

**STATEMENT OF EMERGENCY**  
**105 KAR 1:451E.**

Pursuant to KRS 13A.190(1)(a)3., this emergency administrative regulation is being promulgated in order to meet an imminent deadline for the promulgation of an administrative regulation that is established by state statute. KRS 61.5991(3) requires the Kentucky Public Pensions Authority (KPPA) to provide a report to the state budget director's office and the Legislative Research Commission within sixty (60) days of the end of the fiscal year beginning on July 1, 2021. In order to comply with the statutory deadline for this report, the KPPA must receive the information mandated by KRS 61.5991 from approximately 100 quasi-governmental employers well in advance of the statutory deadline for the report. This emergency administrative regulation will be replaced by an ordinary administrative regulation because the information reported by the quasi-governmental employers and the report provided by the KPPA to the state budget director's office and the Legislative Research Commission are recurring every subsequent fiscal year after the fiscal year beginning on July 1, 2021. The companion ordinary administrative regulation is identical to this emergency administrative regulation.

*ANDY BESHEAR, Governor*

*JOHN CHILTON, Chief Executive Officer*

**FINANCE AND ADMINISTRATION CABINET**  
**Kentucky Retirement Systems**  
**(New Emergency Administrative Regulation)**

**105 KAR 1:451E. 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 61.510 to 61.705 and 16.505 to 16.652, 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.

**Section 1. Definitions.**

(1) Unless otherwise defined in this section, the definitions contained in KRS 61.510 and the definition of "non-core services independent contractor" in KRS 61.5991 shall apply to this administrative regulation.

(2) "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.

(3) "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.

(4) "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.

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

(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) "KPPA" means the administrative staff of the Kentucky Public Pensions Authority.

(8) "Other employment arrangement" means any written agreement between a quasi-governmental employer and a third party (including, but not limited to, 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. "Other employment arrangement" does not include direct employment, any written agreement for one (1) or more persons to provide services for a quasi-governmental employer as a non-core services independent contractor, or 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 as defined in KRS 61.510(21) if the persons were directly employed by the quasi-governmental employer.

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

(10) "Quasi-governmental employer" 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. For the purpose of this administrative regulation, "quasi-governmental employer" 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.

## Section 2. Required Form for Annual Reporting.

(1)

(a) 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 by completing the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, and filing the Form 6756 at the retirement office on or before May 2, 2022.

(b) Effective with the fiscal year beginning July 1, 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 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 Form 6756 is required.

(c) If a quasi-governmental employer contracts 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 Form 6756, Annual Employer Certification of Non-Contributing Service Providers, 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 file at the retirement office a completed supplemental Form 6756 reflecting only those persons not previously reported on the initial Form 6756. The supplemental Form 6756 shall be filed at the retirement office on or before June 30 of the fiscal year in which the Form 6756 is required.

(2)

(a) Persons exempted under Sections 5 and 6 shall not be required to be listed on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers.

(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 pursuant to KRS 61.510(21) if directly employed by the quasi-governmental employer shall not be listed on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers.

(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.

(d)

1. Quasi-governmental employers may choose to report persons 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 Form 6756, including determinations by the KPPA under Section 3 of this administrative regulation.

(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 Section 2(1)(b) of this administrative regulation 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 set forth in subsections (1), (2), and (5) of this Section.

(5)

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

(b) If additional information is required by the KPPA, the 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 must be 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 Form 6756, Annual Employer Certification of Non-Contributing Service Providers, shall not be considered complete until all additional information requested by the KPPA is on file at the retirement office.

(d) 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).

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

### Section 3. Determination of Employee or Independent Contractor.

(1) The KPPA shall have the authority to determine which persons listed on initial and supplemental Form 6756s, Annual Employer Certification of Non-Contributing Service Providers, should be reported as employees in regular full-time positions in accordance with KRS 61.510(5) and 61.510(21) and which persons listed on the initial and supplemental Form 6756s, Annual Employer Certification of Non-Contributing Service Providers, are independent contractors.

(2) The KPPA shall apply common law factors used by the Internal Revenue Service (IRS), in accordance with IRS Publication 1779, to determine whether a person listed on the initial and supplemental Form 6756s, Annual Employer Certification of Non-Contributing Service Providers, is an employee of the quasi-governmental employer pursuant to KRS 61.510(5) or an independent contractor of the quasi-governmental employer.

(3)

(a) 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 pursuant to KRS 61.510(5) and 61.510(21), then the quasi-governmental employer shall 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 KPPA has notified the quasi-governmental employer of its determination in accordance with Section 4 of this administrative regulation.

(b)

1. 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 pursuant to KRS 61.510(5) and 61.510(21), then the quasi-governmental employer shall be required to 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. 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 pursuant to KRS 61.510(5) and 61.510(21), then the quasi-governmental employer also shall be required to 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.

(c)

1. 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 pursuant to KRS 61.510(5) and 61.510(21) for previous periods that were not reported by the quasi-governmental employer in

accordance with KRS 61.675, KRS 61.543, and 105 KAR 1:140, then the person shall be eligible to purchase omitted service in accordance with KRS 61.552(2) for the periods of their previous employment by the quasi-governmental employer in a regular full-time position.

2. 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 pursuant to KRS 61.510(5) and 61.510(21) for previous periods that were not reported by the quasi-governmental employer in accordance with KRS 61.675, KRS 61.543, 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) Effective with the fiscal year beginning July 1, 2021, and for each fiscal year thereafter, quasi-governmental employers shall be notified by the KPPA of the determination of which persons should be reported as employees in regular full-time positions in accordance with KRS 61.510(5) and 61.510(21) no later than the submission of the report to the state budget director's office and the Legislative Research Commission required by KRS 61.5991(3).

(2)

(a) The KPPA shall notify the quasi-governmental employer of the determination of which persons listed on an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers, should be reported as employees in regular full-time positions in accordance with KRS 61.510(5) and 61.510(21) in one (1) notification letter.

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

(c) The notification shall include:

1. The name of each person who 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 pursuant to which each person who should be reported as an employee in a regular full-time position 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 Form 6756, Annual Employer Certification of Non-Contributing Service Providers, should not be reported as employees in regular full-time positions.

#### Section 5. Contracts for Professional Services That Have Not Historically Been Provided by Employees.

(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:

(a) The person is providing professional services as a core services independent contractor, core services leased employee, or through any other employment arrangement 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 filed at the retirement office and determined by the KPPA or the Kentucky Retirement Systems to represent services provided by an independent contractor.

(2) 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, unless one of the exceptions in subsections (2), (3), or (4) of this Section applies.

(2) A quasi-governmental employer shall 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 the term of the original contract has expired and the contract has been renewed or continued.

(3) A quasi-governmental employer shall 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 the contract has been modified to encompass different services.

(4) A quasi-governmental employer shall 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 a company entered into prior to January 1, 2021 if the person was not included in the original contract.

(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.

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 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 Form 6756, Annual Employer Certification of Non-Contributing Service Providers, for the prior fiscal year who are ultimately determined by the 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. Such persons may be included in the number of employees of the quasi-governmental employer 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 KPPA shall use the total number of persons listed on initial and supplemental Form 6756s, Annual Employer Certification of Non-Contributing Service Providers, for the prior fiscal year.

(3) The 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 KPPA has for believing the data to be falsified, if applicable; and

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

#### Section 8. Incorporation by Reference.

(1) The following materials are incorporated by reference:

(a) Form 6756, "Annual Employer Certification of Non-Contributing Service Providers", September 2021.

(b) Internal Revenue Service Publication 1779, "Independent Contractor or Employee", March 2012.

(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 Kentucky Public Pensions Authority's Web site at [kyret.ky.gov](http://kyret.ky.gov).

*JOHN CHILTON, Chief Executive Officer*

APPROVED BY AGENCY: August 19, 2022

FILED WITH LRC: August 19, 2022 at 11:25 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this emergency administrative regulation shall be held on Tuesday, October 25, 2022 at 2:00 p.m. at the Kentucky Public Pensions Authority, 1270 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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. This hearing is open to the public. Any person who wishes to be heard will be given the opportunity to comment on the proposed emergency administrative regulation. 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 emergency administrative regulation. Written comments shall be accepted until October 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed emergency administrative regulation to the contact person.

CONTACT PERSON: Jessica Beaubien, Policy Specialist, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 696-8570, fax (502) 696-8801, email [Legal.Non-Advocacy@kyret.ky.gov](mailto:Legal.Non-Advocacy@kyret.ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person: Jessica Beaubien, Policy Specialist**

**(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:**

This is a new administrative regulation.

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

This is a new administrative regulation.

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

This is a new administrative regulation.

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

This is a new administrative regulation.

**(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 NOTE

**(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?**

This administrative regulation impacts 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). Additionally, this administrative regulation impacts the KPPA and the Kentucky Employees Retirement System.

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

KRS 61. 5991 and 61.645.

**(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.**

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. Local government agencies are not affected by this administrative regulation.

**(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?**

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. Local government agencies are not affected by this administrative regulation.

**(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?**

The effect of this administrative regulation on revenues of state government agencies in subsequent years the administrative regulation is to be in effect is unknown. Local government agencies are not affected by this administrative regulation.

**(c) How much will it cost to administer this program for the first year?**

The cost to the KPPA to administer this administrative regulation in the first year should be minimal.

**(d) How much will it cost to administer this program for subsequent years?**

The cost to the KPPA to administer this administrative regulation in subsequent years should be negligible.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Revenues (+/-):Unknown**

**Expenditures (+/-):Unknown**

**Other Explanation:**

As a result of this administrative regulation, all persons determined to be employees in regular full-time positions as defined by KRS 61.510(5) and 61.510(21) shall be treated prospectively from the determination as "employees" in accordance with KRS Chapter 61, including the required payment of employee and employer contributions to the KPPA on behalf of the Kentucky Employees Retirement System in accordance with KRS 61.675. Additionally, in the event of such a determination, affected employers may be required to remit past delinquent employer contributions as required by KRS 61.552 and 61.675.

**(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.**

The effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect is largely unknown. See subsequent responses for more details.

**(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?**

Regulated entities that comply with this regulation and KRS 61.5991 are eligible to receive subsidies toward retirement costs pursuant to KRS 61.5991(6). The exact dollar amounts of the subsidies are unknown.

**(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?**

Regulated entities that comply with this regulation and KRS 61.5991 are eligible to receive subsidies toward retirement costs pursuant to KRS 61.5991(6). The exact dollar amounts of the subsidies are unknown.

**(c) How much will it cost the regulated entities for the first year?**

The cost to regulated entities in the first year this administrative regulation is to be in effect is unknown.

**(d) How much will it cost the regulated entities for subsequent years?**

The cost to regulated entities in the subsequent years this administrative regulation is to be in effect is unknown.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Cost Savings (+/-):Unknown**

**Expenditures (+/-):Unknown**

**Other Explanation:**

As previously stated, the exact dollar amounts of cost savings through subsidies that eligible regulated entities may receive are not known because the subsidies are at the discretion of the General Assembly and percentage-based. See KRS 61.5991(6). Additionally, the exact dollar amounts of expenditures by regulated entities as a result of this administrative regulation are unknown at this time. All persons determined to be employees in regular full-time positions as defined by KRS 61.510(5) and 61.510(21)

shall be treated prospectively from the determination as "employees" in accordance with KRS Chapter 61, including the required payment of employer contributions to the KPPA on behalf of the Kentucky Employees Retirement System in accordance with KRS 61.675. Furthermore, in the event of such a determination, regulated entities may be required to remit past delinquent employer contributions as required by KRS 61.552 and 61.675.

**(5) Explain whether this administrative regulation will have a major economic impact, as defined below.**

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]. 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.