

**Kentucky Public Pensions Authority
Ad Hoc Regulation Committee – Special Meeting
November 22, 2022 at 10:00 AM EST (9:00 AM CT)
Live Video Conference/Facebook Live**

AGENDA

- | | |
|--|-----------------------|
| 1. Call to Order | Jerry Powell |
| 2. Opening Statement | Legal Services |
| 3. Roll Call | Sherry Rankin |
| 4. Public Comment | Sherry Rankin |
| 5. Election of Officers – Chair and Vice-Chair* | Jerry Powell |
| 6. Administrative Regulation 105 KAR 1:360* | Board Chair |
| 7. Administrative Regulation 105 KAR 1:001* | Board Chair |
| 8. Adjourn* | Board Chair |

****Committee Action May Be Taken***

MEMORANDUM

TO: Ad Hoc Regulation Committee (“Committee”) for the Board of the Kentucky Public Pension Authority (“Board”)

FROM: Carrie Bass, Staff Attorney Supervisor, Non-Advocacy Division, Office of Legal Services
Jessica Beaubien, Policy Specialist, Non-Advocacy Division, Office of Legal Services

DATE: November 1, 2022

RE: Committee approval and recommendation of KPPA staff to present a new ordinary administrative regulation, 105 KAR 1:360, Hybrid Cash Balance Plan, to the full Board for approval to file with the Office of the Regulations Compiler at the Legislative Research Commission (“Regulations Compiler”)

Purpose of new administrative regulation:

Kentucky Revised Statutes 61.505(1)(g) authorizes the Board to promulgate and amend administrative regulations “on behalf of the Kentucky Retirement Systems and the County Employees Retirement System, individually or collectively” as long as the regulations are consistent with the provisions of Kentucky Revised Statutes 16.505 to 16.652, 61.510 to 61.705, 78.510 to 78.852, and 61.505. 105 KAR 1:360, Hybrid Cash Balance Plan, is consistent with these provisions of the Kentucky Revised Statutes.

105 KAR 1:360 is a new administrative regulation outlining the hybrid cash balance plan tier for members of the State Police Retirement System, Kentucky Employees Retirement System, and County Employees Retirement System with participation dates on or after January 1, 2014, or members making an election pursuant to KRS 61.5955 and 78.545.

This new administrative regulation establishes the procedures and requirements for the administration of the hybrid cash balance plan tier.

Finally, this new administrative regulation incorporates the Form 2013, “Hybrid Cash Balance Plan Opt-In Election,” members use to opt-in to the hybrid cash balance plan tier, and the Form 2022, “Separation of Accounts,” members use to separate their retirement accounts with any state-administered retirement system.

Staff Recommendation:

The Office of Legal Services requests that the Committee review the attached materials and recommend to present 105 1:360, Hybrid Cash Balance Plan, for filing approval to the full Board at the December 7, 2022 meeting.

List of attached materials:

1. 105 KAR 1:360, Hybrid Cash Balance Plan.
2. The Form 2013, “Hybrid Cash Balance Plan Opt-In Election,” February 2021.
3. The Form 2022, “Separation of Accounts,” September 2022.

MEMORANDUM

TO: Ad Hoc Regulation Committee (“Committee”) for the Board of the Kentucky Public Pension Authority (“Board”)

FROM: Carrie Bass, Staff Attorney Supervisor, Non-Advocacy Division, Office of Legal Services
Jessica Beaubien, Policy Specialist, Non-Advocacy Division, Office of Legal Services

DATE: November 1, 2022

RE: Statutory requirements for interest credited to the account of a Tier 3 hybrid cash balance plan member’s account

Background:

At its September 29, 2022 meeting, the Board engaged in a discussion regarding whether an amendment was needed for Section 6(1) and Section 7(1) of the proposed new regulation, 105 KAR 1:360, Hybrid Cash Balance Plan. As written, members in the Tier 3 hybrid cash balance plan who are taking a refund of their account receive interest credited as of June 30 of the last fiscal year. Under consideration is whether those members could instead receive proportional interest credited as of the date of their refund.

Relevant Law:

I. Statutory provisions addressing when interest is credited to Tier 3 hybrid cash balance plan member accounts

KRS 16.583(4), 61.597(4), 78.5512(4), and 78.5516(4) provide that interest is credited to the accounts of Tier 3 hybrid cash balance plan members on June 30 of each fiscal year as follows:

- (a) On June 30 of each fiscal year, the system shall determine if the member contributed to the hybrid cash balance plan during the fiscal year.
- (b) If the member contributed to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by a percentage increase equal to:
 1. Four percent (4%); plus
 2. Seventy-five percent (75%) of the system's geometric average net investment return in excess of a four percent (4%) rate of return.
- (c) If the member did not contribute to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by four percent (4%).

Therefore, these statutes specifically provide that interest can only be credited to Tier 3 hybrid cash balance plan accounts on June 30 of a fiscal year, with no exception.

II. Statutory provisions addressing the amount to be paid on Tier 3 hybrid cash balance plan refunds

For “non-vested” members in the Tier 3 hybrid cash balance plan taking a refund, KRS 61.597(5)(a), 16.583(5)(a), 78.5512(5)(a), and 78.5516(5)(a) state:

Upon termination of employment, a member who has less than five (5) years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall forfeit the accumulated employer credit, and shall only receive a refund of his or her **accumulated contributions**.

(emphasis added).

“Accumulated contributions” are defined in relevant part as:

[T]he sum of all amounts deducted from the compensation of a member and credited to his individual account in the members’ account, including employee contributions picked up after August 1, 1982...together with **interest credited, on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon**. ...

See KRS 16.505(7), 61.510(12), and 78.510(12)(emphasis added).

For “vested” members in the Tier 3 hybrid cash balance plan taking a refund, KRS 61.597(5)(b), 16.583(5)(b), 78.5512(5)(b), and 78.5516(5)(b) state:

Upon termination of employment, a member who has five (5) or more years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall receive a full refund of his or her **accumulated account balance**.

(emphasis added).

“Accumulated account balance” is defined in relevant part as:

For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583[, 61.597, 78.5512, and/or 78.5516], **the combined sum of the member’s accumulated contributions and the member’s accumulated employer pay credit**[.]

See KRS 16.505(40)(b), 61.510(41)(b), and 78.510(38)(b)(emphasis added).

“Accumulated contributions” as used in the definition of “accumulated account balance” is the same as the previously cited definition of “accumulated contributions.” “Accumulated employer pay credit” is defined as:

[T]he employer pay credit deposited to the member’s account and **interest credited on such amounts** as provided by KRS 16.583[, 61.597, 78.5512, and/or 78.5516].

See KRS 16.505(39), 61.510(40), and 78.510(37)(emphasis added).

Therefore, these statutes provide that members in the Tier 3 hybrid cash balance plan who are taking a refund can only receive their employee contributions, employer pay credits (if the member is vested), and interest credited on the employee contributions and employer pay credits (if the member is vested) as of June 30 of the past fiscal year.

III. Law governing administrative regulations

Finally, it is well-established that administrative regulations cannot modify or vitiate a statute or its intent. *See* KRS 13B.120(2)(i).

Staff Recommendation:

As noted above, the related statutes provide that both “non-vested” and “vested” members of the Tier 3 hybrid cash balance plan who are taking a refund of their account can only receive interest credited on the amounts in their account, and that interest is credited to the accounts of Tier 3 hybrid cash balance plan members on June 30 of each fiscal year. The Kentucky Public Pensions Authority, on behalf of the County Employees Retirement System and the Kentucky Retirement Systems, cannot promulgate an administrative regulation that requires or authorizes the crediting of interest to Tier 3 hybrid cash balance plan member accounts on a more frequent basis than as set forth by statute (on June 30 of each fiscal year), including for the accounts of Tier 3 hybrid cash balance plan members taking a refund.

The Office of Legal Services recommends Section 6(1) and Section 7(1) of the proposed new regulation, 105 KAR 1:360, Hybrid Cash Balance Plan, remain as written in the materials provided to the Committee without modification to require more frequent crediting of interest to Tier 3 hybrid cash balance plan member accounts.

1 FINANCE AND ADMINISTRATION CABINET

2 Kentucky Retirement Systems

3 (New Administrative Regulation)

4 105 KAR 1:360. Hybrid cash balance plan.

5 RELATES TO: KRS 16.505, 16.578, 16.583, 61.505, 61.510, 61.542, 61.552,
6 61.5955, 61.597, 61.625, 61.637, 61.640, 61.680, 61.702, 78.510, 78.545, 78.5512,
7 78.5516, 78.5532, 78.5536, 78.5540, 78.5542

8 STATUTORY AUTHORITY: KRS 61.505(1)(g)

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g) authorizes the
10 Kentucky Public Pensions Authority on behalf of the Kentucky Retirement Systems and
11 the County Employees Retirement System to promulgate all administrative regulations
12 that are consistent with the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and
13 78.510 to 78.852. KRS 16.583, 61.597, 78.5512, and 78.5516 create a hybrid cash
14 balance plan tier for members of the State Police Retirement System, Kentucky
15 Employees Retirement System, and County Employees Retirement System with
16 participation dates on or after January 1, 2014, or members making an election pursuant
17 to KRS 61.5955 and 78.545. This administrative regulation establishes the procedures
18 and requirements for the administration of the hybrid cash balance plan tier.

19 Section 1. Definitions.

1

2 (1) "Decompression" means service purchased by a member for a period of time
3 not to exceed ninety (90) days between the member's discharge from active duty military
4 service and the member's return to employment with a participating employer, if the
5 member returned from military leave and did not immediately return to work.
6 Decompression is credited to the member's account only if the member has paid the
7 employee contributions that would have been paid by the member for this period of time
8 in accordance with KRS 16.543, 61.543, and 78.615. The employer also shall pay the
9 employer contributions for this period of time in accordance with KRS 61.565 and 78.635.

10 (2) "Military omitted" means service purchased by a member with a participation
11 date on or after January 1, 2014 who was called to active duty military in accordance with
12 KRS 61.552(1) and 78.545. Military omitted is credited to the member's account only if
13 the member has paid the employee contributions that would have been paid by the
14 member for this period of time in accordance with KRS 16.543, 61.543, and 78.615. The
15 employer also shall pay the employer contributions for this period of time in accordance
16 with KRS 61.565 and 78.635.

17 (3) "Nonvested member" means a member of the Systems who has less than five
18 (5) years of service credited under KRS 16.543, 61.543, and 78.615 and who participates
19 in the hybrid cash balance plan tier based on:

20 (a) A participation date on or after January 1, 2014, or

21 (b) Opting into the hybrid cash balance plan with a participation date between
22 September 1, 2008 and December 31, 2013.

1 (4) "Vested member" means a member of the Systems who has five (5) or more
2 years of service credited under KRS 16.543, 61.543, and 78.615 and who participates in
3 the hybrid cash balance plan tier based on:

4 (a) A participation date on or after January 1, 2014, or

5 (b) Opting in to the hybrid cash balance plan with a participation date between
6 September 1, 2008 and December 31, 2013.

7 Section 2. Application.

8 (1) Systems. This administrative regulation applies to the hybrid cash balance plan
9 tier within each of the Systems.

10 (2) Members. Except as provided in subsections (3) and (4), this administrative
11 regulation applies solely to members who begin participating in the Systems on or after
12 January 1, 2014, and who do not have a participation date in any other state-administered
13 retirement system that is prior to January 1, 2014.

14 (3) Irrevocable Election. This subsection applies only to members with a
15 participation date in the Systems between September 1, 2008 and December 31, 2013
16 who have not received a retirement benefit from the Systems.

17 (a) Pursuant to KRS 61.5955 and 78.545, a member with a participation date in
18 the Systems between September 1, 2008 and December 31, 2013 may make a one-time,
19 irrevocable election to receive the benefits and rights provided under the hybrid cash
20 balance plan tier as defined in KRS 16.583, 61.597, 78.5512, and 78.5516 in lieu of
21 benefits he or she is currently eligible to receive from the Systems.

22 1. A member with a participation date based on service in the Systems or service
23 in another state-administered retirement system prior to September 1, 2008 shall not be

1 eligible to make this one-time, irrevocable election upon separation of accounts in
2 accordance with KRS 61.680, 78.5542, and 105 KAR 1:020.

3 2. A member with a participation date in the Systems between September 1, 2008
4 and December 31, 2013 who also has service in another state-administered retirement
5 system between September 1, 2008 and December 31, 2013 shall be eligible to make
6 this one-time, irrevocable election only upon separation of the member's account in the
7 Systems from the member's account in the other state-administered retirement system
8 as indicated in Section 5(6) of this administrative regulation and in accordance with KRS
9 61.680, 78.5542, and 105 KAR 1:020.

10 (b) 1. Eligible members who make the one-time, irrevocable election as described
11 in paragraph (a) of this subsection shall only be entitled to retain purchased service that
12 is recontribution of a refund, omitted, omitted with interest, decompression, or service
13 purchased in accordance with the Uniformed Services Employment and Reemployment
14 Rights Act (USERRA); the agency shall remove any other purchased service from total
15 months of service credit and refund the cost of that service back to the source of the
16 purchase.

17 2. Eligible members who make the one-time, irrevocable election as described in
18 paragraph (a) of this subsection shall not retain any active duty military service pursuant
19 to KRS 61.552(1) and 78.545, unless the eligible member is currently participating in one
20 of the systems and pays the military omitted.

21 (c) Members eligible to make the one-time, irrevocable election as described in
22 paragraph (a) of this subsection shall be provided information detailing the potential
23 results of such an election via Member Self Service on the Web site maintained by the

1 agency, which shall reflect service credit purchases retained and refunded as described
2 in paragraph (b) of this subsection, and may receive additional information from the
3 agency's counselors upon request.

4 (d) The agency shall provide Form 2013, Hybrid Cash Balance Plan Opt-In
5 Election, on which the member can make a one-time, irrevocable election as described
6 in paragraph (a) of this subsection, available to the member via Member Self Service on
7 the Web site maintained by the agency.

8 (e) The agency shall not process an eligible member's one-time, irrevocable
9 election as described in paragraph (a) of this subsection until a complete and correct
10 Form 2013, Hybrid Cash Balance Plan Opt-In Election, is on file at the retirement office.

11 (f) The effective date of the eligible member's one-time, irrevocable election as
12 described in paragraph (a) of this subsection shall be the date on which the completed
13 Form 2013, Hybrid Cash Balance Plan Opt-In Election, is received at the retirement office.

14 (4) Prior Participation that has been refunded. This subsection applies to a
15 member with a participation date with the Systems prior to January 1, 2014, who
16 terminates employment, and who takes a refund of accumulated contributions pursuant
17 to KRS 61.625 and 78.545. If such a person is reemployed on or after January 1, 2014 in
18 a regular full-time position required to participate in one of the Systems and does not have
19 a participation date with any other state-administered retirement plan prior to January 1,
20 2014, the person becomes a member of the hybrid cash balance plan tier. If such a
21 member purchases his or her previously refunded service in accordance with KRS
22 61.552(3) and 78.545(7), the purchased service shall only be used to determine the

1 member's years of service credited and shall not be used to determine the member's
2 participation date.

3 Section 3. Construction of Administrative Regulation. KRS 16.505 to 16.652, KRS
4 61.510 to 61.705, KRS 78.510 to 78.852, and Title 105 of the Kentucky Administrative
5 Regulations shall apply to the hybrid cash balance plan tier except where required by or
6 as necessary for the administration of the hybrid cash balance plan tier under KRS
7 16.583, 61.597, 78.5512, and 78.5516.

8 Section 4. Trust Assets. All contributions made with respect to each Systems'
9 hybrid cash balance plan tier shall be held in the trust for the respective System. There
10 shall be no segregation of assets for the hybrid cash balance plan tier from the assets for
11 other tiers for the respective System.

12 Section 5. Reciprocity.

13 (1) All service credit with other state-administered retirement systems, including
14 the Judicial and Legislators' Plan and the Teachers' Retirement System, shall be used
15 for determining a member's years of service credited for purposes of eligibility for
16 annuitization, unless:

17 (a) The member has separated their account(s) with another state-administered
18 retirement systems by filing a complete Form 2022, Separation of Accounts, or

19 (b) The member previously retired based on the service with the other state-
20 administered retirement system.

21 (2) Service credit in another state-administered retirement system shall not be
22 used for determining whether a member who is not eligible to retire in the hybrid cash
23 balance plan tier has the five (5) years of service required in order to receive a full refund

1 of his or her accumulated account balance under KRS 16.583(5)(b), 61.597(5)(b),
2 78.5512(5)(b), and 78.5516(5)(b).

3 (3) Service credit in the cash balance plan tier will be counted as service for the
4 other state-administered retirement systems and as service for hospital and medical
5 insurance and managed care plan coverage pursuant to KRS 61.702 and 78.5536.

6 (4) In no event will the same service credit be counted for benefit calculation
7 purposes for more than one state-administered retirement system or tier.

8 (5) A member who is participating in the hybrid cash balance tier in more than one
9 of the Systems will have to retire at the same time and elect the same retirement benefit
10 option in all applicable Systems, unless the member has requested that his or her
11 accounts be separated in accordance with 105 KAR 1:020.

12 (6) A member with a participation date in the Systems between September 1, 2008
13 and December 31, 2013 may make a one-time, irrevocable election to have each system
14 treat his or her service credit in that system without regard to any other service credit, by
15 filing a Form 2022, Separation of Accounts, requesting that his or her accounts be
16 separated in accordance with KRS 61.680 and 78.5542. If so requested, "final
17 compensation" shall be based on the creditable compensation earned under each system
18 separately.

19 (a) Members eligible to make the one-time, irrevocable election to separate
20 accounts shall be provided information detailing the potential results of such an election
21 from the agency's counselors upon request.

22 (b) The agency shall provide Form 2022, Separation of Accounts, on which the
23 member can make the one-time, irrevocable election to separate accounts.

1 (c) The agency shall not process an eligible member's one-time, irrevocable
2 election to separate accounts until a complete and correct Form 2022, Separation of
3 Accounts, is on file at the retirement office.

4 (d) The effective date of the eligible member's one-time, irrevocable election to
5 separate accounts shall be the date on which the completed Form 2022, Separation of
6 Accounts, is received at the retirement office.

7 Section 6. Lump-sum Distributions upon Termination of Employment or Death for
8 Nonvested Members.

9 (1) Termination of Employment. A nonvested member eligible for a refund pursuant
10 to KRS 61.625 and 78.545 shall only be refunded his or her accumulated contributions,
11 and shall forfeit any accumulated employer credit.

12 (2) Death before Retirement. Upon the death of a nonvested member, the
13 beneficiary designated by the member pursuant to KRS 61.542(1)-(2) and 78.545 (2) (or
14 if no designated beneficiary, the member's estate) shall only be entitled to receive a lump-
15 sum payment of the nonvested member's accumulated contributions, and shall not be
16 entitled to receive payment of any accumulated employer credits.

17 (3) Rollovers. A nonvested member or the designated beneficiary of a nonvested
18 member who receives a refund of accumulated contributions may elect to have the
19 refunded accumulated contributions paid directly to an eligible retirement plan in
20 accordance with 105 KAR 1:270 and 105 KAR 1:345.

21 Section 7. Lump-sum Distributions upon Termination or Distributions upon Death
22 of Vested Members.

23 (1) Termination of Employment.

1 (a) Upon termination of employment with all employers participating in the same
2 Systems in which the member has service credit, a vested member who is not otherwise
3 eligible to retire may elect to take a refund of his or her accumulated account balance.

4 (b) 1. Upon termination of employment with all employers participating in one or
5 more of the Systems, a vested member who is eligible for retirement may elect to take a
6 refund of his or her accumulated account balance, in lieu of other retirement payment
7 options provided in KRS 16.583(7), 61.597(7), 78.5512(7), and 78.5516(7).

8 2. The member's election to take a refund of his or her accumulated account
9 balance as described in subparagraph 1 of this paragraph shall be treated as a retirement
10 and the member shall be a retired member ineligible to participate or accrue additional
11 benefits in the Systems upon subsequent reemployment with any participating employer
12 pursuant to KRS 61.637 and 78.5540. Additionally, the member who has made the
13 election described in subparagraph 1 of this paragraph shall be subject to all requirements
14 and restrictions for reemploying with a participating employer in KRS 61.637, 78.5540
15 and 105 KAR 1:390.

16 (2) Death before Retirement. (a) Upon the death of a vested member participating
17 in the Systems, the vested member's designated beneficiary (or if no designated
18 beneficiary, the member's estate) is entitled to a lump-sum distribution of the vested
19 member's accumulated account balance in accordance with KRS 61.625(1)(a) and
20 78.545(5). The designated beneficiary may also be entitled to the other payment options
21 available for a death before retirement pursuant to KRS 16.578, 61.640, and 78.5532.

22 (b) Upon the death of a vested member who is not participating in the Systems at
23 the time of death and who has not taken a refund or retirement benefit, if the vested

1 member has fewer than twelve (12) years of service credited, the vested member's
2 designated beneficiary (or if no designated beneficiary the member's estate) is entitled to
3 a lump-sum distribution of the member's accumulated account balance in accordance
4 with KRS 61.625(1)(a) and 78.545(5). If the vested member has twelve (12) or more years
5 of service credited, the designated beneficiary may also be entitled to other payment
6 options available for a death before retirement pursuant to KRS 16.578, 61.640, and
7 78.5532.

8 (3) Rollover. A vested member or the designated beneficiary of a vested member
9 who takes a lump-sum distribution of the vested member's accumulated account balance
10 under this section may elect to have the lump-sum distribution paid directly to an eligible
11 retirement plan in accordance with 105 KAR 1:270 and 105 KAR 1:345.

12 Section 8. Eligibility for an Annuity.

13 (1) At Normal Retirement Age. Subject to Section 5 of this administrative
14 regulation, a vested member who reaches normal retirement age under the applicable
15 System's statutory provisions and who terminates employment with all participating
16 employers is eligible to retire and may elect to annuitize his or her accumulated account
17 balance or take a lump-sum distribution of his or her accumulated account balance as
18 provided in Section 7(1)(b) of this administrative regulation.

19 (2) Additional Eligibility for Annuitization for Members with Hazardous position
20 Service. A member who has hazardous position service as provided in KRS 16.505-
21 16.652, 61.592 and 78.5520, who has 25 or more years of service credited under KRS
22 16.543(1), 61.543(1), or 78.615(1) or any other Kentucky state-administered system, and
23 who terminates employment with all employers participating in the Systems is eligible to

1 retire and may elect to annuitize his or her accumulated account balance or take a lump-
2 sum distribution of his or her accumulated account balance as provided in Section 7(1)(b)
3 of this administrative regulation.

4 (3) Additional Eligibility for Annuitization for Members with Service Only in a
5 Nonhazardous Position. A member with exclusively nonhazardous position service who
6 is at least age fifty-seven (57), who has an age plus years of service total of at least eighty-
7 seven (87) years, and who terminates employment with all employers participating in the
8 Systems is eligible to retire and may elect to annuitize his or her accumulated account
9 balance or take a lump-sum distribution of his or her accumulated account balance as
10 provided in Section 7(1)(b) of this administrative regulation.

11 (4) Annuitization. A member who elects to annuitize his or her accumulated
12 account balance may receive a retirement benefit determined in accordance with actuarial
13 assumptions and actuarial methods adopted under subsection (6) of this section and in
14 effect on the member's retirement date.

15 (5) Return of Contributions. If the retirement benefit payment option selected by
16 the vested member includes a guaranteed return of contributions, that retirement benefit
17 payment option shall be interpreted to mean that guarantee applies to the accumulated
18 account balance.

19 (6) Board Action with respect to Annuitization. The actions of the Board of Trustees
20 of the Kentucky Retirement Systems and the Board of Trustees of the County Employees
21 Retirement System to adopt assumptions and methods are incorporated by reference
22 under this administrative regulation. Each Board shall adopt the actuarial assumptions
23 that will apply to a specific fiscal year prior to the start of that fiscal year.

1 (7) Eligibility for Retiree Hospital and Medical Benefit. Only a member who is
2 receiving a monthly annuitized benefit is eligible for hospital and medical insurance and
3 managed care plan coverage. A member who takes a lump-sum refund or lump-sum
4 retirement benefit is not eligible for hospital and medical insurance and managed care
5 plan coverage.

6 Section 9. Disability retirement. A member participating in the hybrid cash balance
7 plan tier in one or more of the Systems whose disability retirement allowance is
8 discontinued pursuant to KRS 61.615 and 78.5528 shall begin receiving retirement
9 benefits, if eligible, under KRS 61.597(6), 78.5512(6), 78.5516(6), or 16.583(6), but shall
10 not be eligible for early retirement benefits under KRS 61.559, 78.5510, 78.5514, or
11 16.577.

12 Section 10. Purchase of Service Credit.

13 (1) Members participating in the hybrid cash balance plan tier shall only be eligible
14 to purchase service credit that is recontribution of a refund, omitted, omitted with interest,
15 military omitted, decompression, or under the Uniformed Services Employment and
16 Reemployment Rights Act (USERRA), and shall not be eligible to make any other types
17 of service purchases.

18 (2) Uniformed Services Employment and Reemployment Rights Act (USERRA)
19 Service.

20 (a) Years of service credited shall be determined as required by USERRA.

21 (b) In order to receive service credit for military omitted, decompression, or under
22 the Uniformed Services Employment and Reemployment Rights Act (USERRA), the
23 member shall pay the member contributions in accordance with KRS 16.543, 61.543, and

1 78.615, as though the member was employed during the period of his or her active military
2 duty or decompression.

3 (c) The employer shall pay all employer contributions owed in accordance with
4 KRS 61.552, 61.565, 78.545, and 78.635.

5 (3) Repayment of Refunded Contributions Plus Interest Credits or Accumulated
6 Account Balance.

7 (a) Upon reemployment with a participating employer in a regular full-time position
8 required to participate in the Systems or participation in another state-administered
9 retirement system, a nonvested member who took a refund of his or her member
10 contributions plus interest credits may regain the refunded service credit by repaying, with
11 interest at a rate determined by the board of the respective retirement system, the amount
12 refunded with post-tax employee contributions or a rollover or transfer allowed under the
13 Internal Revenue Code. Although the repayments of refunded contributions plus interest
14 credit shall be used to determine the member's service credited, the repayment of the
15 amount refunded shall not be used to determine a member's participation date.

16 (b) Upon reemployment with a participating employer in a regular full-time position
17 required to participate in the Systems or participation in another state-administered
18 retirement system, a vested member who was not eligible to retire and who took a refund
19 of his or her accumulated account balance may regain the refunded service credit by
20 repaying, with interest at a rate determined by the board of the respective retirement
21 system, the amount refunded with post-tax employee contributions or a rollover or transfer
22 allowed under the Internal Revenue Code. Although the repayments of the refunded
23 accumulated account balance shall be used to determine the member's service credited,

1 the repayment of the amount refunded shall not be used to determine a member's
2 participation date.

3 (4) Omitted Service. Any person who is entitled to service credit in the hybrid cash
4 balance plan tier that was not reported in accordance with KRS 16.543, 61.543, or 78.615
5 may pay the amount of member contributions that would have been due on that service
6 in order to receive credit for the service in the hybrid cash balance plan tier. However,
7 the service shall not be credited to the member's account until employer contributions for
8 the service are received by the Systems. Once member and employer contributions have
9 been received, accumulated employer credits shall be reflected in the member's account.

10 Section 11. Incorporation by Reference. (1) The following material is incorporated
11 by reference:

12 (a) Form 2013, "Hybrid Cash Balance Plan Opt-In Election", February 2021; and

13 (b) Form 2022, "Separation of Accounts", September 2022.

14 (2) This material may be inspected, copied, or obtained, subject to applicable
15 copyright law, at the Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort,
16 Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also
17 available on the Kentucky Public Pensions Authority's Web site at kyret.ky.gov.

APPROVED:

DAVID L. EAGER,
EXECUTIVE DIRECTOR
KENTUCKY PUBLIC PENSIONS AUTHORITY

DATE

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Thursday, February 23, 2023, at 2:00 p.m. Eastern Time 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 no later than 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. 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 administrative regulation. Written comments shall be accepted until Tuesday, February 28, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jessica Beaubien, Policy Specialist, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, KY 40601, email Legal.Non-Advocacy@kyret.ky.gov, telephone (502) 696-8800 ext. 8570, facsimile (502) 696-8615.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation number: 105 KAR 1:360

Contact person: Jessica Beaubien

Phone number: 502-696-8800 ext. 8570

Email: Legal.Non-Advocacy@kyret.ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedures and requirements for the administration of the hybrid cash balance plan tier.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the procedures and requirements for the administration of the hybrid cash balance plan tier.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 61.505(1)(g) authorizes the Kentucky Public Pensions Authority to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852. This administrative regulation conforms to the authorizing statute by establishing the procedures and requirements for the administration of the hybrid cash balance plan tier established in KRS 16.583, 61.597, 78.5512, and 78.5516 for the systems that comprise the Kentucky Retirement Systems and the County Employees Retirement System.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing the procedures and requirements for the administration of the hybrid cash balance plan tier.

(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 regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new 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 three (3) public pensions systems: Kentucky Public Pensions Authority (the public pension systems are the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System), and at least 98,148 members of the hybrid cash balance plan tier (this number will continue to grow over time).

(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: This regulation establishes the procedures and requirements for the administration of the hybrid cash balance plan tier pursuant to KRS 16.583, 61.597, 78.5512, and 78.5516. Employers and members do not need to take any action to comply with the regulation as it addresses the way the statutory scheme is already being administered.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This regulation should not cost any additional funds, as the hybrid cash balance plan is currently being administered by the Kentucky Public Pensions Authority.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation will assist the Kentucky Public Pensions Authority in implementing the hybrid cash balance plan tier, a tier that was designed to reduce unfunded liability of the systems operated by the Kentucky Public Pensions Authority.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: The cost should be negligible as the hybrid cash balance plan is currently being administered.

(b) On a continuing basis: The cost should be negligible as the hybrid cash balance plan is currently being administered.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the Kentucky Public Pensions Authority 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.

(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? (Explain why or why not) Tiering is not applied. All members of the hybrid cash balance plan are treated equally.

FISCAL NOTE

Regulation number: 105 KAR 1:360
Contact person: Jessica Beaubien
Phone number: 502-696-8800 ext. 8570
Email: Legal.Non-Advocacy@kyret.ky.gov

(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? One (1) entity that provides day-to-day operations for the three (3) public pensions systems: Kentucky Public Pensions Authority (the public pension systems are the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System).

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 16.583, 61.505, 61.597, 61.5955, 78.5512, 78.5516, and 78.545.

(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.

(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? None.

(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? None.

(c) How much will it cost to administer this program for the first year? The cost to administer this administrative regulation for the first year should be negligible because the hybrid cash balance plan is currently being administered.

(d) How much will it cost to administer this program for subsequent years? The cost to administer this administrative regulation for subsequent years should be negligible as the hybrid cash balance plan is currently being administered.

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

Revenues (+/-): None.

Expenditures (+/-): None.

Other Explanation: The cost to administer this administrative regulation should be negligible because the hybrid cash balance plan is currently being administered.

(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.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? None.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? None.

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

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

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

Cost Savings(+/-): None.

Expenditures (+/-): Unknown.

Other Explanation: The fiscal impact of this administrative regulation should be negligible because the hybrid cash balance plan is currently being administered.

(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 a major economic impact because the hybrid cash balance plan is currently being administered.

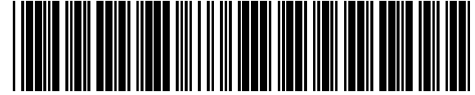
SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

The Form 2013, "Hybrid Cash Balance Plan Opt-In Election," revised in February 2021, is a one (1) page form that members of the Kentucky Employees Retirement System, State Police Retirement System, and County Employees Retirement System with a participation date between September 1, 2008 and December 31, 2013 can use to opt-in to the hybrid cash balance plan tier.

The Form 2022, "Separation of Accounts," revised in September 2022, is a 1 page form that members of the Kentucky Employees Retirement System, State Police Retirement System, and County Employees Retirement System can use to separate their retirement accounts with any state-administered retirement system.



KENTUCKY PUBLIC PENSIONS AUTHORITY
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Phone: (502) 696-8800 • Fax: (502) 696-8822 • kyret.ky.gov



Form 2013
02/2021

Hybrid Cash Balance Plan Opt-In Election

Member Information
Member Name: [redacted] Member ID: [redacted]
Address: [redacted] City: [redacted] State: [redacted] Zip Code: [redacted]
Phone (select type)
Mobile Home Work [redacted]
Email: [redacted]

Certification of Irrevocable Election

I, [redacted] (print member name), in lieu of benefits I am currently eligible to receive from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System ("the Systems") based on my participation date in the Systems between September 1, 2008 and December 31, 2013, elect to receive the benefits and rights provided to members participating in the Systems on or after January 1, 2014, including participating in the hybrid cash balance plan created pursuant to KRS 61.597 for members in nonhazardous duty positions and KRS 16.583 for members in hazardous duty positions. I understand that my election to receive the benefits and rights provided to members participating in the Systems on or after January 1, 2014 pursuant to KRS 61.597 and KRS 16.583 in lieu of benefits I am currently eligible to receive will become effective immediately once this fully completed form is on file at the retirement office, and that this election is irrevocable. I understand that effective with my election to participate in the hybrid cash balance plan, my accumulated contributions, less any interest, shall be deposited into a hybrid cash balance account and employer pay credits shall be added to the accumulated account balance for each month I contributed to the Systems prior to my effective election date. Additionally, I understand that interest credits shall only be applied for periods occurring on or after the effective date of my election. I further understand that effective with my election to participate in the cash balance plan, I forfeit the right to keep any purchased service on my account that is not a Recontribution of a Refund, Omitted Service, Omitted Service with Interest, Military Omitted, USERRA, or Decompression. I understand that any purchased service on my account that is not a Recontribution of a Refund, Omitted Service, Omitted Service with Interest, Military Omitted, USERRA, or Decompression will be removed from my total months of service credit and the cost of that service will be refunded back to the source of the purchase.

Signature: [redacted]

Date: [redacted]



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Form 2022
 Revised 09/2022

Separation of Accounts

Section 1: Member Information

Member Name:		Member ID:	
Address:	City:	State:	Zip Code:

Section 2: State Administered Retirement Systems

Identify the state-administered retirement systems in which you have an account by checking the appropriate boxes below:

- | | |
|--|--|
| <input type="checkbox"/> Kentucky Employees Retirement System (KERS)
(state employees, health departments, universities) | <input type="checkbox"/> Kentucky Teachers' Retirement System (TRS)
(certified employees of boards of education) |
| <input type="checkbox"/> County Employees Retirement System (CERS)
(city, county and local governments, classified employees of boards of education) | <input type="checkbox"/> Legislators' Retirement Plan (LRP)
(State Senators and Representatives) |
| <input type="checkbox"/> State Police Retirement System (SPRS)
(full-time officers) | <input type="checkbox"/> Judicial Retirement Plan (JRP)
(Judges) |

Section 3: Waiver of Reciprocity and Acknowledgment

I, _____ (print member name), hereby waive the reciprocity provisions of KRS 61.680 and 78.545 as follows:

- I elect to separate all of my retirement account(s) marked in Section 2.
- I elect to only separate the following retirement account(s) from all other systems marked in Section 2:
(select ALL accounts to be maintained and administered individually. Accounts selected below will not be eligible for reciprocity.)
- KERS CERS SPRS TRS LRP JRP.

I acknowledge that by waiving reciprocity and separating my retirement accounts as marked, my salary and service used to determine my benefit eligibility will not be combined. Upon election to separate my accounts, I acknowledge I must meet separate vesting and eligibility requirements in order to receive benefits for each relevant system. I acknowledge that the waiver of reciprocity and election to separate my retirement accounts is effective immediately once this form is on file at the retirement office, and that my waiver of reciprocity and election to separate retirement accounts is permanent and irrevocable once this form is on file at the retirement office.

Signature: _____ Date: _____

Section 4: Notorization

State of _____

County of _____

The foregoing was acknowledged by _____ (print member name)

before me this _____ day of _____, 20 _____.

(Notary Seal) _____
 Notary Public _____
 My Commission Expires: _____

MEMORANDUM

TO: Ad Hoc Regulation Committee (“Committee”) for the Board of the Kentucky Public Pension Authority (“Board”)

FROM: Carrie Bass, Staff Attorney Supervisor, Non-Advocacy Division, Office of Legal Services
Jessica Beaubien, Policy Specialist, Non-Advocacy Division, Office of Legal Services

DATE: November 1, 2022

RE: Committee approval and recommendation of KPPA staff to present a new ordinary administrative regulation, 105 KAR 1:001, Definitions for Title 105 of the Kentucky Administrative Regulations, to the full Board for approval to file with the Office of the Regulations Compiler at the Legislative Research Commission (“Regulations Compiler”)

Purpose of new administrative regulation:

Kentucky Revised Statutes 61.505(1)(g) authorizes the Board to promulgate and amend administrative regulations “on behalf of the Kentucky Retirement Systems and the County Employees Retirement System, individually or collectively” as long as the regulations are consistent with the provisions of Kentucky Revised Statutes 16.505 to 16.652, 61.510 to 61.705, 78.510 to 78.852, and 61.505. 105 KAR 1:001, Definitions for Title 105 of the Kentucky Administrative Regulations, is consistent with these provisions of the Kentucky Revised Statutes.

105 KAR 1:001 is a new administrative regulation establishing universal definitions for Title 105 of the Kentucky Administrative Regulations. Title 105 contains regulations for the Kentucky Public Pensions Authority, the County Employees Retirement System, and the Kentucky Retirement Systems.

Staff Recommendation:

The Office of Legal Services requests that the Committee review the attached materials and recommend to present 105 1:001, Definitions for Title 105 of the Kentucky Administrative Regulations, for filing approval to the full Board at the December 7, 2022 meeting.

List of attached materials:

1. 105 KAR 1:001, Definitions for Title 105 of the Kentucky Administrative Regulations.

1 FINANCE AND ADMINISTRATION CABINET

2 Kentucky Retirement Systems

3 (New Administrative Regulation)

4 105 KAR 1:001 Definitions for Title 105 of the Kentucky Administrative Regulations.

5 RELATES TO: KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852

6 STATUTORY AUTHORITY: KRS 61.505(1)(g)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g) authorizes the
8 Kentucky Public Pension Authority on behalf of the Kentucky Retirement Systems and
9 the County Employees Retirement System to promulgate all administrative regulations
10 that are consistent with the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and
11 78.510 to 78.852. This administrative regulation establishes definitions for Title 105 of the
12 Kentucky Administrative Regulations.

13 Section 1. Definitions as used in Title 105 of the Kentucky Administrative
14 Regulations, unless otherwise required by context or otherwise defined in a specific
15 administrative regulation:

16 (1) "AAC" means:

17 (a) Prior to April 1, 2021, the Administrative Appeals Committee of the Board of
18 Trustees of the Kentucky Retirement Systems.

19 (b) Beginning April 1, 2021, the separate or joint Administrative Appeals
20 Committees of the Board of Trustees of the Kentucky Retirement Systems and the Board

1 of Trustees of the County Employees Retirement System in accordance with KRS
2 61.645(16) and 78.782(16).

3 (2) "Accumulated employer credit" is defined in KRS 16.505(39), 61.510(40), and
4 78.510(37)

5 (3) "Accumulated account balance" is defined in KRS 16.505(40), 61.510(41), and
6 78.510(38)

7 (4) "Accumulated contributions" is defined in KRS 16.505(7), 61.510(12), and
8 78.510(12).

9 (5) "Act in line of duty" or "in line of duty" is defined in KRS 16.505(19) and
10 78.510(48).

11 (6) "Active member" means a member who is participating in the systems.

12 (7) "Actuarial equivalent" is defined in KRS 16.505(13), 61.510(17), and
13 78.510(17).

14 (8) "Agency" means:

15 a. Prior to April 1, 2021, the Kentucky Retirement Systems, which administered
16 the State Police Retirement System, the Kentucky Employees Retirement System, and
17 the County Employees Retirement System; and

18 b. Beginning April 1, 2021, the Kentucky Public Pensions Authority, which is
19 authorized to carry out the day-to-day administrative needs of the Kentucky Retirement
20 Systems (comprised of the State Police Retirement System and the Kentucky Employees
21 Retirement System) and the County Employees Retirement System.

22 (9) "Agency reporting official" is defined in KRS 78.510(20).

23 (10)"Alternate payee" is defined in KRS 16.505(38), 61.510(39), and 78.510(36).

1 (11)"Authorized leave of absence" is defined in KRS 16.505(14).

2 (12) "Beneficiary" is defined in KRS 16.505(25), 61.510(26), and 78.510(25).

3 (13) "Boards" means the Board of Trustees of the Kentucky Retirement Systems
4 and the Board of Trustees of the County Employees Retirement System.

5 (14) "Bona fide promotion or career advancement" is defined in KRS 61.598(1)
6 and 78.545(22).

7 (15) "Career threshold" is defined in KRS 61.702(4)(e).9.a. and 78.5536(4)(e)9.a.

8 (16) "County" is defined in KRS 78.510(3).

9 (17) "Creditable compensation" is defined in KRS 16.505(8), 61.510(13), and
10 78.510(13).

11 (18) "Current rate of pay" is defined in KRS 16.505(24), 61.510(25), and
12 78.510(24).

13 (19) "Current service" is defined in KRS 16.505(4), 61.510(10), and 78.510(10).

14 (20) "DAC" means:

15 (a) Prior to April 1, 2021, the Disability Appeals Committee of the Board of
16 Trustees of the Kentucky Retirement Systems.

17 (b) Beginning April 1, 2021, the separate or joint Disability Appeals Committees
18 of the Board of Trustees of the Kentucky Retirement Systems and the Board of Trustees
19 of the County Employees Retirement System in accordance with KRS 61.665(4) and
20 78.545(11).

21 (21) "Department" is defined in KRS 61.510(3).

22 (22) "Dependent child" is defined in KRS 16.505(17) and 78.510(49).

1 (23) "Disability retirement date" is defined in KRS 16.505(16), 61.590(5)(b), and
2 78.510(51).

3 (24) "Duty-related injury" is defined in KRS 61.621(2) and 78.545(20).

4 (25) "Early retirement date" is defined in KRS 16.505(20), 61.590(5)(c), and
5 78.545(4).

6 (26) "Employee" is defined in KRS 61.510(5) and 78.510(6).

7 (27) "Employer" is defined in KRS 16.505(3), 61.510(6), and 78.510(7).

8 (28) "Employer's effective cessation date" is defined in KRS 61.522(1)(c) and
9 78.535(1)(c).

10 (29) "End of day" means 11:59 p.m. Eastern Time, on the date referenced.

11 (30) "Examiner" means the medical examiners as provided in KRS 61.665 and
12 78.545(11).

13 (31) "File" means a form or document has been received at the retirement office
14 by mail, fax, secure email, in-person delivery, or via Self Service on the Web site
15 maintained by the agency (if available).

16 (32) "Final compensation" is defined in KRS 16.505(9), 61.510(14), and
17 78.510(14).

18 (33) "Final rate of pay" is defined in KRS 16.505(10), 61.510(15), and 78.510(15).

19 (34) "Fiscal year" is defined in KRS 16.505(32), 61.510(19), and 78.510(19).

20 (35) "Gainful employment" means work in any capacity that is, or may be,
21 performed with regularity and is, or may be, usually done for pay, whether or not pay is
22 received, including seasonal, volunteer, part-time, and on-call work.

23 (36) "Grandfathered service" is defined in KRS 61.552(9)(b) and 78.545(7).

1 (37) "Hazardous disability" is defined in KRS 16.505(23) and 78.510(47).

2 (38) "Hazardous position" means a regular full-time officer as defined in
3 16.505(22), or a "hazardous position" as defined in 61.592(1)(a), 78.510(42), and
4 78.5520(1).

5 (39) "Hospital and medical insurance plan" is defined in KRS 61.702(1)(a) and
6 78.5536(1)(a).

7 (40) "In line of duty" or "act in line of duty" is defined in KRS 16.505(19) and
8 78.510(48).

9 (41) "Inactive member" means a member who is not participating in the system.

10 (42) "Increment" is defined in KRS 61.510(29) and 78.510(44).

11 (43) "Instructional staff" is defined in KRS 61.510(48).

12 (44) "Invalid," when used in reference to a form, means that the form does not
13 meet the requirements to be valid, and shall not to be processed by the agency.

14 (45) "Last day of paid employment" is defined in KRS 16.505(30), 61.510(32), and
15 78.510(45).

16 (46) "Level percentage of payroll amortization method" is defined in KRS
17 61.510(28) and 78.510(43).

18 (47) "Medical information" as used in KRS 61.610, 61.615, 61.665, 78.5526 and
19 78.5528, means reports of examinations or treatments; medical signs which are
20 anatomical, physiological, or psychological abnormalities that can be observed;
21 psychiatric signs which are medically demonstrable phenomena indicating specific
22 abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or
23 laboratory findings which are anatomical, physiological, or psychological phenomena that

1 can be shown by medically acceptable laboratory diagnostic techniques, including but not
2 limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and
3 psychological tests. Written statements from a medical providers alone are not medical
4 information unless accompanied by supporting contemporaneous records as discussed
5 in this subsection.

6 (48) "Member" is defined in KRS 16.505(21), 61.510(8), and 78.510(8).

7 (49) "Membership date" is defined in KRS 16.505(35), 61.510(36), and 78.510(33).

8 (50) "Month" is defined in KRS 16.505(34), 61.510(35), and 78.510(32).

9 (51) "Monthly average pay" is defined in KRS 16.505(41), 61.510(45), and
10 78.510(52).

11 (52) "Monthly contribution rate" is defined in KRS 61.702(1)(b) and 78.5536(1)(b).

12 (53) "Nominal fee" is defined in KRS 61.510(43) and 78.510(40).

13 (54) "Non-core services independent contractor" is defined in KRS 61.5991(9).

14 (55) "Nonhazardous position" is defined in KRS 61.510(44) and 78.510(41).

15 (56) "Normal retirement age" means the age at which the member meets the
16 requirements for his or her normal retirement date.

17 (57) "Normal retirement date" is defined in KRS 16.505(15), 61.510(18),
18 61.590(5)(a), and 78.510(18).

19 (58) "Objective medical evidence" is defined in KRS 16.505(31), 61.510(33), and
20 78.510(46).

21 (59) "Officers and employees of the General Assembly" is defined in KRS
22 61.510(20).

23 (60) "Optional allowance" is defined in KRS 16.505(18).

1 (61) "Participant" is defined in KRS 16.505(36), 61.510(37), and 78.510(34).

2 (62) "Participating" is defined in KRS 16.505(33), 61.510(34), and 78.510(31).

3 (63) "Participating employer" means any employer that participates in one (1) of
4 the systems operated by the agency.

5 (64) "Participation date" means the earlier of "membership date" as defined in this
6 section or the date on which the member began participating in another state-
7 administered retirement system if the member has not retired or taken a refund from the
8 other state-administered retirement system.

9 (65) "Past service" is defined in KRS 61.552(5)(a) and 78.545(7).

10 (66) "Person" means a natural person.

11 (67) "Premium" means the monthly dollar cost required to provide hospital and
12 medical insurance plan coverage for a recipient, a recipient's spouse, or a disabled or
13 dependent child.

14 (68) "Prior service" is defined in KRS 16.505(5), 61.510(11), and 78.510(11).

15 (69) "Provide," when used in reference to a form or other document, means the
16 agency makes a form or document available on its Web site (if appropriate) or by mail,
17 fax, secure email, or via Self Service on the Web site maintained by the agency (if
18 available).

19 (70) "Qualified domestic relations order" is defined in KRS 16.505(37), 61.510(38),
20 and 78.510(35).

21 (71) "Recipient" is defined in KRS 16.505(26), 61.510(27), and 78.510(26).

22 (72) "Reemployment" means the retired member's first date of employment with a
23 participating employer following his or her most recent retirement date.

1 (73) "Regular full-time officers" is defined in KRS 16.505(22),

2 (74) "Regular full-time position" is defined in KRS 61.510(21) and 78.510(21).

3 (75) "Retired member" is defined in KRS 16.505(11), 61.510(24), and 78.510(23).

4 (76) "Retirement allowance" is defined in KRS 16.505(12), 61.510(16), and
5 78.510(16).

6 (77) "Retirement office" is defined in KRS 16.505(28), 61.510(31), and 78.510(29).

7 (78) "School board" is defined in KRS 78.510(4).

8 (79) "School term or year" is defined in KRS 78.510(28).

9 (80) "Service" is defined in KRS 16.505(6), 61.510(9), and 78.510(9).

10 (81) "State" means the Commonwealth of Kentucky.

11 (82) "Systems" means the State Police Retirement System (KRS 16.505 to 16.652),
12 the Kentucky Employees Retirement System (KRS 61.510 to 61.705), and the County
13 Employees Retirement System (KRS 78.510 to 78.852).

14 (83) "Total and permanent disability" is defined in KRS 16.582(1)(a) and
15 78.5524(1)(a)1.

16 (84) "Valid," when used in reference to a form, means that all required sections of
17 a form are filled out, the form has been fully executed by the required person or the
18 person's legal representative, and all supporting documentation required by the form is
19 included with the form.

20 (85) "Volunteer" is defined in KRS 61.510(42) and 78.510(39).

APPROVED:

DAVID L. EAGER,
EXECUTIVE DIRECTOR
KENTUCKY PUBLIC PENSION AUTHORITY

DATE

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Thursday, February 23, 2023 at 2:00 p.m. at the Kentucky Public Pension Authority, 1270 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing no later than 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. 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 administrative regulation. Written comments shall be accepted until Tuesday, February 28, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jessica Beaubien, Policy Specialist, Kentucky Public Pension Authority, 1260 Louisville Road, Frankfort, KY 40601, email Legal.Non-Advocacy@kyret.ky.gov, telephone (502) 696-8800 ext. 8570, facsimile (502) 696-8615.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation number: 105 KAR 1:001

Contact person: Jessica Beaubien

Phone number: 502-696-8800 ext. 8570

Email: Legal.Non-Advocacy@kyret.ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes definitions for Title 105 of the Kentucky Administrative Regulations.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the definitions for Title 105 of the Kentucky Administrative Regulations.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statute by establishing definitions for Title 105 of the Kentucky Administrative Regulations, which contains administrative regulations for the Kentucky Public Pensions Authority and the systems for which it provides operations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing definitions for the administrative regulations in Title 105 of the Kentucky Administrative Regulations.

(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 regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation may affect over 400,000 members of the systems for which the Kentucky Public Pensions Authority provides operations as well as their spouses, dependent children, and beneficiaries. Additionally, this administrative regulation may affect 1,452 employers that participate in the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System. Finally, this administrative regulation will affect the Kentucky Public Pensions Authority and the three (3) systems for which it provides operations, the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System..

(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: None.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This regulation will not cost any additional funds.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation will assist all entities identified in question (3) with understanding the administrative regulations in Title 105 of the Kentucky Administrative Regulations.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no funding needed.

(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.

(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? (Explain why or why not) Tiering is not applied.

FISCAL NOTE

Regulation number: 105 KAR 1:001
Contact person: Jessica Beaubien
Phone number: 502-696-8800 ext. 8570
Email: Legal.Non-Advocacy@kyret.ky.gov

(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? 1,452 employers that participate in the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System may be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 61.505(1)(g).

(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. None.

(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? None.

(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? None.

(c) How much will it cost to administer this program for the first year? None.

(d) How much will it cost to administer this program for subsequent years? None.

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

Revenues (+/-): None.

Expenditures (+/-): None.

Other Explanation: There is no fiscal impact associated with this administrative regulation.

(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.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? None.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? None.

(c) How much will it cost the regulated entities for the first year? None.

(d) How much will it cost the regulated entities for subsequent years? None.

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

Cost Savings(+/-): None.

Expenditures (+/-): None.

Other Explanation: There is no fiscal impact associated with this administrative regulation.

(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 a major economic impact.