

**21.565 Administration and assets of plan created under KRS 21.567.**

- (1) The Kentucky Judicial Retirement Plan excess benefit plan established in KRS 21.567 shall be administered by the board of trustees of the Kentucky Judicial Form Retirement System. The board shall have the same authority in its administration as it has in the administration of the Kentucky Judicial Retirement Plan.
- (2) The plan shall constitute a qualified governmental excess benefit plan as provided in 26 U.S.C. sec. 415(m).
- (3) All retired members and beneficiaries of the Kentucky Judicial Retirement Plan whose effective retirement dates are July 1, 1998, or after, and whose retirement allowances have been limited by 26 U.S.C. sec. 415 shall be participants in the plan. Each member's participation in the plan shall be determined each fiscal year and shall cease for any year in which the retirement allowance is not limited by 26 U.S.C. sec. 415.
- (4) A participant shall receive a benefit equal to the difference between the retirement allowance otherwise payable from the plan prior to any reduction or limitation required by 26 U.S.C. sec. 415 and the actual retirement allowance payable as limited by 26 U.S.C. sec. 415. The benefit shall be subject to withholding for applicable state and federal taxes. The benefit shall be paid in accordance with the retirement payment option selected by the member for the retirement allowance.
- (5)
  - (a) The board, in accordance with the recommendation of the actuary, shall determine the required contribution to pay benefits each fiscal year. The required contribution for each fiscal year shall be the total amount of benefits payable under this section to all participants plus the amount required to pay any employment taxes on the benefits paid from the plan.
  - (b) The required contribution shall be paid from state appropriations.
  - (c) The required contribution shall be deposited into the separate fund. The plan is intended to be exempt from federal income tax under 26 U.S.C. sec. 115 and 26 U.S.C. sec. 415 (m)(1).
  - (d) The benefit liability shall be determined on a fiscal year basis, and contributions shall not be accumulated to pay benefits in future fiscal years. Any assets not used to pay benefits in the current fiscal year shall be paid to the Retirement Plan.
- (6) The benefits payable from the plan shall be treated in accordance with KRS 21.470.

**Effective:** July 15, 2002

**History:** Created 2002 Ky. Acts ch. 90, sec. 1, effective July 15, 2002.