

**COMMONWEALTH OF KENTUCKY STATE FISCAL NOTE STATEMENT  
LEGISLATIVE RESEARCH COMMISSION  
2016 REGULAR SESSION**

**MEASURE**

2016 BR NUMBER 0849  
RESOLUTION NUMBER \_\_\_\_\_

**HOUSE** BILL NUMBER 427  
AMENDMENT NUMBER \_\_\_\_\_

**SUBJECT/TITLE** An ACT relating to pension surcharges to benefit the Kentucky Retirement Systems and Kentucky Teachers' Retirement System and declaring an emergency.

**SPONSOR** Representative Yonts

**NOTE SUMMARY**

FISCAL ANALYSIS:  IMPACT     NO IMPACT     INDETERMINABLE IMPACT

LEVEL(S) OF IMPACT:  STATE     LOCAL     FEDERAL

BUDGET UNIT(S) IMPACT: All Kentucky Budgetary Units

FUND(S) IMPACT:  GENERAL     ROAD     FEDERAL     RESTRICTED AGENCY \_\_\_\_\_     OTHER

**FISCAL SUMMARY**

FISCAL ESTIMATES	2015-2016	2016-2017	2017-2018	ANNUAL IMPACT AT FULL IMPLEMENTATION
REVENUES				
EXPENDITURES		Indeterminable	Indeterminable	Indeterminable
NET EFFECT		(Indeterminable)	(Indeterminable)	(Indeterminable)

( ) indicates a decrease/negative

**MEASURE'S PURPOSE:** This act imposes a 5% surcharge on any contract, MOA, independent contractor, or personal service contract held by an entity that is a participant the state retirement system that could replace state employees with contractual non-state employees. The bill also imposes a 5% surcharge on Kentucky Community and Technical College System (KCTCS) for any employee not offered the state retirement pension system(s) with revenue going to the Kentucky Retirement Systems (KRS).

**PROVISIONS/MECHANICS:**

Section 1: Creates a new section of KRS 61.510 to 61.705 to provide that if an employer who participates in the Kentucky Employees Retirement System (KERS) or the State Police Retirement System contracts with a third party to fill a position(s) that an employee of state government could perform, the employer shall owe a 5% surcharge to be paid to the unfunded liability trust fund with 80% to the KERS nonhazardous pension plan and 20% to the State Police Retirement System pension fund. This also applies to Memorandums of Agreement, personal service contracts, and independent contractors.

Sections 2 and 3: Requires KCTCS to contribute a percentage of total salaries of any employee(s) who did not choose or were not given a choice to participate in KRS and Kentucky Teachers' Retirement System (KTRS). The percentage is to be calculated as an actuarial value of non-participation, to be deposited into KERS nonhazardous pension fund.

Sections 4, 5, and 6: Nothing in these sections shall supersede KRS 61.610 to 61.705, 161.220 to 161.716, which shall govern state retirement participation funding and benefits.

Determination is subjective as to whether a state employee is qualified to perform the duties of a given contract.

**FISCAL EXPLANATION:** The potential overall financial impact of HB 427 will likely require significant financial resources, however it is considered to be indeterminable at this time due to the unknown value of contracts that would be subjected to the 5% surcharge required by the provisions within Section 1 of the act. Section 1 requires an employer that participates in the KERS or the State Police Retirement System to pay a 5% surcharge, payable to KRS and KTRS, on any contract that provides services that could arguably be performed by a state employee. This would first require a determination of all service contracts currently in place by at least all three branches of government and all public universities. A determination would then need to be made by each agency and university as to which of those contracted services could be performed by a state employee and the value of those contracts. That information is not immediately available and would require significant time and effort by the agencies to provide. For this reason, the cost of Section 1 is considered indeterminable at this time, but given the likely value of service contracts across all budgetary units of state government, the total cost is estimated to be in the tens of millions.

KCTCS was able to provide an estimated impact of the provisions found in Sections 2 and 3. It has been determined to likely cost an estimated total of \$1,611,632 per year, based on current employment and contracts. This includes \$1,076,632 for 552 employees that are not participating in KERS or KTRS, and \$535,000 for service contracts that employ personnel. The impact would likely increase as more employees are hired, and as more service contracts are utilized.

It is possible that the additional funding provided to the retirements systems impacted in this act could reduce future necessary appropriations for the actuarially required contributions, but that determination must be made through a formal actuarial analysis.

**DATA SOURCE(S): Council on Postsecondary Education; LRC Staff**

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