to this administrative regulation conforms to the authorizing statute by detailing the forms, procedures, and requirements for certain quasi-governmental employers in the Kentucky Employees Retirement System that must provide information to the KPPA on some independent contractors, leased employees, and other persons providing services for the quasi-governmental employer under similar arrangements in accordance with KRS 61.5991 and 61.645(9)(e). In particular, KRS 61.5591(1)(c) authorizes the promulgation of an administrative regulation to implement KRS 61.5991.

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

This amendment assists with the effective administration of the statutes by incorporating the Contractor Wizard that is required for certain employers to report independent contractors and leased employees in accordance with KRS 61.5991 and 61.645(9)(e).

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

One (1) entity that provides day-to-day operations for the Kentucky Employees Retirement System: the KPPA. One (1) public pension system: the Kentucky Employees Retirement System. Approximately 100 quasi-governmental employers, including local and district health departments governed by KRS Chapter 212, state-supported universities and community colleges, mental health/mental retardation boards, domestic violence shelters, rape crisis centers, child advocacy centers, and other employers that are eligible to voluntarily cease participation in the Kentucky Employees Retirement System as provided by KRS 61.522 (excluding county attorneys, the Council on State Governments, the Kentucky Educational Television Foundation, Association of Commonwealth's Attorneys, the Kentucky High School Athletic Association, the Municipal Power Association of Kentucky, the Kentucky Office of Bar Admissions, the Nursing Home Ombudsman, the Kentucky Association of Regional Programs, and the Kentucky Association of Sexual Assault Programs). The number of individuals affected by this administrative regulation is unknown.

**(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:**

The affected quasi-governmental employers will be required to provide the KPPA with information concerning some persons that are providing services for the quasi-governmental employer as independent contractors, leased employees, or through another similar arrangement. If such persons are determined to be employees in regular full-time positions under KRS 61.510(5) and 61.510(21), the affected quasi-governmental employers will be required to prospectively treat the persons as "employees" in accordance with KRS Chapter 61, including reporting employee and employer contributions as required by KRS 61.675 and 105 KAR 1:140. Additionally, in the event of such a determination, the affected employers may be required to remit past delinquent employer contributions as required by KRS 61.552 and 61.675. Finally, the information provided by the KPPA to the state budget director's office and the Legislative Research Commission on the affected quasi-governmental employers may affect subsidies for retirement costs that a quasi-governmental employer may receive pursuant to KRS 61.5991(5) and 61.5991(6).

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

The cost of compliance with this administrative regulation for regulated entities is unknown.

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

Regulated entities are eligible to receive subsidies for retirement costs pursuant to KRS 61.5991(5) and 61.5991(6). (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 costs associated with the implementation of this administrative regulation should be minimal.

**(b) On a continuing basis:**

The costs associated with the implementation of this administrative regulation should be negligible.

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

Administrative expenses of the KPPA, which will carry out the implementation and enforcement of this regulation pursuant to KRS 61.505 and 61.5991, 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 to implement this administrative regulation.

**(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 affected quasi-governmental employers are subject to the same processes and procedures.

## FISCAL IMPACT STATEMENT

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

KRS 61. 5991 and 61.645.

**(2) Identify the promulgating agency and any other affected state units, parts, or divisions:**

The promulgating agency is the Kentucky Public Pensions Authority (KPPA). Affected state units, parts, or divisions include the Kentucky Employees Retirement System.

**(a) Estimate the following for the first year:**

**Expenditures:**The effect of this administrative regulation on the expenditures and revenues of state government agencies in the first full year the administrative regulation is to be in effect is unknown.

**Revenues:**The effect of this administrative regulation on revenues of state government agencies in the first year the administrative regulation is to be in effect is unknown.

**Cost Savings:**The cost savings to the KPPA to administer this amendment to the administrative regulation in the first year should be minimal.

**(b) How will expenditures, revenues, or cost savings differ in subsequent years?**

The expenditures, revenues, or cost to the KPPA to administer this administrative regulation in subsequent years should be minimal.

**(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):**

Local government agencies are not affected by this administrative regulation.

**(a) Estimate the following for the first year:**

**Expenditures:**Local government agencies are not affected by this administrative regulation.

**Revenues:**Local government agencies are not affected by this administrative regulation.

**Cost Savings:**

**(b) How will expenditures, revenues, or cost savings differ in subsequent years?**

Local government agencies are not affected by this administrative regulation.

**(4) Identify additional regulated entities not listed in questions (2) or (3):**

Additional regulated entities include approximately 100 quasi-governmental employers, including local and district health departments governed by KRS Chapter 212, state-supported universities and community colleges, mental health/mental retardation boards, domestic violence shelters, rape crisis centers, child advocacy centers, and other employers that are eligible to voluntarily cease participation in the Kentucky Employees Retirement System as provided by KRS 61.522 (excluding county attorneys, the Council on State Governments, the Kentucky Educational Television Foundation, Association of Commonwealth's Attorneys, the Kentucky High School Athletic Association, the Municipal Power Association of Kentucky, the Kentucky Office of Bar Admissions, the Nursing Home Ombudsman, the Kentucky Association of Regional Programs, and the Kentucky Association of Sexual Assault Programs).

**(a) Estimate the following for the first year:**

**Expenditures:**The effect of this administrative regulation on the expenditures and revenues of these regulated agencies in the first full year the administrative regulation is to be in effect is unknown.

**Revenues:**The effect of this administrative regulation on the expenditures and revenues of these regulated agencies in the first full year the administrative regulation is to be in effect is unknown.

**Cost Savings:**The effect of this administrative regulation on the cost savings of these regulated agencies in the first full year the administrative regulation is to be in effect is unknown.

**(b) How will expenditures, revenues, or cost savings differ in subsequent years?**

The expenditures, revenues, or cost to the KPPA to administer this administrative regulation in subsequent years should be minimal.

**(5) Provide a narrative to explain the:**

**(a) Fiscal impact of this administrative regulation:**

The fiscal impact of this administrative regulation should be negligible because this administrative regulation is already being administered as written with only a change in the method the independent contractors and leased employees are reported.

**(b) Methodology and resources used to determine the fiscal impact:**

This administrative regulation is already being administered as written with only a change in the method the independent contractors and leased employees are reported.

**(6) Explain:**

**(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)**

This administrative regulation will not have an overall negative or adverse economic impact on regulated entities (quasi-governmental employers), as the regulated entities that comply with this administrative regulation and KRS 61.5991 are eligible to receive subsidies for retirement costs.

**(b) The methodology and resources used to reach this conclusion:**

This regulation is already being administered as written with only a change in the method the independent contractors and leased employees are reported.