

FINANCE AND ADMINISTRATION CABINET
Kentucky Public Pensions Authority
(Amended at ARRS Committee)

105 KAR 1:130. Hazardous ~~position~~~~[duty]~~ coverage.

RELATES TO: KRS 16.505, 61.552, 61.560, 61.580, 61.592, 78.530, 78.545, 78.5520, 78.615, 78.650~~[78.545(30)]~~

STATUTORY AUTHORITY: KRS 61.505~~[61.645(9)(e)]~~

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g) authorizes the Kentucky Public Pensions Authority~~[61.645(9)(e) requires the Board of Trustees of the Kentucky Retirement Systems]~~ to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with~~[necessary or proper in order to carry out the provisions of]~~ KRS 16.505 to 16.652, 61.505, 61.510 to 61.705, and 78.510 to 78.852. KRS 61.592 and 78.5520 prescribe~~[KRS 61.592(2) requires the board to promulgate administrative regulations prescribing]~~ the manner in which an employer shall request hazardous ~~position~~~~[duty]~~ coverage for employees, and the requirements for converting nonhazardous position coverage to hazardous position coverage. This administrative regulation establishes the requirements, procedures, and forms for requesting, or converting to, hazardous position coverage.

Section 1. Definition ~~[Definitions]~~. "Systems" means the Kentucky Employees Retirement System or the County Employees Retirement System.

~~[(1)] ["County" is defined by KRS 78.510(3).]~~

~~[(2)] ["Department" is defined by KRS 61.510(3).]~~

Section 2. Hazardous Positions in the County Employees Retirement System.

(1) Pursuant to KRS 78.5520(2), County Employees Retirement System (CERS) employers shall classify a position as a hazardous position only when authorized by the CERS Board of Trustees. ~~[If a county eligible to participate in the County Employees Retirement System chooses to provide hazardous duty coverage to all eligible employees, the county shall adopt an appropriate order to pay the required contributions and provide hazardous coverage to all eligible employees. Notwithstanding the three (3) month trial period set out in 105 KAR 1:120, Section 2, the county's request for participation in County Employees Retirement System shall be submitted to the Board of Trustees at the first quarterly meeting which occurs at least one (1) month after the adoption of the appropriate order. The effective date of hazardous position coverage in the order shall be the date of the county's participation in County Employees Retirement System.]~~

(2) A CERS employer shall notify the agency of the intent to request authorization of a hazardous position from the CERS Board of Trustees. Once notified, the agency shall provide the employer with a hazardous position packet, including the date the completed packet shall be returned to be presented for authorization to the CERS Board of Trustees. The hazardous position packet stipulates that the employer shall submit:

(a) A resolution on the employer's letterhead stating the employer's intent to classify an eligible position as a hazardous position, and the desired effective date of the hazardous position classification;

(b) A valid Form 7011, HP-1, Hazardous Participation Certification (CERS), to certify that the position identified in paragraph (a) of this subsection meets the definition of a hazardous position and that sufficient funds have been budgeted for the required employer contributions;

(c) A job description for each position identified in this subsection;

(d) A valid Form 7025, Position Questionnaire, for each position identified in this subsection; and

(e) A valid Form 2011, HP-2, Hazardous Position Certification, to certify the effective date each employee began working in the position and the date of each employee's physical examination by a licensed physician.

~~{Section 3.}~~

~~{(1)} [A department participating in the Kentucky Employees Retirement System may provide hazardous position coverage upon authorization by the governing authority. The governing authority shall make the request for hazardous position coverage in writing to the Board of Trustees of Kentucky Retirement Systems. If the position is approved, the effective date of hazardous position coverage shall be the first day of any month following the quarterly meeting of the board of trustees which occurs after the date of the request.]~~

~~{(2)} [A county participating in County Employees Retirement System may provide hazardous position coverage upon adoption of a resolution by its governing authority to transfer eligible positions from nonhazardous to hazardous position coverage. The governing authority shall make a written request for hazardous position coverage to the Board of Trustees of Kentucky Retirement Systems. If the position is approved for hazardous coverage, the effective date of hazardous position coverage shall be the first day of any month following the quarterly meeting of the Board of Trustees of Kentucky Retirement Systems in which the hazardous position coverage is approved unless a different date is approved by the Board of Trustees of Kentucky Retirement Systems.]~~

~~(3)~~

~~(a) {(a)}~~

~~{1.} An employee [Employees] who began participating in CERS[County Employees Retirement System] prior to September 1, 2008, and ~~was~~[were] working in a CERS hazardous position[covered positions in County Employees Retirement System] prior to September 1, 2008, shall continue to participate as a hazardous position employee[covered employees] as long as he or she remains[they remain] in a position that has been approved for hazardous position coverage.~~

~~(b) {2.} An employee [Employees] who began participating in CERS[County Employees Retirement System] prior to September 1, 2008, and ~~is~~[are] subsequently employed in a hazardous position[covered positions], shall participate as a hazardous position employee[covered employees] as long as he or she remains[they remain] in a position that has been approved for hazardous position coverage.~~

~~(c) {(b)} An employee [Employees] who ~~began~~[begin] participating in CERS[County Employees Retirement System] on or after September 1, 2008, in a position that was approved as ~~a~~[for] hazardous position[coverage] prior to September 1, 2008, shall not be reported as a hazardous position employee[covered employees] until the position is approved by the CERS[county requests that the] Board of Trustees[of Kentucky Retirement Systems approve] as a hazardous position in accordance with Section 4(1) of this administrative regulation[coverage for those positions that meet the criteria as set out in KRS 61.592(1)(b), and hazardous coverage is approved by the Board of Trustees of Kentucky Retirement Systems for those positions], even if the position ~~was~~[has] previously ~~been~~ approved as ~~a~~[for] hazardous position[coverage].~~

Section 3. ~~{Section 4.}~~ Hazardous Positions in the Kentucky Employees Retirement System.

(1) Pursuant to KRS 61.592(2), an employer in the Kentucky Employees Retirement System (KERS) shall classify a position as a hazardous position only when authorized by the Kentucky Retirement Systems (KRS) Board of Trustees.

(2) A KERS employer shall notify the agency of the intent to request authorization of a hazardous position from the KRS Board of Trustees. Once notified, the agency shall

provide a hazardous position packet, including the date the completed packet shall be returned to be presented for authorization to the KRS Board of Trustees. The hazardous position packet stipulates that the employer shall submit:

(a) A valid ~~[The department shall complete and submit the]~~ Form 7013, HP-1, Hazardous ~~Position~~Participation Certification (KERS), to certify that the position identified in this subsection meets the definition of a hazardous position and~~[The form shall be signed by the head of the department and by an individual who can attest]~~ that sufficient funds have been budgeted for the required employer contributions;~~;~~~~f~~

(b) A ~~[For departments of the Commonwealth of Kentucky, the department shall also submit a]~~ letter from the Governor's Office ~~for~~~~[of]~~ Policy and Management verifying sufficient funds have been allocated for hazardous position contribution rates~~[budgeted for employer contributions];~~~~f~~

~~[(2)] [The county shall complete and submit the "Form 7011, HP-1, Hazardous Participation Certification (CERS)". The form shall be signed by the agency head and by an individual who can attest that sufficient funds have been budgeted for the employer contributions.]~~

(c) A list of all positions identified in this subsection, which shall include the name, social security number, and position title of all affected individuals who are currently employed. For KERS employers reported by the Personnel Cabinet, the list of positions shall also include the unique eight-character Job ID used by the Personnel Cabinet, which shall be different than a nonhazardous position Job ID ;~~f~~

(d) A job description for each position identified in this subsection ;~~f~~

~~[Section 5.] [The county or department shall submit a description of the duties of each position for which hazardous coverage is requested.]~~

(e) ~~[(1)]~~ A valid ~~[The agency shall complete Sections 1 and 3 of]~~ Form 7025, Position Questionnaire, for each position identified in this subsection~~[employees of a department and for employees of a county whose participation date was prior to September 1, 2008]; and~~~~f~~

~~[(2)] [The agency shall complete Sections 2 and 3 of Form 7025, Position Questionnaire, for employees of a county whose participation date was on or after September 1, 2008.]~~

~~[Section 6.]~~

(f) A valid ~~[The county or department shall complete and submit a]~~ Form 2011, HP-2, Hazardous Position Certification, to certify the effective date~~[provided by the retirement system for]~~ each employee began working in ~~the~~~~[a]~~ position and the date of each employee's physical examination by a licensed physician~~[for which the coverage has been requested. If there is any change in the employee's work assignment or classification, the county or department shall submit a new Form 2011, HP-2, Hazardous Position Certification, indicating the change in the position].~~

Section 4. Board of Trustees determination.

(1)

(a) The CERS Board of Trustees shall review all hazardous position classification requests and information provided by the CERS employer ~~required by~~ ~~f~~~~as indicated in~~~~f~~ Section 2 of this administrative regulation to determine if each position meets the requirements to be classified as a hazardous position.

(b) If the CERS hazardous position is authorized by the CERS Board of Trustees, the hazardous position effective date will be the first day of the month following the CERS Board of Trustees meeting at which it was authorized, unless the CERS Board of Trustees specifies a different date.

(2)

(a) The KRS Board of Trustees shall review all hazardous position requests and information provided by the KERS employer ~~required by~~ ~~as indicated in~~ Section 3 of this administrative regulation to determine if each position meets the requirements to be classified as a hazardous position.

(b) If the KERS hazardous position is authorized by the KRS Board of Trustees, the hazardous position effective date will be the first day of the month following the KRS Board of Trustees meeting at which it was authorized, unless a different date is specified by the Board.

Section 5. Hazardous Service Certification and Revocation.

(1)

(a) CERS and KERS employers shall ~~complete~~ ~~complete~~ and submit a valid Form 2011, HP-2, Hazardous Position Certification, at initial hire and each time an employee begins a new hazardous duty position or changes his or her hazardous duty position, as required by KRS 61.592(5) and 78.5520(4).

(b) The employer shall retain a copy of the physical examination by a licensed physician and submit a copy to the agency.

(2) The CERS Board of Trustees shall have the authority to revoke a CERS employee's hazardous position classification pursuant to KRS 78.5520(2)(c).

Section 6. ~~Section 7.~~ Conversion of Position from Nonhazardous to Hazardous.

(1)

~~(a)~~ To convert nonhazardous service credit to hazardous service credit ~~:~~ ~~:~~

(a) A member shall:

1. Have a membership date prior to January 1, 2014; and

2. Have previously worked in a nonhazardous position that has been converted to a hazardous position ~~:~~ ~~:~~

(b) The employer for the converted hazardous position shall have participated in the systems prior to the conversion pursuant to KRS 61.592(3)(c) and 78.5520(3)(a) ~~:~~ ~~and~~ ~~:~~

(c) Payment of the cost of converting shall be paid in accordance with subsection (3) of this section.

(2)

~~(a)~~ To request the conversion of nonhazardous service credit to hazardous service credit ~~:~~ ~~:~~

(a) The employer shall complete and submit a valid Form 4150, Certification of Employment in a Hazardous Position, to verify employee and employer participation in accordance with subsection (1)(a) and (b) ~~:~~ ~~and~~ ~~:~~

(b) The agency shall review the Form 4150 and determine if the service credit is eligible for conversion. If eligible, the agency shall provide the member with the cost of converting.

(3)

(a) The cost of converting the nonhazardous service credit to hazardous service credit shall be paid by the member as provided by KRS 61.552(9) ~~or~~ ~~and~~ 78.545, unless:

1. The employer elects to pay the cost; or

2. The ~~If the~~ county elects to pay the cost, pursuant to KRS 78.530(3)(a), (d), or

(f), ~~to pay the cost of providing hazardous coverage for current employees for past service in positions approved for hazardous coverage,~~ and the county requests ~~shall request~~ and pays ~~pay~~ for an actuarial study to determine the cost.

(b) Payments made by the member shall not be picked up by the employer as described in KRS 61.560(4) and 78.615(1).

(c)

1. Payment is due in full thirty (30) days from the date the cost of converting the service credit is provided to the employee, or in accordance with a payment schedule made with the agency.

2. Payments made by an employer shall be deposited to the retirement allowance account of the appropriate retirement system as established in KRS 61.580 and 78.650, and these funds shall not be considered accumulated contributions of the individual employee.

3. Payments made by a member, including interest, shall be deposited into his or her account as established in KRS 61.575 and 78.640 and are included in the member's accumulated contributions.

4. If payment is not made in accordance with this paragraph, the service credit prior to hazardous position classification shall remain nonhazardous service credit.

~~[Section 8.] [Local government employers may be obligated by statutes outside KRS Chapter 61 to certify certain positions as hazardous.]~~

Section 7. [Section 9.] Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Form 2011, HP-2, Hazardous Position Certification," November 2024~~[April 2009]~~;

(b) "Form 4150, Certification of Employment in a Hazardous Position", November 2024;

(c) "Form 7011, HP-1, Hazardous Participation Certification (CERS)", November 2024~~[April 2009]~~;

(d) ~~[(e)]~~ "Form 7013, HP-1, Hazardous Participation Certification (KERS)", November 2024~~[April 2009]~~; and

(e) ~~[(d)]~~ "Form 7025, Position Questionnaire", November 2024~~[April 2009]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Public Pensions Authority~~[Kentucky Retirement Systems, Perimeter Park West]~~, 1260 Louisville Road, Frankfort, Kentucky, Monday through Friday, 8 a.m. and 4:30 p.m. This material is also available on the Kentucky Public Pensions Authority's Web site at kyret.ky.gov.

(18 Ky.R. 921; 1321; eff. 11-8-1991; 20 Ky.R. 827; eff. 12-6-1993; 35 Ky.R. 2472, 36 Ky.R. 19; eff. 7-29-2009; TAm eff. 6-28-2019; Crt eff. 6-28-2019; 51 Ky.R. 964, 1420; eff. 5-6-2025.)

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