



STATEMENT OF EMERGENCY

787 KAR 1:370E Professional Employer Organizations: Contribution and Reporting Requirements

This emergency administrative regulation amendment is being promulgated pursuant to KRS 13A.190(1)(a) to meet an imminent threat to public health, safety or welfare. This emergency administrative regulation is necessary to ensure lawful assignment of unemployment insurance (UI) contribution rates for the 2026 rate year, which will be finalized on December 15, 2025.

Emergency action is the only timely method to ensure accurate, uniform, and legally compliant rate-setting prior to the December 15, 2025, deadline. This emergency regulation is authorized by KRS 336.248 and KRS 341.115 and is necessary to preserve public welfare through stable and lawful administration of UI contribution rates.

This emergency administrative regulation will be replaced by an ordinary administrative regulation. The companion ordinary administrative regulation is identical to this emergency regulation. An emergency administrative regulation governing the same subject matter has not been filed within the previous nine months.

Andy Beshear, Governor
Commonwealth of Kentucky

Jamie Link, Secretary
Education and Labor Cabinet

1 Education and Labor Cabinet

2 Department of Workforce Development

3 Office of Unemployment Insurance

4 (Emergency Amendment)

5 787 KAR 1:370E. Professional Employer Organization Contribution and Reporting
6 Requirements[s].

7 RELATES TO: KRS 336.232

8 STATUTORY AUTHORITY: KRS 336.248, 341.115

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.115(1) authorizes the secretary to
10 promulgate administrative regulations for the proper administration of KRS Chapter 341. KRS
11 336.248 requires professional employer organizations to make certain reports and contributions to
12 the unemployment insurance fund. This administrative regulation provides the procedures to file
13 client unemployment insurance wage and premium reports, the procedures to complete the
14 "Professional Employer Organization Application for Unemployment Insurance Employer
15 Reserve Account" form, the procedures to add or delete clients, the treatment of experience history
16 transfers, and the application[effect] of successorship provisions under KRS Chapter 341, and the
17 procedures to change the professional employer organization's contribution election.

18 Section 1. Definitions

(1) "Benefit experience history" means the benefit charges and other experience rating data maintained for a client employer under KRS Chapter 341 that are used to determine the employer's contribution rate.

~~(2)~~~~(4)~~ "Client" is defined by KRS 336.232(1).

~~["Covered employee" is defined by KRS 336.232(4).]~~

(3) "Election" means the selection made by a PEO pursuant to KRS 336.248(1) regarding the reporting and payment of unemployment insurance contributions.

(4) "Professional employer agreement" means an agreement as defined in KRS 336.236.

~~(5)~~~~(3)~~ "Professional employer organization" or "PEO" is defined by KRS 336.232(8).

Section 2. Professional Employer Organization reporting requirements and election of contribution

(1) A professional employer organization ("PEO") shall submit its initial election to report and pay unemployment insurance contributions pursuant to KRS 336.248(1) on the application provided in subsection (4). The Office shall apply the PEO's election to all clients covered under the PEO agreement as of the effective date of the election.

(2) The PEO shall keep separate records for each client and submit separate state unemployment insurance wage and premium reports to the Office of Unemployment Insurance (OUI) using the Unemployment Insurance Self-Service Web Portal located at <https://kewes.ky.gov>. ~~The PEO shall submit all required unemployment contribution payments associated with those reports in a timely manner. Wage and premium reports shall be filed~~~~[with payments to report the covered employees of each client by]~~ using the client's state employer account number~~[as provided for in subsection (2)]~~ and using the:

(a) Assigned tax rate of the PEO, per KRS 336.248(1)(a); or

(b) Assigned tax rate of the client, per KRS 336.248(1)(b).

1 (3) If a PEO elects the client account method under KRS 336.248(1)(b):

2 (a) The PEO shall file unemployment insurance reports and pay contributions on a client-by-client
3 basis; and

4 (b) The client's benefit experience history, as defined in Section 1(3) of this regulation, shall be
5 transferred by the Office to the account assigned to that client as co-employer, as required by KRS
6 336.248(1)(b)(3)(b).

7 (4)([2])

8 (a) ~~A[For each]~~ PEO having one (1) or more covered employees with a client in this state~~[-the~~
9 ~~PEO]~~ shall file an electronic application titled, UI-1P, "Professional Employer Organization
10 Application for Unemployment Insurance Employer Reserve Account", incorporated in 787 KAR
11 1:010, using the Unemployment Insurance Self-Service Web Portal located at
12 <https://kewes.ky.gov>.

13 (b) To apply for an account number, the application shall include:

14 1. The federal identification number of the professional employer organization, along with the
15 name, address, and phone number of the professional employer organization;

16 2. The name, physical address, and phone number of each client in a format as prescribed by the
17 Office of Unemployment Insurance;

18 3. The name of the client's owner, partners, corporate officers, limited liability company members,
19 and managers, if board managed, or general partners;

20 4. The federal identification number of the client;

21 5. A brief description of the client's major business activity; and

22 6. Any other information required by the Office of Unemployment Insurance.

(c) The PEO shall notify the Office of Unemployment Insurance (OUI) in writing of any additions or deletions of clients during the quarter in which a change occurs. Written notifications shall be submitted to the OUI via the methods listed at <https://kewes.ky.gov>.

(d) In cases where the PEO has not been subject to the provisions set forth in KRS 336.248, the PEO~~[professional employer organization]~~ shall not be assigned the new employer~~[premium]~~ rate for a~~[if the]~~ client that has benefit experience history as defined in Section 1 of this regulation. The contribution rate for each client shall be based on that client's experience in accordance with KRS Chapter 341~~[based upon the reserve ratio of the PEO's industrial classification]~~.

Section 3. Effect of successorship. (1) The transfer of benefit experience history required under KRS 336.248(1)(b)(3)(b) shall occur without regard to~~[A PEO shall not be considered a successor employer to any client and shall not acquire the experience history of any client with whom there is not any]~~ common ownership, management or control. The client, upon terminating its relationship with the PEO, shall retain its own reserve account and shall not acquire any portion of the~~[not be considered a successor employer to the PEO and shall not acquire any portion of the experience history of the aggregate]~~ reserve account of the PEO unless otherwise required under KRS Chapter 341~~[with whom there is not any common ownership, management, or control. For purposes of this regulation, the existence of a professional employer agreement, without other evidence of common control, shall not constitute common ownership, management, or control]~~.
(2) The provisions of KRS 341.540 regarding successor employers shall not apply to a PEO or a client employer based solely on the existence of a professional employer agreement.

Section 4. Change of contribution election. KRS 336.248(5) permits a PEO to change its contribution election under KRS 336.248 (1)(a) or KRS 336.248(1)(b) only once. The change of contribution election shall be submitted in writing via the methods listed at <https://kewes.ky.gov>.

- 1 Any changes to the initial election are effective in the calendar year following the date the Office
- 2 approves the change in accordance with KRS 336.248(5).

As approved by:

Handwritten signature of Jamie Link in blue ink.

Jamie Link, Secretary, Education and Labor Cabinet

Handwritten date "December 15, 2025" in blue ink.

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on January 21, 2026, at 9:00am, at Mayo-Underwood Hearing Room 133CE, 500 Mero Street, Frankfort, KY 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. 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 through January 31, 2026. 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: Haley Presley, Deputy Executive Director, Office of Unemployment Insurance, 500 Mero Street, Third Floor, Frankfort, KY 40601, 502-782-3132, haley.s.presley@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

787 KAR 1:370E Professional Employer Organizations; Contribution and Reporting Requirements.

Contact Person:

Haley Presley, Deputy Executive Director, Office of Unemployment Insurance, 500 Mero Street, Third Floor, Frankfort, KY 40601

Phone: 502-782-3132

Email: haleys.presley@ky.gov

Subject Headings: Unemployment, Workforce Development, Insurance

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes contribution-rate assignment rules and reporting requirements for Professional Employer Organizations (PEOs) and their client employers for purposes of unemployment insurance (UI) taxation.

(b) The necessity of this administrative regulation: KRS 336.248 and KRS 341.115 require the Education and Labor Cabinet to promulgate regulations governing contribution reporting, PEO elections, and UI rate assignment.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides instructions for calculating UI contribution rates for PEOs and client employers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: PEOs and client employers will have clear and consistent instructions for reporting wages and contributions, ensuring accurate and uniform application of UI tax requirements.

(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 amendment clarifies that benefit-experience history must transfer when a PEO elects client-level reporting, adds definitions and instructions necessary for accurate rate assignment.

(b) The necessity of the amendment to this administrative regulation: Amendment is necessary to prevent inconsistent rate assignment and ensure that the statute is applied as written.

(c) How the amendment conforms to the content of the authorizing statute: This regulation conforms to the authorizing statute by setting forth the requirements for PEOs and the calculation of contribution rates.

(d) How the amendment will assist in the effective administration of the statutes: This amendment clarifies rate-assignment rules and aligns regulatory text with statutory mandates, thereby ensuring predictable, uniform, and legally compliant administration of UI contribution rates for PEOs and client employers.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 40 licensed PEOs are operating in Kentucky with their associated client employers.

(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: PEOs electing client-level reporting must follow clarified reporting procedures and ensure accurate transmission of wage and employment data. No new substantive obligations are imposed beyond statutory requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no new costs to any person or entity anticipated. This amendment reduces administrative uncertainty and does not impose new reporting burdens.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): PEOs and employers will benefit from clearer rules, improved predictability of contribution-rate calculations, and consistent application of statutory provisions.

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

(a) Initially: OUI will incur costs associated with changing the software which operates the program.

(b) On a continuing basis: No additional costs.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Existing funding within OUI, including federal administrative grants.

(8) 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 necessary to implement this amendment to the existing administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(10) TIERING: Is tiering applied? Tiering is not required in this administrative regulation because it applies equally to all affected entities.

FISCAL IMPACT STATEMENT

781 KAR 1:370E Professional Employer Organizations.

Contact Person: Haley Presley, Deputy Executive Director, Office of Unemployment Insurance,
500 Mero Street, Third Floor, Frankfort, KY 40601

Phone: 502-782-3132

Email: haleys.presley@ky.gov

Subject Headings: Unemployment, Workforce Development, Insurance

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 336.248; KRS 336.232; KRS 341.115; KRS 341.540; KRS Chapter 341.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This act is authorized by KRS 13B.170, KRS 336.248, 341.115.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Office of Unemployment Insurance is the promulgating agency, and no other agencies are affected.

(b) Estimate the following for each affected state unit part, or division identified in (3)(a):

1. Expenditures:

For the first year: OUI anticipates system-modification costs related to programming changes in the new UI tax system scheduled for implementation next year. The exact cost will depend on vendor pricing and the scope of required changes.

For subsequent years: No recurring costs are anticipated after system modifications are complete.

2. Revenues:

For the first year: None

For subsequent years: None

3. Cost Savings:

For the first year: None

For subsequent years: None

(4)(a) Identify affected local entities (for example; cities, counties, fire departments, school districts): No local entities are affected.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: None

For subsequent years: None

2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): Professional Employer Organizations (PEOs) and their client employers.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a) and (5)(a): This administrative regulation clarifies reporting requirements and codifies the statutory requirement that benefit-experience history transfer to the client's unemployment insurance account when a PEO elects client-level reporting under KRS 336.248. The only anticipated fiscal impact relates to OUI's internal system programming.

(a) Fiscal impact of this administrative regulation: None.

(b) Methodology and resources used to reach this conclusion: Not applicable.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact," as defined by KRS 13A.010(13): This proposed amendment will not have a major economic impact.

(b) The methodology and resources used to reach this conclusion: Depending on the software modification cost, the change may have a major economic impact in the first year on the agency. However, the agency will not need an increase in funds to pay for it.