

FIRST REGULAR SESSION

SENATE BILL NO. 390

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS ROHRBACH AND JOHNSON.

Read 1st time January 31, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1443S.021

AN ACT

To repeal sections 9.010, 36.350, 104.601 and 104.1021, RSMo 2000, relating to state employee benefits, and to enact in lieu thereof four new sections relating to the same subject.

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

Section A. Sections 9.010, 36.350, 104.601 and 104.1021, RSMo 2000, are repealed and four new sections enacted in lieu thereof, to be known as sections 9.015, 36.350, 104.601 and 104.1021, to read as follows:

9.015. 1. State offices shall be open Monday through Friday year round and all such days shall be considered regular workdays except for the following holidays: the first day of January, the third Monday of January, the third Monday in February, the last Monday in May, the fourth day of July, the first Monday in September, the eleventh day of November, the fourth Thursday in November and the Friday immediately following such fourth Thursday, and the twenty-fifth of December. When any of such holidays falls upon Saturday, the Friday immediately preceding shall be considered the holiday. When any of such holidays falls upon Sunday, the Monday next following shall be considered the holiday.

2. The governor and the appointing authority in charge of each agency or facility may determine which facilities or offices shall remain open seven days a week, or other schedule, including holidays, for the safety and convenience of the public.

3. Personnel whose normal duties require them to remain on duty at their workstation for shifts of twenty-four hours or longer shall be exempt from the provisions of this section. Their holidays and holiday compensation shall be as

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

established by the appointing authority, subject to review and approval by the personnel advisory board, consistent with the work schedule necessary to accommodate the safety and convenience of the public.

4. Any state employee who has requested annual leave and has received approval of that request in accordance with the appointing authority's procedures shall receive payment at the normal hourly rate of pay in lieu of leave for such amount of annual leave time if supervisory approval is subsequently withdrawn requiring the employee to be on duty for the hours for which leave was requested and approved.

36.350. **1.** The regulations shall provide for the hours of work, holidays, attendance, and leaves of absence in the various classes of positions subject to this law. They shall contain provisions for annual leave, sick leave, and special leaves of absence, with or without pay, or with reduced pay, and may allow special extended leaves for employees disabled through injury or illness arising out of their employment, and the accumulation of annual leave and sick leave. Such regulations shall apply in all state agencies.

2. Employees employed prior to January 1, 2002, shall accrue annual leave monthly based on the employee's years of service and may be allowed to accrue a maximum leave balance as follows:

Years of Service	Annual Leave Hours/Month	Maximum Leave Balance
Less than 10	12	288
10 but less than 15	14	336
Greater than 15	16	384

3. Employees employed on or after January 1, 2002, shall accrue annual leave on a basis of ten hours per month for the employee's first five years of employment. Thereafter, the employee shall accrue leave according to subsection 2 of this section.

4. On each employee's employment anniversary date, the employee shall be allowed to direct any portion of their accrued annual leave balance in excess of the maximum allowable balance as follows:

(1) To be deposited into a departmental shared leave program approved by the personnel advisory board of the office of administration;

(2) To be deposited for purchase of additional retirement credits. The employee shall receive one day of credited service for each eight hours of deposited excess annual leave consistent with sections 104.601 and 104.1021, RSMo. The employee shall only be eligible to elect to purchase a maximum of one thousand hours of retirement credits.

104.601. **1.** Any member retiring under the provisions of this chapter or any member retiring under 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 unused sick leave as certified by his 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 of unused accumulated sick leave earned by him. 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.

2. If a member terminates employment and is eligible to receive an annuity pursuant to the closed plan as defined by section 104.1003, or becomes a vested former member at the time of termination, the member's or former member's accumulated excess annual leave deposited for purchase of additional retirement credits as certified by the member's employing department for which the member has not been paid pursuant to section 36.350, RSMo, will be converted to credited service at the time of application for retirement benefits. The member shall receive one day of credited service for each eight hours of such excess annual 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. In no event shall more than one thousand hours be converted to credited service.

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 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 accumulated excess annual leave deposited for purchase of additional retirement credits as certified by the member's employing department for which the member has not been paid pursuant to section

36.350, RSMo, will be converted to credited service at the time of application for retirement benefits. The member shall receive one day of credited service for each eight hours of such excess annual 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. In no event shall more than one thousand hours be converted to credited service.

[3.] **4.** 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.] **5.** 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 this section.

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

[6.] **7.** 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] **6** 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 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.] 8. 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.] 9. 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.] 10. 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.] 11. Any additional credited service as described in subsections **[5] 6 to [7] 8** 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.] 12. A member may not use credited or creditable service that is purchased by the member to meet 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.

[9.010. The first day of January, the third Monday of January, the twelfth day of February, the third Monday in February, the eighth day of May, the last Monday in May, the fourth day of July, the first Monday in September, the second Monday in October, the eleventh day of November, the fourth Thursday in November, and the twenty-fifth of December, are declared and established public holidays; and when any of such holidays falls upon Sunday, the Monday next following shall be considered the holiday. There shall be no holiday for state employees on the fourth Monday of October.]