

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 371

91ST GENERAL ASSEMBLY

2001

1480L.05T

AN ACT

To repeal sections 104.010, 104.170, 104.312, 104.330, 104.339, 104.345, 104.372, 104.374, 104.380, 104.395, 104.401, 104.420, 104.450, 104.515, 104.518, 104.530, 104.600, 104.601, 104.602, 104.1003, 104.1021, 104.1024, 104.1027, 104.1030, 104.1039, 104.1051, 104.1072, 104.1078, 104.1093 and 476.524, RSMo 2000, relating to certain public retirement systems administered pursuant to chapter 104, RSMo, and to enact in lieu thereof thirty-eight new sections relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 104.010, 104.170, 104.312, 104.330, 104.339, 104.345, 104.372, 104.374, 104.380, 104.395, 104.401, 104.420, 104.450, 104.515, 104.518, 104.530, 104.600, 104.601, 104.602, 104.1003, 104.1021, 104.1024, 104.1027, 104.1030, 104.1039, 104.1051, 104.1072, 104.1078, 104.1093 and 476.524, RSMo 2000, are repealed and thirty-eight new sections enacted in lieu thereof, to be known as sections 104.010, 104.170, 104.175, 104.312, 104.330, 104.339, 104.345, 104.372, 104.374, 104.380, 104.395, 104.401, 104.420, 104.450, 104.515, 104.518, 104.530, 104.601, 104.602, 104.625, 104.1003, 104.1021, 104.1024, 104.1027, 104.1030, 104.1039, 104.1051, 104.1072, 104.1078, 104.1093, 104.1200, 104.1205, 104.1210, 104.1215, 476.517, 476.524, 1 and 2 to read as follows:

104.010. 1. The following words and phrases as used in sections 104.010 to 104.800, unless a different meaning is plainly required by the context, shall mean:

(1) "Accumulated contributions", the sum of all deductions for retirement benefit purposes from a member's compensation which shall be credited to the member's individual account and

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

interest allowed thereon;

(2) "Active armed warfare", any declared war, or the Korean or Vietnamese Conflict;

(3) "Actuarial equivalent", a benefit which, when computed upon the basis of actuarial tables and interest, is equal in value to a certain amount or other benefit;

(4) "Actuarial tables", the actuarial tables approved and in use by a board at any given time;

(5) "Actuary", the actuary who is a member of the American Academy of Actuaries or who is an enrolled actuary under the Employee Retirement Income Security Act of 1974 and who is employed by a board at any given time;

(6) "Annuity", annual payments, made in equal monthly installments, to a retired member from funds provided for in, or authorized by, this chapter;

(7) "Average compensation", the average compensation of a member for the thirty-six consecutive months of service prior to retirement when the member's compensation was greatest; or if the member is on workers' compensation leave of absence or a medical leave of absence due to an employee illness, the amount of compensation the member would have received may be used, as reported and verified by the employing department; or if the member had less than thirty-six months of service, the average annual compensation paid to the member during the period up to thirty-six months for which the member received creditable service when the member's compensation was the greatest; or if the member is on military leave, the amount of compensation the member would have received may be used as reported and verified by the employing department or, if such amount is not determinable, the amount of the employee's average rate of compensation during the twelve-month period immediately preceding such period of leave, or if shorter, the period of employment immediately preceding such period of leave;

(8) "Beneficiary", any person entitled to or nominated by a member or retiree who may be legally entitled to receive benefits pursuant to this chapter;

(9) "Biennial assembly", the completion of no less than two years of creditable service or creditable prior service by a member of the general assembly;

(10) "Board of trustees", "board", or "trustees", a board of trustees as established for the applicable system pursuant to this chapter;

(11) "Chapter", sections 104.010 to 104.800;

(12) "Compensation":

(a) All salary and wages payable out of any state, federal, trust, or other funds to an employee for personal services performed for a department; but including only amounts for which contributions have been made in accordance with section 104.436, or section 104.070, whichever is applicable, and excluding any nonrecurring single sum payments or amounts paid after the member's termination of employment unless such amounts paid after such termination are a final installment of salary or wages at the same rate as in effect immediately prior to termination of

employment in accordance with a state payroll system adopted on or after January 1, 2000, or any other one-time payments made as a result of such payroll system;

(b) All salary and wages which would have been payable out of any state, federal, trust or other funds to an employee on workers' compensation leave of absence during the period the employee is receiving a weekly workers' compensation benefit, as reported and verified by the employing department;

(c) Effective December 31, 1995, compensation in excess of the limitations set forth in Internal Revenue Code Section 401(a)(17) shall be disregarded. The limitation on compensation for eligible employees shall not be less than the amount which was allowed to be taken into account under the system as in effect on July 1, 1993. For this purpose, an "eligible employee" is an individual who was a member of the system before the first plan year beginning after December 31, 1995;

(13) "Consumer price index", the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as approved by a board, as such index is defined and officially reported by the United States Department of Labor, or its successor agency;

(14) "Creditable prior service", the service of an employee which was either rendered prior to the establishment of a system, or prior to the date the employee last became a member of a system, and which is recognized in determining the member's eligibility and for the amount of the member's benefits under a system;

(15) "Creditable service", the sum of membership service and creditable prior service, to the extent such service is standing to a member's credit as provided in this chapter; except that in no case shall more than one day of creditable service or creditable prior service be credited any member for any one calendar day of eligible service credit as provided by law;

(16) "Deferred normal annuity", the annuity payable to any former employee who terminated employment as an employee or otherwise withdrew from service with a vested right to a normal annuity, payable at a future date;

(17) "Department", any department[, institution, board, commission, officer, court, or any agency of the state government receiving state appropriations, including allocated funds from the federal government, and having power to certify payrolls authorizing payments of salary or wages against appropriations made by the federal government or the state legislature from any state fund, or against trusts or allocated funds held by the state treasurer] **or agency of the executive, legislative or judicial branch of the state of Missouri receiving state appropriations, including allocated funds from the federal government but not including any body corporate or politic unless its employees are eligible for retirement coverage from a system pursuant to this chapter as otherwise provided by law;**

(18) "Disability benefits", benefits paid to any employee while totally disabled as provided in this chapter;

(19) "Early retirement age", a member's attainment of fifty-five years of age and the completion of ten or more years of creditable service, except for uniformed members of the water patrol;

(20) "Employee":

(a) Any elective or appointive officer or person employed by the state who is employed, promoted or transferred by a department into a new or existing position and earns a salary or wage in a position normally requiring the performance by the person of duties during not less than one thousand hours per year, including each member of the general assembly but not including any patient or inmate of any state, charitable, penal or correctional institution. **Beginning September 1, 2001, the term "year" as used in this subdivision shall mean the twelve-month period beginning on the first day of employment.** However, persons who are members of the public school retirement system and who are employed by a state agency other than an institution of higher learning shall be deemed employees for purposes of participating in all insurance programs administered by a board established pursuant to section 104.450. This definition shall not exclude any employee as defined in this subdivision who is covered only under the federal Old Age and Survivors' Insurance Act, as amended. As used in this chapter, the term "employee" shall include:

a. Persons who are currently receiving annuities or other retirement benefits from some other retirement or benefit fund, so long as they are not simultaneously accumulating creditable service in another retirement or benefit system which will be used to determine eligibility for or the amount of a future retirement benefit;

b. Persons who have elected to become or who have been made members of a system pursuant to section 104.342;

(b) Any person who has performed services in the employ of the general assembly or either house thereof, or any employee of any member of the general assembly while acting in the person's official capacity as a member, and whose position does not normally require the person to perform duties during at least one thousand hours per year, with a month of service being any monthly pay period in which the employee was paid for full-time employment for that monthly period;

(c) "Employee" does not include special consultants employed pursuant to section 104.610;

(d) As used in this chapter, the hours governing the definition of employee shall be applied only from August 13, 1988, forward;

(e) The system shall consider a person who is employed in multiple positions simultaneously within a single agency to be working in a single position for purposes of determining whether the person is an employee as defined in this subdivision;

(21) "Employer", a department of the state;

(22) "Executive director", the executive director employed by a board established pursuant to the provisions of this chapter;

(23) "Fiscal year", the period beginning July first in any year and ending June thirtieth

the following year;

(24) "Full biennial assembly", the period of time beginning on the first day the general assembly convenes for a first regular session until the last day of the following year;

(25) "Fund", the benefit fund of a system established pursuant to this chapter;

(26) "Interest", interest at such rate as shall be determined and prescribed from time to time by a board;

(27) "Member", as used in sections 104.010 to 104.272 or 104.600 to 104.800 shall mean a member of the highways and transportation employees' and highway patrol retirement system without regard to whether or not the member has been retired. "Member", as used in sections 104.010 and 104.312 to 104.800, shall mean a member of the Missouri state employees' retirement system without regard to whether or not the member has been retired;

(28) "Membership service", the service after becoming a member that is recognized in determining a member's eligibility for and the amount of a member's benefits under a system;

(29) "Military service", all active service performed in the United States Army, Air Force, Navy, Marine Corps, Coast Guard, and members of the United States Public Health Service or any women's auxiliary thereof; and service in the Army national guard and Air national guard when engaged in active duty for training, inactive duty training or full-time national guard duty, and service by any other category of persons designated by the President in time of war or emergency;

(30) "Normal annuity", the annuity provided to a member upon retirement at or after the member's normal retirement age;

(31) "Normal retirement age", an employee's attainment of sixty-five years of age and the completion of four years of creditable service or the attainment of age sixty-five years of age and the completion of five years of creditable service by a member who has terminated employment and is entitled to a deferred normal annuity or the member's attainment of age sixty and the completion of fifteen years of creditable service, except that normal retirement age for uniformed members of the highway patrol shall be fifty-five years of age and the completion of four years of creditable service and uniformed employees of the water patrol shall be fifty-five years of age and the completion of four years of creditable service or the attainment of age fifty-five and the completion of five years of creditable service by a member of the water patrol who has terminated employment and is entitled to a deferred normal annuity and members of the general assembly shall be fifty-five years of age and the completion of three full biennial assemblies. Notwithstanding any other provision of law to the contrary, a member of the highways and transportation employees' and highway patrol retirement system or a member of the Missouri state employees' retirement system shall be entitled to retire with a normal annuity and shall be entitled to elect any of the survivor benefit options and shall also be entitled to any other provisions of this chapter that relate to retirement with a normal annuity if the sum of the member's age and creditable service equals eighty years or more and if the member is at least fifty years of age;

(32) "Payroll deduction", deductions made from an employee's compensation;

(33) "Prior service credit", the service of an employee rendered prior to the date the employee became a member which service is recognized in determining the member's eligibility for benefits from a system but not in determining the amount of the member's benefit;

(34) "Reduced annuity", an actuarial equivalent of a normal annuity;

(35) "Retiree", a member who is not an employee and who is receiving an annuity from a system pursuant to this chapter;

(36) "System" or "retirement system", the highways and transportation employees' and highway patrol retirement system, as created by sections 104.010 to 104.270, or sections 104.600 to 104.800, or the Missouri state employees' retirement system as created by sections 104.320 to 104.800;

(37) "Uniformed members of the highway patrol", the superintendent, lieutenant colonel, majors, captains, director of radio, lieutenants, sergeants, corporals, and patrolmen of the Missouri state highway patrol who normally appear in uniform;

(38) "Uniformed members of the water patrol", employees of the Missouri state water patrol of the department of public safety who are classified as water patrol officers who have taken the oath of office prescribed by the provisions of chapter 306, RSMo, and who have those peace officer powers given by the provisions of chapter 306, RSMo;

(39) "Vesting service", the sum of a member's prior service credit and creditable service which is recognized in determining the member's eligibility for benefits under the system.

2. Benefits paid pursuant to the provisions of this chapter shall not exceed the limitations of Internal Revenue Code Section 415, the provisions of which are hereby incorporated by reference.

104.170. 1. The board shall elect by secret ballot one member as **[chairman] chair** and one member as vice **[chairman] chair** in January of each year. The **[chairman] chair** may not serve more than two consecutive terms beginning after August 13, 1988. The **[chairman] chair** shall preside over meetings of the board and perform such other duties as may be required by action of the board. The vice **[chairman] chair** shall perform the duties of the **[chairman] chair** in the absence of the latter or upon **[his] the chair's** inability or refusal to act.

2. The board shall appoint a full-time executive director, who shall not be compensated for any other duties under the **state** highways and transportation commission. The executive director shall have charge of the offices and records and shall hire such employees that **[he] the executive director** deems necessary subject to the direction of the board. **The executive director and all other employees of the system shall be members of the system and the board shall make contributions to provide the insurance benefits available pursuant to section 104.270 on the same basis as provided for other state employees pursuant to the provisions of section 104.515, and also shall make contributions to provide the retirement benefits on**

the same basis as provided for other employees pursuant to the provisions of sections 104.090 to 104.260.

3. Any summons or other writ issued by the courts of the state shall be served upon the **executive** director or, in [his] **the executive director's** absence, on the assistant director.

104.175. The state highways and transportation commission is authorized, when requested by the highways and transportation employees' and highway patrol retirement system, to provide liability insurance covering the operation of all vehicles owned or leased or used by the system. The commission is also authorized, when requested by the system, to provide workers' compensation coverage for the executive director and employees of the system. In the event the commission provides such insurance coverage, the system shall reimburse the commission for all costs of such coverage.

104.312. 1. The provisions of subsection 2 of section 104.250, subsection 2 of section 104.540, subsection 2 of section 287.820, RSMo, and section 476.688, RSMo, to the contrary notwithstanding, any pension, annuity, benefit, right, or retirement allowance provided pursuant to this chapter, chapter 287, RSMo, or chapter 476, RSMo, is marital property and after August 28, 1994, a court of competent jurisdiction may divide the pension, annuity, benefits, rights, and retirement allowance provided pursuant to this chapter, chapter 287, RSMo, or chapter 476, RSMo, between the parties to any action for dissolution of marriage. A division of benefits order issued pursuant to this section:

(1) Shall not require the applicable retirement system to provide any form or type of annuity **or retirement plan** not selected by the member and not normally made available by that system;

(2) Shall not require the applicable retirement system to commence payments until the member submits a valid application for an annuity and the annuity becomes payable in accordance with the application;

(3) Shall identify the monthly amount to be paid to the alternate payee, which shall **be expressed as a percentage and which shall** not exceed fifty percent of the amount of the member's annuity accrued during **all or part of** the time while the member and alternate payee were married; and **which shall be** based on the member's vested annuity on the date of the dissolution of marriage **or an earlier date as specified in the order**, [and the] **which** amount shall be adjusted proportionately if the member's annuity is reduced due to early retirement **and the percentage established shall be applied to the pro rata portion of any lump sum distribution pursuant to subsection 6 of section 104.335, accrued during the time while the member and alternate payee were married;**

(4) Shall not require the payment of an annuity amount to the member and alternate payee which in total exceeds the amount which the member would have received without regard

to the order;

(5) Shall provide that any benefit formula increases, additional years of service, increased average compensation or other type of increases accrued after the date of the dissolution of marriage shall accrue solely to the benefit of the member[.]; except that **on or after September 1, 2001, any annual benefit [increases] increase shall [be applied to the amount received by both the member and the alternate payee] not be considered to be an increase accrued after the date of termination of marriage and shall be part of the monthly amount subject to division pursuant to any order issued after September 1, 2001;**

(6) Shall terminate upon the death of either the member or the alternate payee, whichever occurs first;

(7) Shall not create an interest which is assignable or subject to any legal process;

(8) Shall include the name, address and Social Security number of both the member and the alternate payee, and the identity of the retirement system to which it applies;

(9) Shall be consistent with any other division of benefits orders which are applicable to the same member.

2. A system established by this chapter shall provide the court having jurisdiction of a dissolution of marriage proceeding or the parties to the proceeding with information necessary to issue a division of benefits order concerning a member of the system, upon written request from [the court or the parties] **either the court, the member or the member's spouse**, which cites this section and identifies the case number and parties.

3. A system established by this chapter shall have the discretionary authority to reject a division of benefits order for the following reasons:

(1) The order does not clearly state the rights of the member and the alternate payee;

(2) The order is inconsistent with any law governing the retirement system.

4. The amount paid to an alternate payee under an order issued pursuant to this section shall be based on what the member would have received had the member elected coverage under the closed plan pursuant to section 104.1015 regardless of the actual election made by the member pursuant to that section; except that any annual benefit increases subject to division shall be based on the actual annual benefit increases received after the retirement plan election.

104.330. 1. As an incident to his **or her** contract of employment or continued employment, each employee of the state shall become a member of the system on the first day of the first month following the original effective date of sections 104.310 to 104.540, September 1, 1957, and every person thereafter becoming an employee shall become a member at the time of employment. Each employee's membership shall continue as long as the member continues to be an employee or be on leave for military service or training as hereinafter provided; or receive or be eligible to receive an annuity or benefit.

2. [Any military service or training completed prior to December 3, 1974, must be that to which an employee shall have become obligated, either irrespective of the member's consent under the mandatory provisions of law, or as a volunteer while the United States is engaged in actual active armed warfare, if within ninety days after becoming eligible for release from this service obligation, the member shall have reentered the employment of a department, and within the number of months after such reemployment which is equal to the number of months the member was in the service, shall have paid into the fund, in addition to the member's current payroll deductions, the actuarial equivalent, at the time the payments are completed, of all payroll deductions at the salary rate which the member was receiving when the member went on leave and which would have been made if the member had been an employee at this rate continuously up to the time of reentering employment.] Any **member who completes** military service or training [completed] on or after December 3, 1974, [must be that to which the employee's reemployment rights were guaranteed] **shall receive creditable service and salary credit mandated** by federal law under the Vietnam Era Veteran's Readjustment Act of 1974 **and the Uniformed Services Employment and Reemployment Rights Act of 1994** or any successor thereto, [if the member shall have reentered the employment of a department after the member's release from military service or training within the time prescribed by such law] **or as otherwise provided under federal or state law.**

104.339. 1. Any employee who became a member of the system, on the first day of the first month following the original effective date of sections 104.310 to 104.540, September 1, 1957, shall be given creditable prior service with the state. All such creditable prior service must be established to the satisfaction of the board.

2. [Any person who, on August 29, 1959, was an employee of the state government and a member of either the transportation department employees' and highway patrol retirement system or the Missouri state employees' retirement system and who, whether or not he became a member of either system on the original effective date of sections 104.310 to 104.540, September 1, 1957, had been since January 7, 1959, continuously in the employ of the state government in positions which would on August 29, 1959, have come under one or the other of the retirement systems, is entitled to credit for all of his prior service with the state whether it was as an employee of the transportation department, highway patrol or any other department as the term is defined in section 104.010.

3.] Any member of the system employed on or after August 13, 1988, and who served as an employee prior to September 1, 1957, but was not an employee on that date, shall be entitled to the creditable prior service that such employee would have been entitled to had such employee become a member of the retirement system on the date of its inception[, if such employee has or attains one year of continuous membership service].

104.345. 1. Any circuit clerk holding office or employment as such on or after August 28,

1989, for service rendered as an employee of any county or other political subdivision for the purposes of performing duties for the judicial system, is entitled to creditable prior service **[under]** **pursuant to** the provisions of this chapter in the Missouri state employees' retirement system, provided such period of service has not been included for purposes of qualification for any other retirement system.

2. Any member who was a circuit clerk on July 1, 1980, and whose employment as a circuit clerk terminated prior to October 1, 1989, upon application to the board shall be made, constituted, appointed, and employed by the board as a special consultant on the problems of retirement for the remainder of the person's life. Upon request of the board, the consultant shall give opinions or be available to give opinions in writing or orally in response to such requests. As compensation, the consultant shall receive creditable service for service rendered as a circuit clerk, deputy circuit clerk or division clerk, if:

(1) The member does not receive credit for the same period of service under more than one retirement system;

(2) The person made application to the board for such creditable prior service within ninety days of October 1, 1989; and

(3) The person establishes proof of such service to the satisfaction of the board.

Such person shall be a member of the Missouri state employees' retirement system and be entitled to a normal annuity or to a deferred normal annuity, based on the person's creditable service and the law in effect at the time service as a circuit clerk was terminated.

3. Notwithstanding any provision of law to the contrary, any person who is an employee on August 28, 1990, who was a circuit clerk, deputy circuit clerk or division clerk on June 30, 1981, employed by a county which participated in the local government employees' retirement system **[under]** **pursuant to** sections 70.600 to 70.755, RSMo, or which paid to the Missouri state employees' retirement system to actuarially fund the creditable prior service of such clerk, and such person elected to receive creditable prior service under this system by waiving rights to the person's accumulated contributions made or accrued while such person was a county employee or who made payment to the county as reimbursement for the costs incurred by the county to actuarially fund the creditable prior service for such person which were received by this system **[under]** **pursuant to** the provisions of this section in effect when such person became a member, upon written application filed with the board, shall be eligible to receive a refund of such accumulated contributions or payment amount. Members receiving such a refund shall not forfeit any service presently credited the member under this system but in no event shall a member receive credit for the same period of service under more than one retirement system.

4. Any actively employed member of the Missouri state employees' retirement system on or after August 28, 2000, shall be entitled to creditable prior service for service rendered as a circuit clerk, deputy circuit clerk or division clerk, if:

- (1) The service had not become vested in a county or city retirement plan;
- (2) The person made application to the board for such creditable prior service; and
- (3) The person establishes proof of such service to the satisfaction of the board **including proof that the person worked in a position that normally required at least one thousand hours of service per year for service after October 1, 1984, or one thousand five hundred hours of service per year for service prior to October 1, 1984.**

104.372. 1. (1) In the event a person who served as a member of the general assembly or in an elective state office on or after September 1, 1976, and who retired after September 1, 1976, dies, a survivor's income in an amount equal to fifty percent of the monthly annuity the retired member was receiving at the time of the member's death shall be paid in monthly installments to such deceased retired member's surviving spouse; provided such surviving spouse was married to the deceased retired member of the general assembly or elected official on the date of the member's death; or if there is no surviving spouse eligible to receive such survivor's income, then such survivor's income shall be payable to any children under the age of twenty-one of the deceased member of the general assembly or elective official in equal shares in a total amount equal to such survivor's income that would otherwise have been paid to the surviving spouse until the children reach twenty-one years of age. The benefits shall be funded as provided in section 104.436; or

(2) Upon the death of a person who served as a member of the general assembly or in an elective state office on or after September 1, 1976, and who retired pursuant to the provisions of this chapter on or after September 1, 1976, and who terminated employment before August 28, 1988, such deceased retired member's surviving spouse, who was married to the deceased retired member on the date of the member's death, may apply to the board of trustees and shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the surviving spouse's life, and upon request of the board shall give opinions, and be available to give opinions in writing, or orally, in response to such requests. As compensation for such services, beginning the first of the month following application, such surviving spouse shall receive monthly an amount equal to fifty percent of the monthly annuity the retired member was receiving at the time of the member's death.

2. If a member of the general assembly who has served in at least three full biennial assemblies dies before retirement, pursuant to the provisions of sections 104.312 to 104.801, a survivor's benefit shall be paid in an amount equal to fifty percent of the member's accrued annuity calculated as if the member were of normal retirement age as of the member's death. The survivor's benefit shall be paid in monthly installments to such deceased member's surviving spouse; provided such surviving spouse was married to the deceased member of the general assembly on the date of the member's death; or if there is no surviving spouse eligible to receive such survivor's benefit, such survivor's benefit shall be payable to any children under the age of twenty-one of the deceased member of the general assembly in equal shares in a total amount equal to such survivor's

benefit that would otherwise have been paid to the surviving spouse until the children reach twenty-one years of age.

3. In the event a person who has held one or more statewide state elective offices for a total of at least twelve years, and whose retirement benefits have been calculated and are being paid pursuant to the provisions of section 104.371, dies, a survivor's benefit in an amount equal to fifty percent of the benefits being paid the member pursuant to section 104.371 shall be paid to the member's surviving spouse. The survivor's benefits shall be paid in the manner provided in section 104.371.

4. Every member of the state employees' retirement system who had previous state employment by a state agency by virtue of which the person was a member of the public school retirement system of Missouri and has previously withdrawn the person's employee contribution to the public school retirement system shall upon request if qualified pursuant to the provisions of this subsection receive creditable prior service in the state employees' retirement system for such service notwithstanding any other provisions of law. The public school retirement system shall pay to the state employees' retirement system an amount equal to the contribution paid to the public school retirement system on behalf of the employee by the employee's employer, and the commissioner of administration shall pay an equal amount to the state employees' retirement system from funds appropriated from the general revenue fund for such purpose. In no event shall any person receive credit for the same period of service under more than one retirement system.

5. Upon the death of a person who served as a member of the general assembly or in an elective state office before September 1, 1976, and who retired and chose a normal annuity pursuant to the provisions of this chapter, such deceased retired member's surviving spouse, who was married to the member on the date of the member's death, may apply to the board of trustees and shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging, and other state matters for the remainder of the surviving spouse's life, and upon request of the board shall give opinions, and be available to give opinions in writing, or orally, in response to such requests. As compensation for such services, beginning the first of the month following application, such surviving spouse shall receive monthly an amount equal to fifty percent of the monthly annuity the retired member was receiving at the time of the member's death.

6. Survivor benefits shall be paid pursuant to section 104.420 in lieu of any other provisions of this section to the contrary if the member of the general assembly or statewide elected official:

- (1) Dies on or after August 28, 2001;**
- (2) Had a vested right to an annuity; and**
- (3) Was not receiving an annuity.**

7. Survivor benefits shall be paid pursuant to section 104.395 in lieu of any other

provisions of this section to the contrary if the member of the general assembly or statewide elected official elects a survivor benefit option pursuant to section 104.395, and dies on or after August 28, 2001.

104.374. 1. The normal annuity of a member, other than a member of the general assembly or a member who served in an elective state office, shall be an amount equal to one and six-tenths percent of the average compensation of the member multiplied by the number of years of creditable service of the member. Years of membership service and twelfths of a year are to be used in calculating any annuity. Absences for sickness and injury of less than twelve months [or for military service or training under subsection 2 of section 104.330] shall be counted as years of membership service.

2. In addition to the amount determined pursuant to subsection 1 of this section, the normal annuity of a uniformed member of the water patrol shall be increased by thirty-three and one-third percent of the benefit.

3. Employees who are fully vested at the age of sixty-five years and who continue to be employed by an agency covered under the system or members of the general assembly who serve in the general assembly after the age of sixty-five years shall have added to their normal annuity when they retire or die an amount equal to the total of all annual cost-of-living increases that the retired members of the system received during the years between when the employee or member of the general assembly reached sixty-five years of age and the year that the employee or member of the general assembly terminated employment or died. In no event shall the total increase in compensation granted under this subsection and subsection 2 of section 104.612 exceed sixty-five percent of the person's normal annuity calculated at the time of retirement or death.

104.380. If a retired member is elected to any state office or is appointed to any state office or is employed by a department [in a position normally requiring the performance by the person of duties during not less than one thousand hours per year, the member shall not receive an annuity for any month or part of a month for which the member serves as an officer or employee, but the member shall be considered to be a new employee with no previous creditable service and must accrue creditable service in order to receive any additional annuity. Any retired member who again becomes an employee and who accrues additional creditable service and later retires shall receive an additional amount of monthly annuity calculated to include only the creditable service and the average compensation earned by the member since such employment or creditable service earned as a member of the general assembly. Years of membership service and twelfths of a year are to be used in calculating any additional annuity except for creditable service earned as a member of the general assembly, and such additional annuity shall be based on the type of service accrued. In either event, the original annuity and the additional annuity, if any, shall be paid commencing with the end of the first month after the month during which the member's term of office has been completed, or the member's employment terminated. If a retired member is

employed by a department in a position that does not normally require the person to perform duties during at least one thousand hours per year, the member shall not be considered an employee as defined pursuant to section 104.010.] **and works more than one thousand hours per year regardless of the number of positions held on or after the first day of employment, the retired member shall not receive an annuity or additional creditable service for any month or part of a month for which the retired member is so employed. The system shall recover any benefit payments received by the retiree during any year that the retiree works more than one thousand hours pursuant to section 104.490. The term "year" as used in this section shall mean the twelve-month period beginning on the annuity starting date and each subsequent year thereafter. The provisions of this section shall apply to all retired members employed on or after September 1, 2001, regardless of when the retired member was first employed. Any person who is an employee on or after August 28, 2001, retires and is subsequently employed in a position covered by the highways and transportation employees' and highway patrol retirement system shall not be eligible to receive retirement benefits or additional creditable service from the system.**

104.395. 1. In lieu of the normal annuity otherwise payable to a member pursuant to section 104.335, **104.370, 104.371**, 104.374 or 104.400, and prior to the last business day of the month before the annuity starting date pursuant to section 104.401, a member shall elect whether or not to have such member's normal annuity reduced as provided by the options set forth in this section; provided that if such election has not been made within such time, annuity payments due beginning on and after such annuity starting date shall be made the month following the receipt by the system of such election, and further provided, that if such person dies after such annuity starting date but before making such election, no benefits shall be paid except as required pursuant to section 104.420:

Option 1. An actuarial reduction approved by the board of the member's annuity in reduced monthly payments for life during retirement with the provision that upon the member's death the reduced annuity at the date of the member's death shall be continued throughout the life of, and be paid to, the member's spouse to whom the member was married at the date of retirement and who was nominated by the member to receive such payments in the member's application for retirement or as otherwise provided **[under] pursuant to** subsection 5 of this section. Such annuity shall be reduced in the same manner as an annuity under option 2 as in effect immediately prior to August 28, 1997. The surviving spouse shall designate a beneficiary to receive any final monthly payment due after the death of the surviving spouse; or

Option 2. The member's normal annuity in regular monthly payments for life during the member's retirement with the provision that upon the member's death a survivor's benefit equal to one-half the member's annuity at the date of the member's death shall be paid to the member's

spouse to whom the member was married at the date of retirement and who was nominated by the member to receive such payments in the member's application for retirement or as otherwise provided **[under] pursuant to** subsection 5 of this section, in regular monthly payments for life. The surviving spouse shall designate a beneficiary to receive any final monthly payment due after the death of the surviving spouse; or

Option 3. An actuarial reduction approved by the board of the member's normal annuity in reduced monthly payments for the member's life with the provision that if the member dies prior to the member having received one hundred twenty monthly payments of the member's reduced annuity, the member's reduced annuity to which the member would have been entitled had the member lived shall be paid for the remainder of the one hundred twenty months' period to such person as the member shall have nominated by written designation duly executed and filed with the board. If there is no such beneficiary surviving the retirant, the reserve for such annuity for the remainder of such one hundred twenty months' period shall be paid to the retirant's estate. If such beneficiary dies after the member's date of death but before having received the remainder of the one hundred twenty monthly payments of the retiree's reduced annuity, the reserve for such annuity for the remainder of such one hundred twenty-month period shall be paid to the beneficiary's estate; or

Option 4. An actuarial reduction approved by the board of the member's normal annuity in reduced monthly payments for the member's life with the provision that if the member dies prior to the member having received sixty monthly payments of the member's reduced annuity, the member's reduced annuity to which the member would have been entitled had the member lived shall be paid for the remainder of the sixty months' period to such person as the member shall have nominated by written designation duly executed and filed with the board. If there be no such beneficiary surviving the retirant, the reserve for such annuity for the remainder of such sixty months' period shall be paid to the retirant's estate. If such beneficiary dies after the member's date of death but before having received the remainder of the sixty monthly payments of the retiree's reduced annuity, the reserve for such annuity for the remainder of the sixty-month period shall be paid to the beneficiary's estate.

2. Effective July 1, 2000, if a member is married as of the annuity starting date to a person who has been the member's spouse, the member's annuity shall be paid pursuant to the provisions of either option 1 or option 2 as set forth in subsection 1 of this section, at the member's choice, with the spouse as the member's designated beneficiary unless the spouse consents in writing to the member electing another available form of payment.

3. For members who retire on or after August 28, 1995, in the event such member elected a joint and survivor option **[under] pursuant to** the provisions of this section and the member's eligible spouse or eligible former spouse precedes the member in death, the member's annuity shall revert effective the first of the month following the death of the spouse or eligible former spouse

regardless of when the board receives the member's written application for the benefit provided in this subsection, to an amount equal to the member's normal annuity, as adjusted for early retirement if applicable; such benefit shall include any increases the member would have received since the date of retirement had the member elected a normal annuity.

4. Effective on or after August 28, 1995, any retired member who had elected a joint and survivor option and whose spouse or eligible former spouse precedes or preceded the member in death shall upon application to the board be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters. As a special consultant pursuant to the provisions of this section, the member's reduced annuity shall revert to a normal annuity as adjusted for early retirement, if applicable, effective the first of the month following the death of the spouse or eligible former spouse or August 28, 1995, whichever is later, regardless of when the board receives the member's written application; such annuity shall include any increases the retired member would have received since the date of retirement had the member elected a normal annuity.

5. Effective July 1, 2000, a member may make an election under option 1 or 2 after the date retirement benefits are initiated if the member makes such election within one year from the date of marriage or July 1, 2000, whichever is later, under any of the following circumstances:

- (1) The member elected to receive a normal annuity and was not eligible to elect option 1 or 2 on the date retirement benefits were initiated; or
- (2) The member's annuity reverted to a normal annuity pursuant to subsection 3 or 4 of this section and the member remarried.

6. Any person who terminates employment or retires prior to July 1, 2000, shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters, and for such services shall be eligible to elect to receive the benefits described in subsection 5 of this section.

7. Effective September 1, 2001, the retirement application of any member who fails to make an election pursuant to subsection 1 of this section within ninety days of the annuity starting date contained in such retirement application shall be nullified. Any member whose retirement application is nullified shall not receive retirement benefits until the member files a new application for retirement pursuant to section 104.401 and makes the election pursuant to subsection 1 of this section. In no event shall any retroactive retirement benefits be paid.

104.401. 1. Any member may retire with the annuity provided for in section 104.335, 104.370, 104.371, 104.374 or 104.400 upon the member's written application to the board designating the annuity starting date which shall be the first day of the month with respect to which an amount is paid as annuity; except that at the time of the annuity starting date, the member must have attained the normal retirement age or meet the eligibility requirements of

subsection 2 of section 104.400 and must have sufficient years of creditable service. The annuity starting date shall **not** be [not less than thirty days nor more than ninety days subsequent to the execution and filing of such application] **earlier than the first day of the second month following the month of the execution and filing of such application nor later than the first day of the fourth month following the month of the execution and filing of such application.** The annuity shall commence in the month of the annuity starting date specified by the member in such application. The payment of the monthly service retirement annuity shall be made by the last day of each month, providing all documentation required pursuant to section 104.395 for the calculation and payment of the benefits is received by the board. The member shall designate a beneficiary to receive any final monthly payment due after the death of the member if no survivor annuity is payable.

2. Nothing in sections 104.010 and 104.320 to 104.800 shall be construed as prohibiting a member from waiving the member's right to receive the member's monthly annuity for a period of time that the member chooses. However, the waiver may not extend beyond the age permitted by Section 401(a)(9) of the Internal Revenue Code. The waiver shall be final as to benefits waived.

104.420. 1. Unless otherwise provided by law, if a member or disabled member [has five or more years of vesting service and] **who has a vested right to a normal annuity** dies prior to retirement, regardless of the age of the member at the time of death, the member's or disabled member's surviving spouse, to whom the member or disabled member was married on the date of the member's death, if any, shall receive the reduced survivorship benefits provided in option 1 of section 104.395 calculated as if the member were of normal retirement age and had retired as of the date of the member's death and had elected option 1.

2. If there is no eligible surviving spouse, **or when a spouse annuity has ceased to be payable,** the member's or disabled member's eligible surviving children under twenty-one years of age shall receive monthly, in equal shares, an amount equal to [one-half] **eighty percent** of the member's or disabled member's accrued annuity calculated as if the member or disabled member were of a normal retirement age and retired as of the date of death. Benefits otherwise payable to a child under eighteen years of age shall be payable to the surviving parent as natural guardian of such child if such parent has custody or assumes custody of such minor child, or to the legal guardian of such child, until such child attains age eighteen; thereafter, the benefit may be paid to the child until age twenty-one; **provided the age twenty-one maximum shall be extended for any child who has been found totally incapacitated by a court of competent jurisdiction.**

3. No benefit is payable pursuant to this section if no eligible surviving spouse or children under twenty-one years of age survive the member or disabled member. Benefits cease pursuant to this section when there is no eligible surviving beneficiary through either death of the eligible surviving spouse or through either death or the attainment of twenty-one years of age by the

eligible surviving children. If the member's or disabled member's surviving children are receiving equal shares of the benefit described in subsection 2 of this section, and one or more of such children become ineligible by reason of death or the attainment of twenty-one years of age, the benefit shall be reallocated so that the remaining eligible children receive equal shares of the total benefit as described in subsection 2 of this section.

4. For the purpose of computing the amount of an annuity payable pursuant to this section, if the board finds that the death was the natural and proximate result of a personal injury or disease arising out of and in the course of the member's actual performance of duty as an employee, then the minimum annuity to such member's surviving spouse or, if no surviving spouse benefits are payable, the minimum annuity that shall be divided among and paid to such member's surviving children shall be fifty percent of the member's final average compensation; **except that for members of the general assembly and statewide elected officials with twelve or more years of service, the monthly rate of compensation in effect on the date of death shall be used in lieu of final average compensation.** The vesting service requirement of subsection 1 of this section shall not apply to any annuity payable pursuant to this subsection.

104.450. The board of trustees shall consist of the state treasurer, the commissioner of administration, two members of the senate appointed by the president pro tem of the senate, two members of the house of representatives appointed by the speaker of the house, two members appointed by the governor [for a four-year term during the governor's term of office], and three members who are members of the system, one of whom shall be a retiree elected by a plurality vote of retired members and two of whom shall be employees, elected by a plurality vote of the members of the system not retired for four-year terms. The board so constituted shall determine the procedures for nomination and election of the elective board members. The first two trustees designated above shall serve as trustees during their respective terms of office [and]; the legislative members shall serve as trustees [during their terms as members of the general assembly] **until such time as they resign, are no longer members of the general assembly, or are replaced by new appointments; and the members appointed by the governor shall serve as trustees until such time as they resign or are replaced by new appointments.** Any vacancies occurring in the office of trustees shall be filled in the same manner as the office was filled previously except that vacancies occurring in the offices of the elected board members may be filled by the board of trustees until the next regularly scheduled election.

104.515. 1. Separate accounts for medical, life insurance and disability benefits provided [under] **pursuant to** sections 104.517 and 104.518 shall be established as part of the fund. The funds, property and return on investments of the separate account shall not be commingled with any other funds, property and investment return of the system. All benefits and premiums are paid solely from the separate account for medical, life insurance and disability benefits provided [under] **pursuant to** this section.

2. The state shall contribute an amount as appropriated by law and approved by the governor per month [per employee for medical benefits and, based on competitive bids, up to five dollars per month per employee] for **medical benefits, life insurance and long-term disability benefits as provided pursuant to sections 104.515, 104.517 and 104.518. Such amounts shall include the cost of providing** life insurance benefits for each active employee who is a member of the Missouri state employees' retirement system, a member of the public school retirement system and who is employed by a state agency other than an institution of higher learning, a member of the retirement system established by sections 287.812 to 287.855, RSMo, the judicial retirement system, each legislator and official holding an elective state office, members not on payroll status who are receiving workers' compensation benefits, and if the state highways and transportation commission so elects, those employees who are members of the state transportation department employees' and highway patrol retirement system; if the state highways and transportation commission so elects to join the plan, the state shall contribute an amount as appropriated by law for medical benefits for those employees who are members of the transportation department employees' and highway patrol retirement system; an additional amount equal to the amount required, based on competitive bidding or determined actuarially, to fund the retired members' death benefit or life insurance benefit, or both, provided in subsection 4 of this section and the disability benefits provided in section 104.518. This amount shall be reported as a separate item in the monthly certification of required contributions which the commissioner of administration submits to the state treasurer and shall be deposited to the separate account for medical, life insurance and disability benefits. All contributions made on behalf of members of the state transportation department employees' and highway patrol retirement system shall be made from highway funds. If the highways and transportation commission so elects, the spouses and unemancipated children under twenty-three years of age of employees who are members of the state transportation department employees' and highway patrol retirement system shall be able to participate in the program of insurance benefits to cover medical expenses [under] **pursuant to** the provisions of subsection 3 of this section.

3. The board shall determine the premium amounts required for participating employees. The premium amounts shall be the amount, which, together with the state's contribution, is required to fund the benefits provided, taking into account necessary actuarial reserves. Separate premiums shall be established for employees' benefits and a separate premium or schedule of premiums shall be established for benefits for spouses and unemancipated children under twenty-three years of age of participating employees. The employee's premiums for spouse and children benefits shall be established to cover that portion of the cost of such benefits which is not paid for by contributions by the state. All such premium amounts shall be paid to the board of trustees at the time that each employee's wages or salary would normally be paid. The premium amounts so remitted will be placed in the separate account for medical, life insurance and disability

benefits. In lieu of the availability of premium deductions, the board may establish alternative methods for the collection of premium amounts.

4. Each special consultant eligible for life benefits employed by a board of trustees of a retirement system as provided in section 104.610 who is a member of the Missouri state life insurance plan or Missouri state transportation department and Missouri state highway patrol life insurance plan shall, in addition to duties prescribed in section 104.610 or any other law, and upon request of the board of trustees, give the board, orally or in writing, a short detailed statement on life insurance and death benefit problems affecting retirees. As compensation for the extra duty imposed by this subsection, any special consultant as defined above, other than a special consultant entitled to a deferred normal annuity **[under] pursuant to** section 104.035 or 104.335, who retires on or after September 28, 1985, shall receive as a part of compensation for these extra duties, a death benefit of five thousand dollars. In addition, each special consultant who is a member of the transportation department employees' and highway patrol retirement system medical insurance plan shall also provide the board, upon request of the board, orally or in writing, a short detailed statement on physical, medical and health problems affecting retirees. As compensation for this extra duty, each special consultant as defined above shall receive, in addition to all other compensation provided by law, nine dollars, or an amount equivalent to that provided to other special consultants **[under] pursuant to** the provisions of section 103.115, RSMo. In addition, any special consultant as defined in section 287.820, RSMo, or section 476.601, RSMo, who terminates employment and immediately retires on or after August 28, 1995, shall receive as a part of compensation for these duties, a death benefit of five thousand dollars.

5. Any former employee who is receiving disability income benefits from the Missouri state employees' retirement system or the transportation department employees' and highway patrol retirement system shall, upon application with the board of trustees of the Missouri consolidated health care plan or the transportation department employees and highway patrol medical plan, be made, constituted, appointed and employed by the respective board as a special consultant on the problems of the health of disability income recipients and, upon request of the board of trustees of each medical plan, give the board, orally or in writing, a short detailed statement of physical, medical and health problems affecting disability income recipients. As compensation for the extra duty imposed by this subsection, each such special consultant as defined in this subsection may receive, in addition to all other compensation provided by law, an amount contributed toward medical benefits coverage provided by the Missouri consolidated health care plan or the transportation employees and highway patrol medical plan pursuant to appropriations.

104.518. **1.** The board shall provide or contract, or both, for disability income benefits for employees **[under] pursuant to** sections 104.320 to 104.540, and persons covered by the provisions of sections 287.812 to 287.855, RSMo, and an employee covered **[under] pursuant to** the provisions of subdivision (4) of subsection 1 of section 476.515, RSMo, as follows:

(1) Members of the water patrol who qualify for receiving benefits [under] **pursuant to** subsection 1 of section 104.410 are not eligible for benefits [under] **pursuant to** this section. Members of the water patrol who do not qualify for receiving benefits [under] **pursuant to** subsection 1 of section 104.410 are eligible for benefits [under] **pursuant to** this section;

(2) Effective January 1, 1986, employees other than members of the water patrol who qualify for receiving benefits [under] **pursuant to** subsection 1 of section 104.410 shall be eligible for coverage on the first of the month following the date of employment;

(3) Definitions of disability and other rules and procedures necessary for the operation and administration of the disability benefit shall be established by the board **provided that such definitions, rules and procedures may be established in any contract between the board and any insurer or service organization to provide the disability benefits provided for pursuant to this section or in any policy issued to the board by such insurer or service organization;**

(4) An employee may elect to waive the receipt of the disability benefit provided for [under] **pursuant to** this section at any time.

2. To the extent that the board enters or has entered into any contract with any insurer or service organization to provide the disability benefits provided for pursuant to this section:

(1) **The obligation to provide such disability benefits shall be primarily that of the insurer or service organization and secondarily that of the board;**

(2) **Any member who has been denied disability benefits by the insurer or service organization and has exhausted all appeal procedures provided by the insurer or service organization may appeal such decision by filing a petition against the insurer or service organization in a court of law in the member's county of residence;**

(3) **The board and the system shall not be liable for the disability benefits provided for by an insurer or service organization pursuant to this section and shall not be subject to any cause of action with regard to disability benefits or the denial of disability benefits by the insurer or service organization unless the member has obtained judgment against the insurer or service organization for disability benefits and the insurer or service organization is unable to satisfy that judgment.**

104.530. The Missouri state employees' retirement system may sue and be sued in its official name, but its officers and employees shall not be personally liable for acts of the system. **The board may indemnify, protect, defend and hold harmless the trustees, officers and employees of the system against all claims and suits for negligent or wrongful acts alleged to have been committed in the scope of their service or employment or under the direction of the trustees provided that the trustees, officers and employees of the system shall not be indemnified for willful misconduct or gross negligence. The board is**

authorized to insure against loss or liability of the trustees, officers and employees of the system that may result from claims and suits for negligent or wrongful acts alleged to have been committed in the scope of their service or employment or under the direction of the trustees. This insurance shall be carried through a company that is licensed to write such coverage in this state. The service of all legal process and of all notices which may be required to be in writing, whether in legal proceedings or otherwise, shall be made on the executive director or in his or her absence, on the executive director's designee at his or her office. All suits or proceedings directly or indirectly against the system shall be brought in Cole County, except that suits or proceedings involving payment of disability benefits may be brought, at the election of the beneficiary, in the county of residence of the beneficiary.

[104.600. 1. A member of either the transportation department employees' and highway patrol retirement system, or the state employees' retirement system, who leaves his employment and within one month becomes a member of the other system may transfer his accumulated contributions from the one system to the other system. In such event, whether contributions have been made or not, if there are no accumulated contributions for all or any part of the prior service under the member's first employment, he shall nevertheless receive credit for all time served as a member of the prior system. Credit for prior service shall include all prior service credit which has been given by the department from which the member shall have transferred.

2. The board of trustees of each of the retirement systems shall prescribe the rules and regulations necessary to carry out the purpose of this section.]

104.601. Any member retiring [under] **pursuant to** the provisions of this chapter or any member retiring [under] **pursuant to** provisions of chapter 169, RSMo, who is a member of the public school retirement system and who is employed by a state agency other than an institution of higher learning, after working continuously until reaching retirement age, shall be credited with all his **or her** unused sick leave as certified by his **or her** employing agency. When calculating years of service, each member shall be entitled to one-twelfth of a year of creditable service for each [twenty-one days] **one hundred sixty-eight hours** of unused accumulated sick leave earned by [him] **the member**. The rate of accrual of sick leave for purposes of computing years of service as this section applies to legislative, executive and judicial employees shall be consistent with the rate of accrual as specified by regulations of the personnel advisory board pursuant to section 36.350, RSMo. Nothing under this section shall allow a member to vest in the retirement system by using such credited sick leave to reach the time of vesting.

104.602. 1. Any [employee] **member** as defined in section 104.010 [who, on or after August 13, 1988, has or accumulates one year of continuous service] may elect **prior to retirement** to receive creditable service with the system of which he or she is a current member equal to all creditable service **or any forfeited service** performed for a department covered by the

other system. In no event shall a member under either system established pursuant to this chapter receive credit in more than one system for the same period of service.

2. If a member dies before retirement and prior to exercising transfer rights pursuant to the provisions of this section, the survivor may elect to receive survivor benefits that shall be computed as if the member had in fact exercised the member's transfer rights to produce the most advantageous benefit possible. In this instance, the benefit shall be paid by the system that provides the most advantageous benefit. If there is no advantage in one system or the other after the transfer of creditable service, the benefit shall be paid by the system that the member last accrued service under prior to the date of the death of the member.

104.625. Effective January 1, 2002, any member retiring pursuant to the provisions of sections 104.010 to 104.801, except an elected official or a member of the general assembly, who has not been paid retirement benefits and continues employment for at least two years beyond normal retirement age, may elect to receive an annuity and lump sum payment or payments, determined as follows:

(1) A retroactive starting date shall be established which shall be the later of the date when a normal annuity would have first been payable had the member retired at that time or five years before the annuity starting date, which shall be the first day of the month with respect to which an amount is paid as annuity pursuant to this section;

(2) The prospective annuity payable as of the annuity starting date shall be determined pursuant to the provisions otherwise applicable under the law, with the exception that it shall be the amount which would have been payable had the member actually retired on the retroactive starting date under the retirement plan selected by the member. Other than for the lump sum payment or payments specified in subdivision (3) of this section, no other amount shall be due for the period between the retroactive starting date and the annuity starting date;

(3) The lump sum payable shall be ninety percent of the annuity amounts which would have been paid to the member from the retroactive starting date to the annuity starting date had the member actually retired on the retroactive starting date and received a normal annuity. The member shall elect to receive the lump sum amount either in its entirety at the same time as the initial annuity payment is made or in three equal annual installments with the first payment made at the same time as the initial annuity payment; and

(4) Any annuity payable pursuant to this section that is subject to a division of benefit order pursuant to section 104.312 shall be calculated as follows:

(a) Any service of a member between the retroactive starting date and the annuity starting date shall not be considered creditable service except for purposes of calculating the division of benefit; and

(b) The lump sum payment described in subdivision (3) of this section shall not be subject to any division of benefit order.

104.1003. Unless a different meaning is plainly required by the context, the following words and phrases as used in sections 104.1003 to 104.1093 shall mean:

- (1) "Act", the "Year 2000 Plan" created by sections 104.1003 to 104.1093;
- (2) "Actuary", an actuary who is experienced in retirement plan financing and who is either a member of the American Academy of Actuaries or an enrolled actuary under the Employee Retirement Income Security Act of 1974;
- (3) "Annuity", annual benefit amounts, paid in equal monthly installments, from funds provided for in, or authorized by, sections 104.1003 to 104.1093;
- (4) "Annuity starting date" means the first day of the first month with respect to which an amount is paid as an annuity pursuant to sections 104.1003 to 104.1093;
- (5) "Beneficiary", any person or entity entitled to receive an annuity or other benefit pursuant to sections 104.1003 to 104.1093 based upon the employment record of another person;
- (6) "Board of trustees", "board", or "trustees", a governing body or bodies established for the year 2000 plan pursuant to sections 104.1003 to 104.1093;
- (7) "Closed plan", a benefit plan created pursuant to this chapter and administered by a system prior to July 1, 2000. No person first employed on or after July 1, 2000, shall become a member of the closed plan, but the closed plan shall continue to function for the benefit of persons covered by and remaining in the closed plan and their beneficiaries;
- (8) "Consumer price index", the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as approved by the board, as such index is defined and officially reported by the United States Department of Labor, or its successor agency;
- (9) "Credited service", the total credited service to a member's credit as provided in sections 104.1003 to 104.1093;
- (10) "Department", any department or agency of the executive, legislative, or judicial branch of the state of Missouri receiving state appropriations, including allocated funds from the federal government but not including any body corporate or politic unless its employees are eligible for retirement coverage from a system **[under] pursuant to** this chapter as otherwise provided by law;
- (11) "Early retirement eligibility", a member's attainment of fifty-seven years of age and the completion of at least five years of credited service;
- (12) "Effective date", July 1, 2000;
- (13) "Employee" shall be any person who is employed by a department and is paid a salary or wage by a department in a position normally requiring the performance of duties of not less than one thousand hours per year, provided:
 - (a) The term "employee" shall not include any patient or inmate of any state, charitable,

penal or correctional institution, or any person who is employed by a department in a position that is covered by a state-sponsored defined benefit retirement plan not created by this chapter;

(b) The term "employee" shall be modified as provided by other provisions of sections 104.1003 to 104.1093;

(c) The system shall consider a person who is employed in multiple positions simultaneously within a single agency to be working in a single position for purposes of determining whether the person is an employee as defined in this subdivision;

(d) Beginning September 1, 2001, the term "year" as used in this subdivision shall mean the twelve-month period beginning on the first day of employment;

(14) "Employer", a department;

(15) "Executive director", the executive director employed by a board established [under] **pursuant to** the provisions of sections 104.1003 to 104.1093;

(16) "Final average pay", the average pay of a member for the thirty-six full consecutive months of service before termination of employment when the member's pay was greatest; or if the member was on workers' compensation leave of absence or a medical leave of absence due to an employee illness, the amount of pay the member would have received but for such leave of absence as reported and verified by the employing department; or if the member was employed for less than thirty-six months, the average monthly pay of a member during the period for which the member was employed;

(17) "Fund", a fund of the year 2000 plan established pursuant to sections 104.1003 to 104.1093;

(18) "Investment return", "interest", rates as shall be determined and prescribed from time to time by a board;

(19) "Member", a person who is included in the membership of the system, as set forth in section 104.1009;

(20) "Normal retirement eligibility", a member's attainment of at least sixty-two years of age and the completion of at least five or more years of credited service or, the attainment of at least fifty years of age with a total of years of age and years of credited service which is at least eighty or, in the case of a member of the highway patrol who shall be subject to the mandatory retirement provisions of section 104.080, the mandatory retirement age and completion of five years of credited service or, the attainment of at least fifty years of age with a total of years of age and years of credited service which is at least eighty;

(21) "Pay" shall include:

(a) All salary and wages payable to an employee for personal services performed for a department; but excluding:

a. Any amounts paid after an employee's employment is terminated, unless the payment is made as a final installment of salary or wages at the same rate as in effect immediately prior to

termination of employment in accordance with a state payroll system adopted on or after January 1, 2000;

b. Any amounts paid upon termination of employment for unused annual leave or unused sick leave; [and]

c. Pay in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code of 1986 as amended and other applicable federal laws or regulations; **and**

d. Any nonrecurring single sum payments;

(b) All salary and wages which would have been payable to an employee on workers' compensation leave of absence during the period the employee is receiving a weekly workers' compensation benefit, as reported and verified by the employing department;

(c) All salary and wages which would have been payable to an employee on a medical leave due to employee illness, as reported and verified by the employing department;

(d) For purposes of members of the general assembly, pay shall be the annual salary provided to each senator and representative pursuant to section 21.140, RSMo, plus any salary adjustment pursuant to section 21.140, RSMo;

(22) "Retiree", a person receiving an annuity from the year 2000 plan based upon the person's employment record;

(23) "State", the state of Missouri;

(24) "System" or "retirement system", the Missouri state employees' retirement system or the transportation department and highway patrol retirement system, as the case may be;

(25) "Vested former member", a person entitled to receive a deferred annuity pursuant to section 104.1036;

(26) "Year 2000 plan", the benefit plan created by sections 104.1003 to 104.1093.

104.1021. 1. The appropriate board shall determine how much credited service shall be given each member consistent with this section.

2. If a member terminates employment and is eligible to receive an annuity pursuant to the year 2000 plan, or becomes a vested former member at the time of termination the member's or former member's unused sick leave as certified by the member's employing department for which the member has not been paid will be converted to credited service at the time of application for retirement benefits. The member shall receive one-twelfth of a year of credited service for each one hundred and sixty-eight hours of such unused sick leave. Such credited service shall not be used in determining the member's eligibility for retirement or final average pay. Such credited service shall be added to the credited service in the last position of employment held as a member of the system.

3. If a member is employed in a covered position and simultaneously employed in one or more other covered or noncovered positions, credited service shall be determined as if all such employment were in one position, and covered pay shall be the total of pay for all such positions.

4. In calculating any annuity, credited service means a period expressed as whole years and any fraction of a year measured in twelfths that begins on the date an employee commences employment in a covered position and ends on the date such employee's membership terminates pursuant to section 104.1018 plus any additional period for which the employee is credited with service **[under] pursuant to** this section.

5. A member shall be credited for all military service after membership commences as required by state and federal law.

6. Any member who had active military service in the United States Army, Air Force, Navy, Marine Corps, Army or Air National Guard, Coast Guard, or any reserve component thereof prior to becoming a member, or who is otherwise ineligible to receive credited service pursuant to subsection 1 or 5 of this section, and who became a member after the person's discharge from military service under honorable conditions may elect, prior to retirement, to purchase credited service for all such military service, but not to exceed four years, provided the person is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan, other than a United States military service retirement system, for the military service to be purchased, and an affidavit so stating is filed by the member with the year 2000 plan along with the submission of appropriate documentation verifying the member's dates of active service. The purchase shall be effected by the member paying to the system an amount equal to the state's contributions that would have been made to the system on the member's behalf had the member been a member for the period for which the member is electing to purchase credit and had the member's pay during such period of membership been the same as the annual pay rate as of the date the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of such member's employment with simple interest calculated from the date of employment to the date of election **[under] pursuant to** this subsection. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. If a member who purchased credited service pursuant to this subsection dies prior to retirement, the surviving spouse may, upon written request, receive a refund of the amount contributed for such purchase of such credited service, provided the surviving spouse is not entitled to survivorship benefits payable pursuant to the provisions of section 104.1030.

7. Any member of the Missouri state employees' retirement system shall receive credited service for the creditable prior service that such employee would have been entitled to under the closed plan pursuant to section 104.339, subsections 2, and 6 to 9 of section 104.340, subsection 12 of section 104.342, section 104.344, subsection 4 of section 104.345, subsection 4 of section 104.372, section 178.640, RSMo, and section 211.393, RSMo, provided such service has not been credited under the closed plan.

8. Any member who has service in both systems and dies or terminates employment shall

have the member's service in the other system transferred to the last system that covered such member and any annuity payable to such member shall be paid by that system. Any such member may elect to transfer service between systems prior to termination of employment, provided, any annuity payable to such member shall be paid by the last system that covered such member prior to the receipt of such annuity.

9. In no event shall any person or member receive credited service pursuant to the year 2000 plan if that same service is credited for retirement benefits under any defined benefit retirement system not created pursuant to this chapter.

10. Any additional credited service as described in subsections 5 to 7 of this section shall be added to the credited service in the first position of employment held as a member of the system. Any additional creditable service received pursuant to section 105.691, RSMo, shall be added to the credited service in the position of employment held at the time the member completes the purchase or transfer pursuant to such section.

11. [A member may not use credited or creditable service that is purchased by the member to meet] **A member may not purchase any credited service described in this section unless the member has met** the five-year minimum service requirement as provided in subdivisions (11) and (20) of section 104.1003, the two full biennial assemblies minimum service requirement as provided in section 104.1084, or the four-year minimum service requirement as provided in section 104.1084.

104.1024. 1. Any member who terminates employment may retire on or after attaining normal retirement eligibility by making application in written form and manner approved by the appropriate board. The written application shall set forth the annuity starting date which shall **not** be [not less than thirty days nor more than ninety days subsequent to] **earlier than the first day of the second month following the month of the execution and filing of the member's application for retirement nor later than the first day of the fourth month following the month of the execution and filing of the member's application for retirement.**

2. A member's annuity shall be paid in the form of a life annuity, except as provided in section 104.1027, and shall be an amount for life equal to one and seven-tenths percent of the final average pay of the member multiplied by the member's years of credited service.

3. The life annuity defined in subsection 2 of this section shall not be less than a monthly amount equal to fifteen dollars multiplied by the member's full years of credited service.

4. If as of the annuity starting date of a member who has attained normal retirement eligibility the sum of the member's years of age and years of credited service equals eighty or more years and if the member's age is at least fifty years but less than sixty-two years, or, in the case of a member of the highway patrol who shall be subject to the mandatory retirement provision of section 104.080, the mandatory retirement age and completion of five years of credited service, then in addition to the life annuity described in subsection 2 of this section, the member shall receive a

temporary annuity equal to eight-tenths of one percent of the member's final average pay multiplied by the member's years of credited service. The temporary annuity and any cost-of-living adjustments attributable to the temporary annuity pursuant to section 104.1045 shall terminate at the end of the calendar month in which the earlier of the following events occurs: the member's death or the member's attainment of the earliest age of eligibility for reduced Social Security retirement benefits.

5. The annuity described in subsection 2 of this section for any person who has credited service not covered by the federal Social Security Act, as provided in sections 105.300 to 105.445, RSMo, shall be calculated as follows: the life annuity shall be an amount equal to two and five-tenths percent of the final average pay of the member multiplied by the number of years of service not covered by the federal Social Security Act in addition to one and seven-tenths percent of the final average pay of the member multiplied by the member's years of credited service covered by the federal Social Security Act.

6. Effective January 1, 2002, any member, except an elected official or a member of the general assembly, who has not been paid retirement benefits and continues employment for at least two years beyond the date of normal retirement eligibility, may elect to receive an annuity and lump sum payment or payments, determined as follows:

(1) A retroactive starting date shall be established which shall be the later of the first day of retirement eligibility or five years before the annuity starting date;

(2) The prospective annuity payable as of the annuity starting date shall be determined pursuant to the provisions of this section, with the exception that it shall be the amount which would have been payable at the annuity starting date had the member actually retired on the retroactive starting date under the retirement plan selected by the member. Other than for the lump sum payment or payments specified in subdivision (3) of this subsection, no other amount shall be due for the period between the retroactive starting date and the annuity starting date;

(3) The lump sum payable shall be ninety percent of the annuity amounts which would have been paid to the member from the retroactive starting date to the annuity starting date had the member actually retired on the retroactive starting date and received a life annuity. The member shall elect to receive the lump sum amount either in its entirety at the same time as the initial annuity payment is made or in three equal annual installments with the first payment made at the same time as the initial annuity payment; and

(4) Any annuity payable pursuant to this section that is subject to a division of benefit order pursuant to section 104.1051 shall be calculated as follows:

(a) Any service of a member between the retroactive starting date and the annuity starting date shall not be considered credited service except for purposes of

calculating the division of benefit; and

(b) The lump sum payment described in subdivision (3) of this section shall not be subject to any division of benefit order.

104.1027. 1. Prior to the last business day of the month before the annuity starting date, a member or a vested former member shall elect whether or not to have such member's or such vested former member's life annuity reduced, but not any temporary annuity which may be payable, and designate a beneficiary, as provided by the options set forth in this section; provided that if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by the year 2000 plan created by sections 104.1003 to 104.1093, and further provided, that if such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required ~~[under]~~ **pursuant to** section 104.1030:

Option 1. A retiree's life annuity shall be reduced to a certain percent of the annuity otherwise payable. Such percent shall be ninety percent adjusted as follows: if the retiree's age on the annuity starting date is younger than sixty-two years, an increase of three-tenths of one percent for each year the retiree's age is younger than age sixty-two years, to a maximum increase of three and six-tenths percent; and if the beneficiary's age is younger than the retiree's age on the annuity starting date, a decrease of three-tenths of one percent for each year of age difference; and if the retiree's age is younger than the beneficiary's age on the annuity starting date, an increase of three-tenths of one percent for each year of age difference; provided, after all adjustments the option 1 percent cannot exceed ninety-five percent. Upon the retiree's death, fifty percent of the retiree's reduced annuity shall be paid to such beneficiary who was the retiree's spouse on the annuity starting date or as otherwise provided by subsection 5 of this section.

Option 2. A retiree's life annuity shall be reduced to a certain percent of the annuity otherwise payable. Such percent shall be eighty-three percent adjusted as follows: if the retiree's age on the annuity starting date is younger than sixty-two years, an increase of four-tenths of one percent for each year the retiree's age is younger than sixty-two years, to a maximum increase of four and eight-tenths percent; and if the beneficiary's age is younger than the retiree's age on the annuity starting date, a decrease of five-tenths of one percent for each year of age difference; and if the retiree's age is younger than the beneficiary's age on the annuity starting date, an increase of five-tenths of one percent for each year of age difference; provided, after all adjustments the option 2 percent cannot exceed ninety percent. Upon the retiree's death one hundred percent of the retiree's reduced annuity shall be paid to such beneficiary who was the retiree's spouse on the annuity starting date or as otherwise provided by subsection 5 of this section.

Option 3. A retiree's life annuity shall be reduced to ninety-five percent of the annuity otherwise payable. If the retiree dies before having received one hundred twenty monthly

payments, the reduced annuity shall be continued for the remainder of the one hundred twenty-month period to the retiree's designated beneficiary provided that if there is no beneficiary surviving the retiree, the present value of the remaining annuity payments shall be paid to the retiree's estate. If the beneficiary survives the retiree but dies before receiving the remainder of such one hundred twenty monthly payments, the present value of the remaining annuity payments shall be paid to the beneficiary's estate.

Option 4. A retiree's life annuity shall be reduced to ninety percent of the annuity otherwise payable. If the retiree dies before having received one hundred eighty monthly payments, the reduced annuity shall be continued for the remainder of the one hundred eighty-month period to the retiree's designated beneficiary provided that if there is no beneficiary surviving the retiree, the present value of the remaining annuity payments shall be paid to the retiree's estate. If the beneficiary survives the retiree but dies before receiving the remainder of such one hundred eighty monthly payments, the present value of the remaining annuity payments shall be paid to the beneficiary's estate.

2. If a member is married as of the annuity starting date, the member's annuity shall be paid under the provisions of either option 1 or option 2 as set forth in subsection 1 of this section, at the member's choice, with the spouse as the member's designated beneficiary unless the spouse consents in writing to the member electing another available form of payment.

3. If a member has elected at the annuity starting date option 1 or 2 pursuant to this section and if the member's spouse or eligible former spouse dies after the annuity starting date but before the member dies, then the member may cancel the member's election and return to the life annuity form of payment and annuity amount, effective the first of the month following the date of such spouse's or eligible former spouse's death.

4. If a member designates a spouse as a beneficiary [under] **pursuant to** this section and subsequently that marriage ends as a result of a dissolution of marriage, such dissolution shall not affect the option election pursuant to this section and the former spouse shall continue to be eligible to receive survivor benefits upon the death of the member.

5. Effective July 1, 2000, a member may make an election under option 1 or 2 after the annuity starting date as described in this section if the member makes such election within one year from the date of marriage or July 1, 2000, whichever is later, pursuant to any of the following circumstances:

(1) The member elected to receive a life annuity and was not eligible to elect option 1 or 2 on the annuity starting date; or

(2) The member's annuity reverted to a normal or early retirement annuity pursuant to subsection 3 of this section, and the member remarried.

6. Effective September 1, 2001, the retirement application of any member who fails to make an election pursuant to subsection 1 of this section within ninety days of

the annuity starting date contained in such retirement application shall be nullified. Any member whose retirement application is nullified shall not receive retirement benefits until the member files a new application for retirement pursuant to section 104.1024 and makes the election pursuant to subsection 1 of this section. In no event shall any retroactive retirement benefits be paid.

104.1030. 1. If a member with five or more years of credited service or a vested former member dies before such member's or such vested former member's annuity starting date, the applicable annuity provided in this section shall be paid.

2. The member's surviving spouse who was married to the member at the date of death shall receive an annuity computed as if such member had:

(1) Retired on the date of death with a normal retirement annuity based upon credited service and final average pay to the date of death, and without reduction if the member's age was younger than normal retirement eligibility;

(2) Elected option 2 provided for in section 104.1027; and

(3) Designated such spouse as beneficiary under such option.

3. If a spouse annuity is not payable pursuant to the provisions of subsection 2 of this section, or when a spouse annuity has ceased to be payable, eighty percent of an annuity computed in the same manner as if the member had retired on the date of death with a normal retirement annuity based upon credited service and final average pay to the date of death and without reduction if the member's age at death was younger than normal retirement eligibility shall be divided equally among the dependent children of the deceased member. A child shall be a dependent child until death or attainment of age twenty-one, whichever occurs first; provided the age twenty-one maximum shall be extended for any child who has been found totally incapacitated by a court of competent jurisdiction. Upon a child ceasing to be a dependent child, that child's portion of the dependent annuity shall cease to be paid, and the amounts payable to any remaining dependent children shall be proportionately increased.

4. For the purpose of computing the amount of an annuity payable pursuant to this section, if the board finds that the death was the natural and proximate result of a personal injury or disease arising out of and in the course of his **or her** actual performance of duty as an employee, then the minimum annuity to such member's spouse or, if no spouse benefits are payable, the minimum annuity that shall be divided among and paid to such member's dependent children shall be fifty percent of final average pay. The credited service requirement of subsection 1 of this section shall not apply to any annuity payable pursuant to this subsection.

5. The provisions of this section shall apply to members of the general assembly and statewide elected officials except that the credited service and monthly pay requirements described in section 104.1084 shall apply notwithstanding any other language to the contrary contained in this section.

104.1039. If a retiree is employed as an employee by a department[, the retiree shall not receive an annuity payment for any calendar month in which the retiree is so employed. While reemployed the retiree shall be considered to be a new employee with no previous credited service upon subsequent retirement. Such retiree shall receive an additional annuity in addition to the original annuity, calculated based only on the credited service and the pay earned by such retiree during reemployment and paid in accordance with the annuity option originally elected; provided such retiree who ceases to receive an annuity under this section shall not receive such additional annuity if such retiree is employed by a department in a position that is covered by a state-sponsored defined benefit retirement plan not created under this chapter. The original annuity and any additional annuity shall be paid commencing as of the end of the first month after the month during which the retiree's reemployment terminates.] **and works more than one thousand hours per year regardless of the number of positions held on or after the first day of employment, the retiree shall not receive an annuity or additional credited service for any month or part of a month for which the retiree is so employed. The system shall recover any benefit payments received by the retiree during any year that the retiree works more than one thousand hours pursuant to section 104.1060. The term "year" as used in this section shall mean the twelve-month period beginning on the annuity starting date and each subsequent year thereafter.**

104.1051. 1. Any annuity provided pursuant to the year 2000 plan is marital property and a court of competent jurisdiction may divide such annuity between the parties to any action for dissolution of marriage if at the time of the dissolution the member has at least five years of credited service pursuant to sections 104.1003 to 104.1093. A division of benefits order issued pursuant to this section:

(1) Shall not require the applicable retirement system to provide any form or type of annuity **or retirement plan** not selected by the member;

(2) Shall not require the applicable retirement system to commence payments until the member's annuity starting date;

(3) Shall identify [a percentage of] the monthly amount to be paid to the former spouse, which shall **be expressed as a percentage and which shall** not exceed fifty percent of the amount of the member's annuity accrued during **all or part of** the period of the marriage of the member and former spouse **and which shall be based on the member's vested annuity on the date of the dissolution of marriage or an earlier date as specified in the order**, which amount shall be adjusted proportionately upon the annuity starting date if the member's annuity is reduced due to the receipt of an early retirement annuity;

(4) Shall not require the payment of an annuity amount to the member and former spouse which in total exceeds the amount which the member would have received without regard to the order;

(5) Shall provide that any annuity increases, temporary annuity received pursuant to subsection 4 of section 104.1024, additional years of credited service, increased final average pay, **increased pay pursuant to subsections 2 and 5 of section 104.1084**, or other type of increases accrued after the date of the dissolution of marriage shall accrue solely to the benefit of the member[.]; except that **on or after September 1, 2001**, any cost-of-living adjustment (COLA) due after the annuity starting date shall [be applied to the amounts received by both the member and the former spouse after the date of dissolution] **not be considered to be an increase accrued after the date of termination of marriage and shall be part of the monthly amount subject to division pursuant to any order issued after September 1, 2001;**

(6) Shall terminate upon the death of either the member or the former spouse, whichever occurs first;

(7) Shall not create an interest which is assignable or subject to any legal process;

(8) Shall include the name, address, date of birth, and Social Security number of both the member and the former spouse, and the identity of the retirement system to which it applies;

(9) Shall be consistent with any other division of benefits orders which are applicable to the same member.

2. A system shall provide the court having jurisdiction of a dissolution of a marriage proceeding or the parties to the proceeding with information necessary to issue a division of benefits order concerning a member of the system, upon written request from either the court, the member, or the member's spouse, citing this section and identifying the case number and parties.

3. A system shall have the discretionary authority to reject a division of benefits order for the following reasons:

(1) The order does not clearly state the rights of the member and the former spouse;

(2) The order is inconsistent with any law governing the retirement system.

104.1072. 1. Each board shall provide or contract, or both, for life insurance benefits for employees covered pursuant to the year 2000 plan as follows:

(1) Employees shall be provided fifteen thousand dollars of life insurance until December 31, 2000. Effective January 1, 2001, the system shall provide or contract or both for basic life insurance for employees covered under any retirement plan administered by the system pursuant to this chapter, persons covered by sections 287.812 to 287.856, RSMo, for employees who are members of the judicial retirement system as provided in section 476.590, RSMo, and, at the election of the state highways and transportation commission, employees who are members of the highways and transportation employees' and highway patrol retirement system, in the amount equal to one times annual pay, subject to a minimum amount of fifteen thousand dollars. The board shall establish by rule or contract the method for determining the annual rate of pay and any other terms of such insurance as it deems necessary to implement the requirements pursuant to this section. Annual rate of pay shall not include overtime or any other irregular payments as

determined by the board. Such life insurance shall provide for triple indemnity in the event the cause of death is a proximate result of a personal injury or disease arising out of and in the course of actual performance of duty as an employee;

(2) Upon a member terminating employment and becoming a retiree the month following termination of employment, five thousand dollars of life insurance shall be provided.

2. (1) In addition to the life insurance authorized by the provisions of subsection 1 of this section, any person for whom life insurance is provided or contracted for pursuant to such subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, additional life insurance at a cost to be stipulated in a contract with a private insurance company or as may be required by a system if the board of trustees determines that the system should provide such insurance itself. The maximum amount of additional life insurance which may be so purchased is that amount which equals six times the amount of the person's annual rate of pay, subject to any maximum established by a board, except that if such maximum amount is not evenly divisible by one thousand dollars, then the maximum amount of additional insurance which may be purchased is the next higher amount evenly divisible by one thousand dollars.

(2) Any person defined in subdivision (1) of this subsection may retain an amount not to exceed sixty thousand dollars of life insurance following the date of his or her retirement if such person becomes a retiree the month following termination of employment and makes written application for such life insurance at the same time such person's application is made to the board for retirement benefits. Such life insurance shall only be provided if such person pays the entire cost of the insurance, as determined by the board, by allowing voluntary deductions from the member's annuity.

(3) In addition to the life insurance authorized in subdivision (1) of this subsection, any person for whom life insurance is provided or contracted for pursuant to this subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, life insurance covering the person's children or the person's spouse or both at coverage amounts to be determined by the board at a cost to be stipulated in a contract with a private insurer or as may be required by the system if the board of trustees determines that the system should provide such insurance itself.

(4) Effective July 1, 2000, any member who applies and is eligible to receive [a temporary] **an annuity [pursuant to subsection 4 of section 104.1024] based on the attainment of at least fifty years of age with a total of years of age and years of credited service which is at least eighty** shall be eligible to retain any optional life insurance described in subdivision (1) of this subsection. The amount of such retained insurance shall not be greater than the amount in effect during the month prior to termination of employment. Such insurance may be retained until the [temporary annuity terminates,] **member's attainment of the earliest age for eligibility**

for reduced Social Security retirement benefits at which time the amount of such insurance that may be retained shall be that amount permitted pursuant to subdivision (2) of this subsection.

3. The state highways and transportation commission may provide for insurance benefits to cover medical expenses for members of the highways and transportation employees' and highway patrol retirement system. The state highways and transportation commission may provide medical benefits for dependents of members and for retired members. Contributions by the state highways and transportation commission to provide the insurance benefits shall be on the same basis as provided for other state employees pursuant to the provisions of section 104.515. Except as otherwise provided by law, the cost of benefits for dependents of members and for retired members and their dependents shall be paid by the members. The state highways and transportation commission may contract for all, or any part of, the insurance benefits provided for in this section. If the state highways and transportation commission contracts for insurance benefits, or for administration of the insurance plan, such contracts shall be entered into on the basis of competitive bids.

4. The highways and transportation employees' and highway patrol retirement system may request the state highways and transportation commission to provide life insurance benefits as required in subsections 1 and 2 of this section. If the state highways and transportation commission agrees to the request, the highways and transportation employees' and highway patrol retirement system shall reimburse the state highways and transportation commission for any and all costs for life insurance provided pursuant to subdivision (1) of subsection 1 of this section. The person who is covered pursuant to subsection 2 of this section shall be solely responsible for the costs of any additional life insurance.

104.1078. 1. Separate accounts for medical, life insurance and disability benefits provided **[under] pursuant to** sections 104.1072 and 104.1075 shall be established as part of the fund. The funds, property and return on investments of the separate accounts shall not be commingled with any other funds, property and investment return of a system. All benefits and premiums are paid solely from the separate accounts for medical, life insurance and disability benefits provided in this section.

2. The state shall contribute an amount as appropriated by law and approved by the governor per month **[per employee]** for medical benefits, life insurance, and long-term disability benefits **[for each active employee who is a member of a system]** **as provided pursuant to sections 104.1072 and 104.1075 and such amounts shall include the cost of providing such benefits to** members not on payroll status who are receiving workers' compensation benefits.

3. Each board shall determine the premium amounts required for participating persons. The premium amounts shall be the amount which, together with the state's contribution, is required to fund the benefits provided, taking into account necessary actuarial reserves. Separate premiums shall be established for employees' benefits and a separate premium

or schedule of premiums shall be established for children under twenty-three years of age and for spouses of participating employees. The employee's premiums for spouse and children benefits shall be established to cover that portion of the cost of such benefits which is not paid for by contributions by the state. All such premium amounts shall be paid to a board of trustees at the time that each employee's wages or salary would normally be paid. The premium amounts so remitted will be placed in the separate account for medical, life insurance and disability benefits. In lieu of the availability of premium deductions, each board may establish alternative methods for the collection of premium amounts.

104.1093. Notwithstanding any provision of law to the contrary, any employee, beneficiary[,] or retiree pursuant to sections 104.010 to 104.1093, **any administrative law judge, legal advisor or beneficiary as defined pursuant to section 287.812, RSMo, or any judge or beneficiary as defined pursuant to section 476.515, RSMo, or any special commissioner pursuant to section 476.450, RSMo,** may designate an agent who shall have the same authority as an agent pursuant to a durable power of attorney pursuant to sections 404.700 to 404.737, RSMo, with regard to the application for and receipt of an annuity or any other benefits. The authority of such agent may be revoked at any time by such employee, beneficiary or retiree. The authority of such agent shall not terminate if such employee, beneficiary or retiree becomes disabled or incapacitated. **The designation shall be effective only upon the disability or incapacity of the benefit recipient as determined by that person's physician and communicated in writing to the system.**

104.1200. As used in this section and section 104.1215, the following terms mean:

(1) "Education employee", any person described in the following classifications who is employed by one of the institutions, otherwise would meet the definition of "employee" pursuant to section 104.010 or 104.1003, and is not employed at a technical or vocational school or college: teaching personnel, instructors, assistant professors, associate professors, professors and academic administrators holding faculty rank;

(2) "Institutions", Truman State University, Northwest Missouri State University, Southeast Missouri State University, Southwest Missouri State University, Central Missouri State University, Harris-Stowe State College, Lincoln University, Missouri Western State College and Missouri Southern State College;

(3) "Outside employee", any other provisions of sections 104.010 to 104.1093 to the contrary notwithstanding, an education employee first so employed on or after July 1, 2002. An outside employee shall not be covered by the other benefit provisions of this chapter, but rather shall be covered by the benefit provisions provided for pursuant to sections 104.1200 to 104.1215.

104.1205. The board of trustees of the Missouri state employees' retirement

system shall:

(1) Establish a defined contribution plan for outside employees which, among other things, provides for immediate vesting;

(2) Select a third-party administrator to provide such services as the board determines to be necessary for the proper administration of the defined contribution plan;

(3) Select the investment products which shall be made available to the participants in the defined contribution plan;

(4) Annually establish the contribution rate used for purposes of subsection 3 of section 104.1066 for employees of institutions who are other than outside employees, which shall be done by considering all such employees to be part of the general employee population within the Missouri state employees' retirement system;

(5) Establish the contribution rate for outside employees which shall be equal to one percent of payroll less than the normal cost contribution rate established pursuant to subdivision (4) of this section; and

(6) Establish such rules and regulations as may be necessary to carry out the purposes of this section.

104.1210. 1. In no event shall any outside employee or member of the Missouri state employees' retirement system receive creditable service or credited service in the system for any time period in which such employee or member participated in the defined contribution plan established pursuant to sections 104.1200 to 104.1215.

2. Institutions and any third-party administrator shall provide such information to the Missouri state employees' retirement system as may be required to implement the provisions of sections 104.1200 to 104.1215.

104.1215. Any outside employee who has participated in the defined contribution plan established pursuant to sections 104.1200 to 104.1215 for at least six years may elect to become a member of the Missouri state employees' retirement system. Such employee shall:

(1) Make such election while actively employed in a position that would otherwise be eligible for membership in the Missouri state employees' retirement system except for the provisions of sections 104.1200 to 104.1215;

(2) Participate in the year 2000 plan; except that such employee shall participate in the closed plan as defined in section 104.1003 if such employee was a member of the closed plan prior to participating in such defined contribution plan;

(3) Be considered to have met the service requirements contained in subsection 4 of section 104.335 or section 104.1018, whichever is otherwise applicable;

(4) Not receive any creditable service or credited service for service rendered

while a participant in such defined contribution plan;

(5) Forfeit any right to future participation in the defined contribution plan after such election; and

(6) Not be eligible to receive credited service pursuant to section 104.1090 based on service rendered while a participant in such defined contribution plan.

476.517. Any judge who is or has been a commissioner or deputy commissioner of the circuit court appointed after February 29, 1972, who has received creditable service pursuant to chapter 104, RSMo, and sections 476.515 to 476.565, based on service as a commissioner or deputy commissioner shall make a one-time retirement plan election upon application to receive retirement benefits. Such judge shall elect to receive retirement benefits based on all of the judge's service as a commissioner or deputy commissioner of the circuit court pursuant to section 104.374, 104.1024 or sections 476.515 to 476.565, RSMo.

476.524. Any judge as defined in section 476.515 who had performed active service in the United States Army, Air Force, Navy, Marine Corps, Army or Air National Guard, Coast Guard, or any reserve component thereof prior to holding office, may elect prior to retirement, to purchase all of his **or her** creditable prior service equivalent to such service in the armed forces, but not to exceed four years, if he **or she** is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, and an affidavit so stating shall be filed by the judge with the Missouri state employees' retirement system. However, if the judge is eligible to receive retirement credits in a United States military service retirement system, he or she shall be permitted to purchase creditable prior service equivalent to his or her service in the armed forces but not to exceed four years, any other provision of law to the contrary notwithstanding. The purchase shall be effected by the judge's submission of the appropriate documentation verifying the judge's dates of active service and by paying to the Missouri state employees' retirement system an amount equal to what would have been contributed by the state [in his behalf had he been a member for the period for which he is electing to purchase credit and had his compensation during such period of such membership been the same as the annual salary rate at which he was initially employed by the state or when he first became a judge, whichever first occurred, with the calculations based on a contribution rate established by the actuary for the Missouri state employees' retirement system which would be equal to a contribution rate which would be used if the judicial system were founded on an actuarial basis with simple interest at the same rate in effect at the time of election calculated from the time of employment by the state to the date of election under this section] **on the judge's behalf had the judge been a judge for the period for which the judge is electing to purchase credit and had the judge's compensation during such period of membership been the same as the annual salary rate at which the judge was initially employed, with the calculations based on**

the assumed or actual contribution rate in effect on the date of employment with simple interest calculated from the initial date of employment of the judge to the date of election pursuant to this section. The payment shall be made over a period of not longer than two years, measured from the date of election, with simple interest on the unpaid balance. All payments for purchase of service [under] **pursuant to** this section shall be set aside in a reserve fund for funding of said benefits. Payments made for such creditable prior service [under] **pursuant to** this section shall be treated by the Missouri state employees' retirement system as would contributions made by the state and shall not be subject to any prohibition on member contributions or refund provisions in effect at the time of enactment of this section.

Section 1. 1. Any person who has been appointed or employed as a legal advisor pursuant to section 286.070, RSMo, prior to August 28, 2001, who is receiving or thereafter is qualified to receive retirement benefits pursuant to section 104.374, RSMo, shall upon application be made, constituted, appointed and employed by the board of trustees of the Missouri state employees' retirement system as a special consultant on the problems of retirement, aging and other state matters for the remainder of the person's life. Upon request of the board or the administrative hearing commission, the consultant shall give opinions or be available to give opinions in writing or orally in response to such requests. As compensation for such services and in lieu of receiving benefits pursuant to section 104.374, RSMo, each such special consultant shall be eligible for all benefits payable pursuant to sections 287.812 to 287.856, RSMo, effective upon the later of August 28, 1999, or the date retirement benefits become payable. In no event shall retroactive benefits be paid.

2. The term "legal advisor" as defined in subdivision (6) of section 287.812, RSMo, shall be deemed to include any attorney or legal counsel appointed or employed pursuant to section 286.070, RSMo.

Section 2. For the purposes of public retirement systems administered pursuant to chapter 104, RSMo, any reference to the term "spouse" only recognizes marriage between a man and a woman.