

105 KAR 1:120. Participation of agencies.

RELATES TO: KRS 78.510(3), 78.530, 78.532, 78.535, 78.780

STATUTORY AUTHORITY: KRS 61.645(9)(e), 78.510(3), 78.780

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(g) authorizes the Board of Trustees of Kentucky Retirement Systems to promulgate all administrative regulations necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. KRS 78.510(3) authorizes the board to determine the eligibility of an agency to participate in the County Employees Retirement System, or CERS. KRS 78.780 authorizes the board to govern and control CERS in the same manner in which it administers the Kentucky Employee Retirement System. This administrative regulation establishes the procedures and requirements for participation.

Section 1. Definitions.

- (1) "Alternate plan" means the plan under which an employer purchases service credit for its employees by paying an actuarial cost of the service in a lump sum or by annual installments.
- (2) "Board" is defined by KRS 78.510(2).
- (3) "CERS" or "system" is defined by KRS 78.510(1).

Section 2.

- (1) An agency may participate in CERS if the board determines that the agency:
 - (a) Meets the definition of county in KRS 78.510;
 - (b) Is qualified to establish and maintain a governmental plan as defined in 26 USC 414(d) and 29 USC 1002(32);
 - (c) Satisfactorily completes the trial period established in subsection (2) of this section;
 - (d) Submits all forms and documents necessary for participation in CERS by day fifteen (15) of the month prior to the effective date of participation; and
 - (e) Complies with:
 1. KRS 78.510 through 78.990; and
 2. 105 KAR 1:020 through 105 KAR 1:360.
- (2) Prior to board approval of an agency that has elected to participate in CERS, the agency shall serve a three (3) month trial period, during which it shall:
 - (a) Report contributions; and
 - (b) Comply with the provisions of applicable statutes and administrative regulations governing:
 1. Employee participation; and
 2. Reporting of contributions.
- (3) The board may deny participation if it determines that:
 - (a) An agency has failed to comply with the provisions of subsection (1) of this section; or
 - (b) Its participation will have:
 1. An adverse impact on the tax qualification of CERS, pursuant to applicable federal law and administrative regulation; or
 2. A significant adverse impact on the actuarial soundness of CERS.
- (4) If the board denies an agency's request to participate in CERS, it shall refund to the agency and its employees the contributions paid by them to CERS during the agency's trial period.

Section 3. The effective date of participation shall be the first day of:

- (1) The month during which the order required by KRS 78.530(1) is adopted; or
- (2) Any month subsequent to the month during which the order required by KRS 78.530(1) was adopted.

Section 4. If an agency wishes to participate under the alternate participation plan, it shall request the Kentucky Retirement Systems to conduct an actuarial study to determine the cost of purchasing past service for eligible employees prior to adoption of an order to participate.

Section 5. An agency shall designate a person to be responsible for compliance with applicable statutes and the reporting requirements established in:

- (1) 105 KAR 1:130;
- (2) 105 KAR 1:140;
- (3) 105 KAR 1:150;
- (4) 105 KAR 1:160;
- (5) 105 KAR 1:170;
- (6) 105 KAR 1:210; and
- (7) 105 KAR 1:250.

Section 6. The annual installment to amortize the cost of the employees' service under the alternate plan shall not be less than ten (10) percent of the total annual payroll for nonhazardous employees and fifteen (15) percent of the total annual payroll for hazardous employees included in the alternate plan. The payment shall be due each year on the first day of the month in which participation began.

(18 Ky.R. 920; 1320; eff. 11-8-1991; 19 Ky.R. 2087; 2399; eff. 5-10-1993; 21 Ky.R. 1516; eff. 2-8-1995; 29 Ky.R. 757; 1244; eff. 11-12-2002; TAm eff. 3-4-2019; Crt eff. 3-5-2019.)