Kansas Administrative Regulations

Kansas Public Employees Retirement System

Article 1.—Membership

80-1-10. Eligible employers.

(a) For the purpose of determining whether or not an entity is an "eligible employer" under K.S.A. 74-4902(13) and K.S.A. 74-4910 of the act, and amendments thereto, the entity shall qualify under the standards controlling the system's governmental-plan status as provided in 26 U.S.C. § 414(d) of the federal internal revenue code, which is defined in K.S.A. 74-4902(35), and amendments thereto, requiring that only governmental units, or agencies or instrumentalities of governmental units, shall be eligible employers. The following factors shall be considered when determining whether an employer constitutes an instrumentality of a governmental unit:

(1) The existence of any specific legislation authorizing the employer;

(2) the source of funds for the employer;

(3) the manner in which the trustees or operating board members of the employer are selected;

(4) the governmental unit's consideration of the employees to be employees of the governmental unit; and

(5) the degree of control that the state or local government has over the employer.

(b) Any employer that is a current or prospective participant in the retirement system may be required by the retirement system to obtain a ruling from the internal revenue service as to the employer's status as a governmental instrumentality or as to the impact of the employer's participation in the retirement system.

(Authorized by K.S.A. 1998 Supp. 74-4909; implementing K.S.A. 1998 Supp. 74-4910; effective Jan. 1, 1966; amended, E-74-5, Nov. 7, 1973; amended May 1, 1975; amended Sept. 10, 1999.)