

FIRST REGULAR SESSION

# SENATE BILL NO. 118

92ND GENERAL ASSEMBLY

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INTRODUCED BY SENATOR SHIELDS.

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Pre-filed December 1, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0322S.011

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## AN ACT

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To repeal sections 104.010 and 104.1003, RSMo, relating to public retirement systems, and to enact in lieu thereof two new sections relating to the same subject.

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

Section A. Sections 104.010 and 104.1003, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 104.010 and 104.1003, to read as follows: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 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

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

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 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] **104.601** 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 this section and sections 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] **forty-eight** 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] **104.601** 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.

104.1003. 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 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 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", or "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] forty-eight** 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] **forty-eight** 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;

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.