

**61.652 Administration of all excess benefit plans -- Participation in plan -- Determination of benefit amount -- Required contribution of plans.**

- (1) The Kentucky Employees Excess Benefit Plan established in KRS 61.663, the County Employees Excess Benefit Plan established in KRS 78.652, and the State Police Excess Benefit Plan established in KRS 16.568 shall be administered by the board of trustees of the Kentucky Retirement Systems. The board shall have the same authority in its administration as it has in the administration of the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System.
- (2) The plans shall constitute qualified governmental excess benefit plans as provided in 26 U.S.C. sec. 415(m).
- (3) All retired members and beneficiaries of the three (3) retirement systems administered by the Kentucky Retirement Systems 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 plans. Each member's participation in the plans shall be determined each fiscal year and will 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 system 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 or beneficiary for the retirement allowance.
- (5)
  - (a) The board, in accordance with the recommendation of the actuary, shall determine the required contribution for each of the three (3) plans to pay benefits each fiscal year. The required contribution for each of the three (3) plans in each fiscal year shall be the total amount of benefits payable under this section to all participants plus the amount required to pay the administrative expenses of the plan and the employer's share of any employment taxes on the benefits paid from the plan.
  - (b) The required contribution shall be paid by the participating employers.
  - (c) The required contribution for each plan 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 of each plan shall be determined on a fiscal year basis, and contributions shall not be accumulated to pay benefits in future fiscal years. Any assets of the plans not used to pay benefits in the current fiscal year shall be used for payment of the administrative expenses of the plan for the current or future fiscal years or shall be paid to the appropriate retirement system as an additional employer contribution.
- (6) The benefits payable from the plans shall be treated in accordance with KRS 61.690.

- (7) The board shall promulgate administrative regulations to modify the benefits payable under the plans as necessary for the plans to be qualified under 26 U.S.C. sec. 415(m).
- (8) The provisions of this section, and any administrative regulations promulgated as a result of this section, shall be applied retroactively to retired members, and beneficiaries, whose effective retirement dates are between July 1, 1998, and July 14, 2000.

**Effective:** July 14, 2000

**History:** Created 2000 Ky. Acts ch. 385, sec. 32, effective July 14, 2000.