KENTUCKY PUBLIC PENSION AUTHORITY

Employers

(Amendment)

105 KAR 4:147. Involuntary cessation of participating employers.

RELATES TO: KRS 61.510, 61.522, 61.546, 61.552, 61.555, 61.565, 61.590, 61.598, 61.625, 61.637, 61.675, 78.510 – 78.852, 26 U.S.C. 401

STATUTORY AUTHORITY: KRS 61.522(9), 61.645(9)(e)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(e) requires the Board of Trustees of Kentucky Retirement Systems to promulgate administrative regulations necessary or proper in order to carry out the provisions of KRS 61.510 to 61.705, and 78.510 to 78.852. KRS 61.522 authorizes the Board of Trustees of Kentucky Retirement Systems to involuntarily terminate participation of employers in the Kentucky Employees Retirement System and the County Employees Retirement System determined by the board to no longer qualify to participate in a governmental plan or to be noncompliant with the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852. The Board of Trustees of Kentucky Retirement Systems shall require lump sum payment of the full actuarial cost of benefits accrued by its current and former employees for those involuntarily ceased employers. KRS 61.522(8) requires the board to promulgate administrative regulations to administer the provisions of the statute. This administrative regulation establishes the procedures and requirements for involuntary cessation from participation in the Kentucky Employees Retirement System and the County Employees Retirement System.

Section 1. Definitions.

(1) "Ceased employer" means an employer who the Board of Trustees has determined must involuntarily cease participation.

(2) "Involuntary cessation date" means the date established by the Board of Trustees when approving the employer's involuntary cessation from participation in the Kentucky Employees Retirement System or County Employees Retirement System.

Section 2. Upon determination by the Board of Trustees, an employer shall be required to involuntarily cease participation from the Kentucky Employees Retirement System or the County Employees Retirement System.

(1) The Board of Trustees shall provide written notice to the employer of its intention to involuntarily cease participation. The notice shall be sent by certified mail to the employer's designated reporting official on file at Kentucky Retirement Systems.

(2) The notice shall provide an explanation of the board's decision for involuntary cessation, including whether:

(a) The board has determined that the employer is no longer qualified to participate in a governmental plan; or

(b) The board has determined that the employer has failed to comply with the requirements of KRS 61.510 to 61.705 or 78.510 to 78.852.

(3) The notice shall provide the employer with the opportunity to fully resolve its noncompliance within sixty (60) days of the date the notice was issued by Kentucky Retirement Systems. The board may extend this time if provided a written statement from the employer ensuring full resolution but requiring additional time due to factors outside the employer's control preventing the employer from fully resolving its noncompliance within sixty (60) days of the date of the notice.

(a) Upon expiration of this time, the board shall determine whether the employer fully resolved its noncompliance and shall remain a participant of the Kentucky Employees

Retirement System or County Employees Retirement System or that the employer failed to fully resolve its noncompliance and to proceed with involuntary cessation.

(b) If the board determines that the employer fully resolved its noncompliance, then the employer shall be informed that the involuntary cessation process shall be suspended contingent upon continued compliance.

(4) If the board determines involuntary cessation should proceed, the employer shall be provided with written notice indicating:

(a) That the employer shall pay the full actuarial cost of the benefits accrued by its current and former employees;

(b) That the employer shall be responsible for all fees incurred by Kentucky Retirement Systems for use of external professional services including the administrative costs of an actuarial study performed by Kentucky Retirement Systems' consulting actuary;

(c) That the employer shall be responsible for reimbursing Kentucky Retirement Systems for the cost of compensation and benefits of Kentucky Retirement Systems' employees computed on an hourly basis as well as the costs of postage, printing, and other expenses incurred by Kentucky Retirement Systems;

(d) That the involuntary cessation of participation applies to all of the employer's current and former employees; and

(e) An involuntary cessation date.

(5) The employer shall submit in an encrypted electronic file a list of each current and former full-time employee as defined by KRS 61.510(21) and 78.510(21) who were employed during any time period the employer participated in Kentucky Employees Retirement System or County Employees Retirement System, containing:

(a) Full name;

(b) Last known address;

(c) Date of birth;

(d) Social Security number or Kentucky Retirement Systems member identification number;

(e) Beginning date of employment;

(f) Date employment ended, if applicable;

(g) Sick leave balance;

(h) Beginning and ending dates of any active duty military service when the employee was not employed by the employer; and

(i) Beginning and ending dates of any active duty military service when the employee was employed by the employer.

(j) If the employer refuses or fails to submit the requested information, Kentucky Retirement Systems shall make reasonable efforts to issue a notice to the last known address on file to those current and former employees of the employer that involuntary cessation has been initiated. Kentucky Retirement Systems will provide an involuntary cessation date and notification that the employee will no longer earn service credit while employed with the employer after that date.

(6) Upon receipt of the actuarial study, Kentucky Retirement Systems shall:

(a) Issue an invoice to the employer for the full actuarial cost of cessation as determined in the actuarial study and the total administrative costs for administering the involuntary cessation; and

(b) Require the employer to pay the invoice by lump sum within thirty (30) days of its issuance by Kentucky Retirement Systems.

Section 3.

(1)

(a) Former employees of the ceased employer who are currently employed with a different employer participating in the State Police Retirement System, County Employees Retirement System, or Kentucky Employees Retirement System shall not be eligible to take a refund of their accumulated account balance until terminating employment with the participating employer.

(b) Current employees of the ceased employer who are also employed by another employer participating in the State Police Retirement System, County Employees Retirement System, or Kentucky Employees Retirement System shall not be eligible to take a refund of their accumulated account balance unless they terminate all employment with participating employers.

(2) Current employees of a ceased employer shall terminate employment with the ceased employer and all employers participating in the State Police Retirement System, County Employees Retirement System, and Kentucky Employees Retirement System prior to retiring pursuant to KRS 61.590 or taking a refund pursuant to KRS 61.625.

(3) Employees of a ceased employer shall comply with KRS 61.637 and 105 KAR 5:390 after retirement.

(4) Employees of a ceased employer shall have sixty (60) days from the involuntary cessation date to pay in full any outstanding balance on an installment purchase agreement pursuant to KRS 61.552(14) and 105 KAR 1:150.

(5)

(a) The four (4) percent employer pay credit and applicable interest accrued while employed with a ceased employer shall vest as of the involuntary cessation date for those employees who began participating on or after January 1, 2014.

(b) Employees of the ceased employer who began participating on or after January 1, 2014, shall not be vested in the four (4) percent employer pay credit or applicable interest attributable to a time of employment with an employer other than the ceased employer.

(6) Employees of the ceased employer shall receive service credit for sick leave accrued pursuant to KRS 61.546 or 78.616 as of the involuntary cessation date.

(a) If the employer participates in a sick leave program established in KRS 61.546 or 78.616, the employer shall report to Kentucky Retirement Systems the number of hours of each employee's accumulated sick leave as of the involuntary cessation date.

(b) Kentucky Retirement Systems shall credit the months of sick leave service reported pursuant to this section to the employee's total service credit to determine the employer's full actuarial cost.

(c) If the employer refuses or fails to certify an employee's unused sick leave, Kentucky Retirement Systems shall credit the months of sick leave last reported to the employee's file with Kentucky Retirement Systems as of the employer's involuntary cessation date.

(7) Kentucky Retirement Systems shall credit the months of military service pursuant to KRS 61.555(1) and (2) reported prior to the employer's involuntary cessation date to determine the employer's full actuarial cost.

(8) Kentucky Retirement Systems shall use the employer's involuntary cessation date as the member's last day of paid employment pursuant to KRS 61.510(32) for any member who files for disability retirement benefits that has not established a last day of paid employment prior to the involuntary cessation date.

Section 4. If the employer fails to timely remit the full actuarial cost and Kentucky Retirement Systems' total administrative costs attributable to involuntary cessation, the Board of Trustees may file an action in the Franklin Circuit Court to enforce the provisions of KRS 61.522 and this administrative regulation to recover the full actuarial cost.

Section 5.

(1) A person eligible to purchase service credit pursuant to KRS 61.552 related to employment with the ceasing employer, must either complete the purchase or enter into a service purchase agreement with Kentucky Retirement Systems no later than the employer's involuntary cessation date.

(2) Pursuant to KRS 61.552, current and former employees shall not be eligible to purchase service credit related to employment with a ceased employer after the employer's involuntary cessation date.

(3) A person may purchase service credit pursuant to KRS 61.552(20) if the service is not related to employment with the ceased employer.

(4) A former employee of a ceased employer who becomes employed with a participating employer after terminating employment with the ceased employer may purchase service credit pursuant to KRS 61.552 that is not related to employment with a ceased employer.

Section 6. If an employer files legal action against Kentucky Retirement Systems regarding the provisions of KRS 61.522 or this administrative regulation, the employer shall pay all administrative costs and legal fees incurred by Kentucky Retirement Systems if the employer's legal action against Kentucky Retirement Systems is unsuccessful or is dismissed for any reason other than by the agreement of the parties.

Section 7. If any due date or time period deadline provided in KRS 61.522 or this administrative regulation falls on a Saturday, Sunday, or day that Kentucky Retirement Systems is closed due to state holiday, the due date or time period deadline shall extend to the close of business of the next business day.

(105 KAR 001:147. 45 Ky.R. 1318, 2066; eff. 2-1-2019; TAm eff. 8-19-2019; TAm eff. 9-12-2019; Crt eff. 1-13-2026; Recodified to 105 KAR 004:147; eff. 8-5-2026.)