

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 248, 100, 118, 233, 247, 341 & 420

92ND GENERAL ASSEMBLY

2003

0858S.14T

AN ACT

To repeal sections 84.140, 86.251, 86.690, 104.010, 104.040, 104.110, 104.271, 104.340, 104.370, 104.460, 104.517, 104.1003, 104.1021, 104.1024, 104.1051, 104.1072, 104.1093, 169.712, and 287.845, RSMo, and to enact in lieu thereof twenty-seven new sections relating to the retirement systems and benefits, with penalty provisions and an emergency clause for certain sections.

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

Section A. Sections 84.140, 86.251, 86.690, 104.010, 104.040, 104.110, 104.271, 104.340, 104.370, 104.460, 104.517, 104.1003, 104.1021, 104.1024, 104.1051, 104.1072, 104.1093, 169.712, and 287.845, RSMo, are repealed and twenty-seven new sections enacted in lieu thereof, to be known as sections 84.140, 86.251, 86.394, 86.445, 86.676, 86.690, 104.010, 104.040, 104.110, 104.271, 104.340, 104.370, 104.460, 104.517, 104.806, 104.1003, 104.1021, 104.1024, 104.1051, 104.1072, 104.1093, 168.303, 169.712, 287.845, 1, 2, and 3, to read as follows:

84.140. The boards may grant every member of the police force who has served for one year or more a total of three weeks vacation each year with pay, and each member of the police

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

force who has served the department for twelve years or more may receive four weeks vacation each year with pay, and each member of the police force who has served the department for twenty-one years or more shall receive five weeks vacation each year with pay, **and each member of the police force who has served the department for thirty years or more and is eligible to participate in the deferred retirement option plan shall receive six weeks vacation each year with pay**; however the board may grant an additional week of paid vacation to members after one year of service. All members of the police force may receive fifteen holidays with pay, however the board may grant additional holidays with pay, and one hundred four days off duty each year with pay, and the boards may from time to time grant additional days off duty each year with pay when in the judgment of the boards, the granting thereof will not materially impair the efficiency of the department.

86.251. 1. The board of trustees may develop and establish a deferred retirement option plan (DROP) in which members who are eligible for retirement but who have not terminated employment as police officers and who have not actually retired may participate. The DROP shall be designed to allow members with at least twenty years of creditable service or who have attained the age of fifty-five who have achieved eligibility for retirement and are entitled to a service retirement allowance and other benefits to postpone actual retirement, continue active employment and accumulate a deferred receipt of the service retirement allowance. No one shall participate in the DROP for a period exceeding five years.

2. Any member who has at least twenty years of creditable service or has attained the age of fifty-five may elect in writing before retirement to participate in the DROP. A member electing to participate in the DROP shall postpone actual retirement, shall continue in active employment and shall not receive any direct retirement allowance payments or benefits during the period of participation.

3. Upon the start of the participation in the DROP, the member shall cease to make any mandatory contributions to the system. No contribution shall be required by the city into the DROP account. During the period of participation in the DROP, the amount that the member would have received as a service retirement allowance if the member had actually retired instead of entering DROP shall be deposited monthly in the member's DROP account which shall be established in the member's name by the board of trustees. The member's service retirement allowance shall not be adjusted for any cost-of-living increases for any period prior to the member's termination of employment as a police officer and actual retirement. Cost-of-living increases, if any, for any period following the member's termination of employment as a police officer and actual retirement shall be applied only to monthly service retirement payments made following termination of employment as a police officer and actual retirement. Service earned during the period of participation in the DROP shall not be creditable service and shall not be counted in determination of any service retirement allowance or surviving spouse's or dependents'

benefits. Compensation paid during the period of participation in the DROP shall not be earnable compensation and shall not be counted in the determination of any service retirement allowance or surviving spouse's or dependent's benefits. The member's service retirement allowance shall be frozen as of the date the member enters DROP. Except as specifically provided in sections 86.200 to 86.366, the member's frozen service retirement allowance shall not increase while the member is participating in DROP or after the member's participation in DROP ends, and the member shall not share in any benefit improvement that is enacted or that becomes effective while such member is participating in the DROP.

4. A member shall cease participation in the DROP upon the termination of the member's employment as a police officer and actual retirement, or at the end of the five-year period commencing on the first day of the member's participation in the DROP, or as of the effective date, but in no event prior to October 1, 2001, of the member's election to return to active participation in the system, whichever occurs first. A member's election to return to active participation in the system before the end of the five-year period commencing on the first day of participation in the DROP shall be made and shall become effective in accordance with procedures established by the board of trustees, but in no event prior to October 1, 2001. Upon the member's termination of employment as a police officer and actual retirement, the member shall elect to receive the value of the member's DROP account, in one of the following forms of payment:

- (a) A lump sum payment; or
- (b) Equal monthly installments over a ten-year period.

Either form of payment should begin within thirty days after the member's notice to the board of trustees that the member has selected a particular option.

5. If a member who is participating in the DROP elects to return to active participation in the system or if a member who is participating in the DROP does not terminate employment **and actually retires** as a police officer in the city for which the retirement system was established pursuant to sections 86.200 to 86.366 [and actually retires] at the end of the five-year period commencing on the first day of the member's participation in the DROP, the member shall return to active participation in the system and shall resume making mandatory contributions to the system effective as of the day after participation in the DROP ends or, if later, October 1, 2001. The board of trustees shall notify the police commissioners to begin deducting mandatory contributions from the member's salary and the member's employment period shall count as creditable service beginning as of the day the member returns to active participation.

6. In no event shall a member whose participation in DROP has ended for any reason be eligible to participate in DROP again.

7. Upon the member's termination of employment as a police officer and actual retirement, the member's mandatory contributions to the retirement system shall be paid to the

member pursuant to subsection 4 of section 86.253.

8. If a member dies prior to termination of employment as a police officer and actual retirement while participating in the DROP or before the member has received full withdrawal of the amount in the member's DROP account under the installment optional payment form, the remaining balance of the member's DROP account shall be payable to the member's surviving spouse; or, if the member is then unmarried, to the member's dependent children in equal shares; or, if none, to the member's dependent mother or father; or, if none, to the member's designated beneficiary or, if no such beneficiary is then living, to the member's estate. Payment shall be made in a lump sum within sixty days after receipt by the board of trustees of evidence and proof of the death of a member. In addition, the member's mandatory contributions, if any, that were not already paid to the member pursuant to subsection 4 of section 86.253 shall be paid to the member's surviving spouse pursuant to section 86.288.

9. If a member [has elected to participate in the DROP and during such participation period] applies for and receives benefits for an accidental disability retirement allowance pursuant to the provisions of section 86.263, the member shall forfeit all rights, claims or interest in the member's DROP account and the member's benefits shall be calculated as if the member has continued in employment and had not elected to participate in the DROP. Any portion of a DROP account that has been forfeited as provided in this subsection shall be a general asset of the system.

10. A member's DROP account shall earn interest equal to the rate of return earned by the system's investment portfolio on a market value basis, including realized and unrealized gains and losses, net of investment expense, as certified by the system's actuary. As of the last day of each plan year beginning after DROP participation begins, the member's DROP account balance, determined as of the last day of the prior plan year, shall be credited with interest at the investment rate earned by the assets of the retirement system for such prior plan year. If distribution of the member's DROP account balance is made in a lump sum under subsection 4 or 8 of this section, interest for the plan year of distribution shall be credited on the ending balance for the prior plan year at the investment rate earned on the assets of the retirement system for the prior plan year, in proportion to the part of the plan year preceding the date of the member's termination of employment or death, whichever is earlier. If the member's DROP account is paid in equal monthly installments pursuant to subsection 4 of this section, interest during the installment period shall be credited as of the last day of each plan year ending after installment payment begins on the account balance as of the first or last day of the plan year, whichever is lower, at the investment rate earned by the assets of the system for the prior plan year. Interest for the year in which the final installment is paid shall be credited on the balance remaining after the final installment is paid, at the investment rate earned on the assets of the system for the prior plan year, in proportion to the part of the plan year preceding payment of

the final installment. Any interest credited to the DROP account during the installment period shall be paid as soon as reasonably possible after the final monthly installment. No interest shall be credited on amounts, if any, added to the member's DROP account during the year in which the distribution of the account is completed.

11. The board of trustees shall not incur any liability individually or on behalf of other individuals for any act or omission, made in good faith in relation to the DROP or assets credited to DROP accounts established by this section. The provisions of the Internal Revenue Code and regulations promulgated thereunder shall supersede any provision of this section if there is any inconsistency with the Internal Revenue Code or regulation.

12. Upon the receipt by the board of trustees of evidence and proof that the death of a member resulted from an event occurring while the member was in the actual performance of duty, and if the member is participating in the DROP, the member's surviving spouse or, if the member is then unmarried, the member's unmarried dependent children, may elect within thirty days after the member's death to have the amount in the member's DROP account paid in the form of a monthly survivor annuity. Payment of the survivor annuity shall begin within sixty days after the election is received. Payment to the member's surviving spouse shall continue until the surviving spouse's death; payment to the member's unmarried dependent children shall be made while any child qualifies as an unmarried dependent child pursuant to section 86.280. The survivor annuity shall be the actuarial equivalent of the member's DROP account as of the date of the member's death. In no event shall the total amount paid pursuant to this subsection be less than the member's DROP account balance as of the date of the member's death.

86.394. Each member of the retirement board who is in active service with the police department of a city as either a police officer, as defined in section 86.370, or as an employee, as defined in section 86.600, shall be granted authorized leave with pay by such police department to attend any and all educational seminars and like functions that have been authorized by the retirement board, including travel time to and from such functions, not to exceed ten days in any calendar year. Leave granted under this section shall not reduce vacation or other authorized leave time to which such member may be entitled without reference to this section.

86.445. If a city and the police department of such city adopt any program of incentives to authorize or encourage early retirements, whether for employees not yet eligible for regular retirement or for employees who are eligible but have not yet chosen to retire or for both, the retirement board shall be authorized to administer and pay such incentives for retirees who accept such incentives and are members of this retirement system pursuant to sections 86.370 to 86.497, in addition to such other benefits as such members or their beneficiaries are entitled to receive pursuant to

sections 86.370 to 86.497 provided such city shall so request and shall agree to increase the city's contribution pursuant to section 86.477 sufficiently to provide the full actuarial cost of any such incentives in addition to the contribution required of such city necessary, in conjunction with members' contributions pursuant to section 86.470, to provide all other benefits provided pursuant to sections 86.370 to 86.497.

86.676. If a city and the police department of such city adopt any program of incentives to authorize or encourage early retirements, whether for employees not yet eligible for regular retirement or for employees who are eligible but have not yet chosen to retire or for both, the retirement board shall be authorized to administer and pay such incentives for retirees who accept such incentives and are members of this retirement system pursuant to sections 86.600 to 86.790, in addition to such other benefits as such members or their beneficiaries are entitled to receive pursuant to sections 86.600 to 86.790, provided such city shall so request and shall agree to increase said city's contribution pursuant to section 86.760 sufficiently to provide the full actuarial cost of any such incentives in addition to the contribution required of such city necessary, in conjunction with members' contribution pursuant to section 86.760, to provide all other benefits provided pursuant to sections 86.600 to 86.790.

86.690. 1. Upon death after August 28, 2001, of a member for any cause prior to retirement, the following amounts shall be payable subject to subsection 5 of this section, as full and final settlement of any and all claims for benefits under this retirement system:

(1) If the member has less than five years of creditable service, the member's surviving spouse shall be paid, in a lump sum, the amount of accumulated contributions and interest. If there be no surviving spouse, payment shall be made to the member's designated beneficiary, or if none, to the executor or administrator of the member's estate.

(2) If the member has at least five, but less than twenty years of creditable service, the member's surviving spouse may elect, in lieu of the lump sum settlement in subdivision (1) of this subsection, an annuity. Such annuity shall be one-half of the member's accrued annuity at date of death as computed in section 86.650. The effective date of the election shall be the latter of the first day of the month after the member's death or attainment of what would have been the member's early retirement date as provided in section 86.660.

(3) If the member has at least twenty years of creditable service, the member's surviving spouse may elect, in lieu of the lump sum settlement in subdivision (1) of this subsection, the larger of the annuity as computed in subdivision (2) of this subsection or an annuity determined on a joint and survivor's basis from the actuarial value of the member's accrued annuity at date of death.

(4) Any death of a retired member occurring before the date of first payment of the retirement annuity shall be deemed to be a death before retirement.

(5) Benefits payable pursuant to this section shall continue for the lifetime of such surviving spouse without regard to remarriage.

(6) No surviving spouse of a member who dies in service after August 28, 2001, shall be entitled to receive any benefits pursuant to sections 86.600 to 86.790 unless such spouse was married to the member at the time of the member's death in service.

2. Upon death following retirement for any cause after August 28, 2001, of a member who has not elected the optional annuity pursuant to section 86.650, the member's surviving spouse shall receive a pension payable for life, equaling one-half of the member's normal retirement allowance, computed under section 86.650, as of the member's actual retirement date, subject to adjustments provided in subsection 5 of section 86.675, if any; provided, no surviving spouse of a member who retires after August 28, 2001, shall be entitled to receive any benefits pursuant to sections 86.600 to 86.790 unless such spouse was married to the member at the time of the member's retirement. Any surviving spouse who was married to such a member at the time of the member's retirement shall be entitled to all benefits for surviving spouses pursuant to sections 86.600 to 86.790 for the life of such surviving spouse without regard to remarriage. If there be no surviving spouse, payment of the member's accumulated contributions less the amount of any prior payments from the retirement system to the member or to any beneficiary of the member shall be made to the member's designated beneficiary or, if none, to the personal representative of the member's estate.

3. Any surviving spouse of a member who dies in service or retired prior to August 28, 2001, who otherwise qualifies for benefits pursuant to subsection 1 or 2 of this section and who has not remarried prior to August 28, 2001, but remarries thereafter, shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions in writing or orally in response to such requests, as may be required. For such services, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received pursuant to sections 86.600 to 86.790 in the absence of such remarriage.

4. Should the total amount paid from the retirement system to a member, the member's surviving spouse [and], any other beneficiary of the member, **and the funeral benefit under subsection 6 of this section** be less than the member's accumulated contributions, an amount equal to such difference shall be paid to the member's designated beneficiary or, if none, to the personal representative of the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

5. Any beneficiary of benefits pursuant to sections 86.600 to 86.790 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such

beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member, except that any surviving spouse for whom an election has been made for an optional annuity under subsection 2 of section 86.650 shall be entitled to every annuity for which such surviving spouse has so contracted.

6. Upon receipt of the proper proof of death of a member in service after August 28, 2003, or the death of a member in service on or after August 28, 2003, who dies after having been retired and pensioned, there shall be paid in addition to all other benefits a funeral benefit of one thousand dollars.

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 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.

104.040. 1. Any member shall be entitled to creditable prior service within the meaning of sections 104.010 to 104.270 for all service in the United States Army, Navy, or other armed

services of the United States, or any women's auxiliary thereof in time of active armed warfare, if such member was a state employee immediately prior to his or her entry into the armed services and became an employee of the state within ninety days after termination of such service by an honorable discharge or release to inactive status; the requirement of section 104.010 of duties during not less than one thousand hours for status as an "employee" shall not apply to persons who apply for creditable prior service pursuant to the provisions of this section.

2. Any member of the system who served as an employee prior to the original effective date of sections 104.010 to 104.270, but was not an employee on that date, shall be entitled to creditable prior service that such member would have been entitled to had such member become a member of the retirement system on the date of its inception if such member has, or hereafter attains, one year of continuous membership service.

3. Any employee who completes one continuous year of creditable service in the system shall receive credit for service with a state department, if such service has not otherwise been credited.

4. Any member who had served in the armed forces of the United States prior to becoming a member, or who is otherwise ineligible pursuant to subsection 1 of this section or other provisions of this chapter, and who became a member after his or her discharge under honorable conditions 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 the member 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 member with the retirement system. However, if the member is eligible to receive retirement credits in a United States military service retirement system, the member shall be permitted to purchase creditable prior service equivalent to his or her service in the armed services, but not to exceed four years, any other provision of law to the contrary notwithstanding. The purchase shall be effected by the member's paying to the retirement system an amount equal to what would have been contributed by the state in his or her behalf had the member been a member for the period for which the member is electing to purchase credit and had his or her compensation during such period of membership been the same as the annual salary rate at which the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of his or her employment with simple interest calculated from date of employment from which the member could first receive creditable service to the date of election 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. Payments made for such creditable prior service pursuant to this subsection shall be treated by the 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 subsection.

5. Any uniformed member of the highway patrol who served as a certified police officer prior to becoming a member may elect, prior to retirement, to purchase all of his or her creditable prior service equivalent to such service in the police force, but not to exceed four years, if he or she is not receiving and is not eligible to receive 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 member with the retirement system. The purchase shall be effected by the member's paying to the retirement system an amount equal to what would have been contributed by the state in his or her behalf had he or she been a member of the system for the period for which the member is electing to purchase credit and had his compensation during such period been the same as the annual salary rate at which the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of his or her employment with simple interest calculated from the date of employment from which the member could first receive creditable service to the date of election pursuant to the provisions of this section. 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. Payments made for such creditable prior service pursuant to the provisions of this section shall be treated by the 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.

6. Any uniformed member of the highway patrol who served as a nonfederal full-time public employee in this state prior to becoming a member may elect, prior to retirement, to purchase all of his or her creditable prior service equivalent to such service, but not to exceed four years, if he or she is not receiving and is not eligible to receive credits or benefits from any other public plan for the service to be purchased, and an affidavit so stating shall be filed by the member with the retirement system. The purchase shall be effected by the member's paying to the retirement system an amount equal to what would have been contributed by the state in his or her behalf had he or she been a member of the system for the period for which the member is electing to purchase credit and had his compensation during such period been the same as the annual salary rate at which the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of his or her employment with simple interest calculated from the date of employment from which the member could first receive creditable service to the date of election pursuant to the provisions of this section. 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. Payments made for such creditable prior service pursuant to the provisions of this section shall be treated by the 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.

104.110. 1. Any employee, regardless of the length of time of creditable service, who is affirmatively found by the board to be wholly incapable of performing the duties of the employee's or any other position in the employee's department for which the employee is suited, shall be entitled to receive disability benefits. The disability benefit provided by this subsection shall equal one and six-tenths percent of the employee's average compensation multiplied by the number of years of creditable service of the member. **Effective September 1, 2003, no employee is eligible for or shall request or apply for the disability benefit provided pursuant to this subsection.**

2. Any uniformed member of the highway patrol, highway patrol employee or department of transportation employee, regardless of the length of time of creditable service, who is found by the board to be disabled as a result of injuries incurred in the performance of the employee's duties, shall be entitled to receive an initial disability benefit in an amount equal to seventy percent of the compensation that the employee was receiving on the date preceding the date of disability; provided, however, that the amount of the disability benefit, plus any primary Social Security disability benefits received by such member shall not exceed ninety percent of the monthly compensation such member was receiving on the date preceding the date of disability.

3. Any disability benefits payable pursuant to this section shall be decreased by any amount paid to such member for periodic disability benefits by reason of the workers' compensation laws of this state. After termination of payment under workers' compensation, however, disability benefits shall be paid in the amount required by subsections 1, 2, 7, and 9 of this section.

4. The board of trustees may require a medical examination of a disabled member at any time by a designated physician, and benefits shall be discontinued if the board finds that such member is able to perform the duties of the member's former position or if such member refuses to submit to a medical examination. Any employee who applies for disability benefits provided pursuant to this section shall provide medical certification acceptable to the board which shall include the date the disability commenced and the expected duration of the disability.

5. Any employee who applies for disability benefits pursuant to subsections 2 and 7 of this section shall provide proof of application for Social Security disability benefits. If Social Security disability benefits are denied, the employee shall also provide proof that the employee has requested reconsideration, and upon denial of the reconsideration, that an appeal process is prosecuted.

6. The disability benefits provided in this section shall not be paid to any member who retains or regains earning capacity as determined by the board. If a member who has been

receiving disability benefits again becomes an employee, the member's disability benefits shall be discontinued.

7. The board shall also provide or contract for long-term disability benefits for those members whose disability exists or is diagnosed as being of such nature as to exist for more than one year. The benefits provided or contracted for pursuant to this subsection shall be in lieu of any other benefit provided in this section. The eligibility requirements, benefit period and amount of the disability benefits provided pursuant to this subsection shall be established by the board.

8. Definitions of disability and other rules and procedures necessary for administration of the disability benefits provided pursuant to this section shall be established by the board.

9. Any member receiving disability benefits pursuant to subsections 1 and 2 of this section shall receive the same cost-of-living increases as granted to retired members pursuant to section [104.130] **104.103**.

10. The state highways and transportation commission shall contribute the same amount as provided for all state employees for any person receiving disability benefits pursuant to subsection 2 of this section for medical insurance provided pursuant to section 104.270.

11. Any member who qualified for disability benefits pursuant to subsection 2 or subsection 7 of this section shall continue to accrue normal annuity benefits based on the member's rate of pay immediately prior to the date the member became disabled in accordance with sections 104.090 and 104.615 as in effect on the earlier of the date the member reaches normal retirement age or the date normal annuity payments commence.

12. A member who continues to be disabled as provided in subsection 2 or subsection 7 of this section shall continue to accrue creditable service until the member reaches normal retirement age. The maximum benefits period for benefits pursuant to subsections 2 and 7 of this section shall be established by the board. A member who is eligible to retire and does retire while receiving disability benefits pursuant to subsections 2 and 7 of this section shall receive the greater of the normal annuity or the minimum annuity determined pursuant to sections 104.090 and 104.615, as if the member had continued in the active employ of the employer until the member's normal retirement age and the member's compensation for such period had been the member's rate of pay immediately preceding the date the member became disabled.

13. Any member who was receiving disability benefits from the board prior to August 28, 1997, or any member who has submitted an application for disability benefits before August 28, 1997, and would have been eligible to receive benefits pursuant to the eligibility requirements which were applicable at the time of application shall be eligible to receive or shall continue to receive benefits in accordance with such prior eligibility requirements until the member again becomes an employee.

14. Any member receiving disability benefits pursuant to subsection 1, subsection 2 or

subsection 7 of this section shall be eligible to receive death benefits pursuant to the provisions of subsection 1 of section 104.140. The death benefits provided pursuant to this subsection shall be in lieu of the death benefits available to the member pursuant to subsection 2 of section 104.140.

15. The board is authorized to contract for **benefits in lieu of** the benefits provided pursuant to [subsections 1 and 2 of] this section.

16. 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 employee 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 employee's county of residence; and

(3) The board and the system shall not be liable for the disability benefits provided 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 employee has obtained judgment against the insurer or service organization for disability benefits and the insurer or service organization is unable to satisfy that judgment.

17. An employee may elect to waive the receipt of any disability benefit provided for pursuant to this section at any time.

104.271. Notwithstanding any other provision of law to the contrary, a member of the Missouri transportation department 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.

104.340. 1. Any member, 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 entitled to creditable prior service for the purpose of sections 104.310 to 104.620 for all active military service performed in the United States Army, Air Force, Navy, Marine Corps, Coast Guard and members of the United States Public Health Service when in the active military service, or any women's auxiliary thereof in time of active armed warfare, if such member was a state employee

immediately prior to the member's entry into the armed services and became an employee of the state within ninety days after termination of such service under honorable conditions or release to inactive status in a reserve component of the armed forces. This includes:

(1) Members of the reserve component of the armed forces (National Guard of the United States, United States Army Reserve, Air National Guard of the United States, United States Air Force Reserve, United States Naval Reserve, United States Marine Corps Reserve, United States Coast Guard);

(2) Reserve components existing prior and subsequent to the original effective date of sections 104.310 to 104.540; and

(3) The reserve of the United States Public Health Service, while in the active military service of the United States.

2. Any former full-time employee of a state board, whether unassigned or assigned to the governor, who becomes a member within one year of termination of employment with the board, shall be entitled to creditable prior service not to exceed eight years for service rendered, provided the member had not become vested in a city or county retirement system and has or attains one or more years of continuous service.

3. Notwithstanding any other provision of law to the contrary, any employee of a political subdivision who becomes a state employee, or gains eligibility to become a member, by an act, or acts, of the general assembly after August 13, 1986, making such employment state employment shall be entitled only to prior service credit for such employment with a political subdivision. Such prior service credit, which cannot exceed eight years, shall be used in the determination of eligibility for benefits pursuant to the provisions of sections 104.310 to 104.612 but not in determining the amount of benefits, if the person makes application to the board for such prior service credit within ninety days of becoming a member of the Missouri state employees' retirement system, and establishes such service to the satisfaction of the board; except that such prior service credit shall not be used for the purposes of computing the minimum benefit provided by section 104.615.

4. Any member 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 **last** becoming a member, or who is otherwise ineligible under subsection 1 of this section or other provisions of this chapter, and who became a member after the person's discharge under honorable conditions may elect, prior to retirement, to purchase all of the member's creditable prior service equivalent to such service in the armed forces, 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 for the service to be purchased[, and an affidavit so stating shall be filed by the member with the retirement system]. However, if the member is eligible to receive retirement credits in a United States military service retirement

system, the member shall be permitted to purchase creditable prior service equivalent to such 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 member's submission of appropriate documentation verifying the member's dates of active service and by paying to the retirement system an amount equal to what would have been contributed by the state in 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 compensation during such period of membership been the same as the annual salary rate at which the member was initially employed by a department, with the calculations based on the contribution rate in effect on the date of employment with simple interest calculated from the date of employment from which the member could first receive creditable service 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. Payments made for such creditable prior service under this subsection shall be treated by the 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 subsection.

5. Any member who terminated employment prior to August 13, 1986, who had served in the armed forces of the United States prior to becoming a member, or who is otherwise ineligible pursuant to subsection 1 of this section or other provisions of this chapter, and who became a member after the person's discharge under honorable conditions shall, upon application to the board of trustees of the Missouri state employees' retirement system, be made, constituted and 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 person's life. Upon request of the board of the system or the court from which the person retired, 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, the consultant shall be eligible to purchase, prior to retirement, creditable prior service as provided in this subsection.

6. Any member who is an employee on or after June 30, 1988, shall be entitled to creditable prior service for all full-time service rendered at Lincoln University prior to June 30, 1988, if such service is established to the satisfaction of the board, provided such member elects in writing to forfeit all rights accrued under the Lincoln University retirement plan for such service, and provided such service is not now credited the member under the Missouri state employees' retirement system.

7. Any person who is an employee on or after August 28, 1989, and who has been denied credit for any service because the person was a member of some other retirement system or benefit fund to which the state was a contributor shall receive creditable prior service for all the service rendered which would have otherwise been earned during such period of service by the

person except for the denial of credit; however, in no event shall any person receive service credit for the same period of service under more than one retirement system.

8. Upon application to the board, any member or former member not yet retired previously employed by the Missouri institute of psychiatry prior to July 1, 1974, and who by virtue of such employment was a member of a retirement system or plan other than the Missouri state employees' retirement system but did not become vested in that system or plan shall receive creditable prior service for such service, provided that such service is not used for the calculation of benefits under any other retirement system or plan, excluding Social Security, and that such service is established to the satisfaction of the board.

9. Any retired member previously employed by the Missouri institute of psychiatry prior to July 1, 1974, and who by virtue of such employment was a member of a retirement system or plan other than the Missouri state employees' retirement system but did not become vested in that system or plan may make application to be made, constituted, appointed, and employed by the board as a special consultant on the problems of retirement, aging and other state matters. As compensation the special consultant shall receive beginning the month next following such appointment an amount equal to the retirement benefit the member would have been receiving had such service been included in the original retirement benefit calculation, provided that such service is not used for the calculation of benefits under any other retirement system or plan, excluding Social Security, and that such service is established to the satisfaction of the board.

10. Notwithstanding any other provisions of law to the contrary, if a former employee terminated employment before January 1, 1988, and such former employee had also served as a board member pursuant to the provisions of section 329.190, RSMo, such former employee shall upon application to the board of trustees of the Missouri state employees' retirement system be made a special consultant on the problems of retirement and shall upon request of the board of trustees give opinions in writing or orally in response to such request. As compensation for such services, the former employee shall receive creditable service for all time the former employee was employed by the state and the time the former employee served on the board pursuant to the provisions of section 329.190, RSMo, provided that such service is not used for vesting in any other public employee retirement system.

104.370. 1. Any member of the general assembly who has served at least three full biennial assemblies as a member of the general assembly and who meets the conditions for retirement at or after the member's normal retirement age shall be entitled to a normal annuity in a monthly amount equal to one hundred fifty dollars multiplied by the number of biennial assemblies in which such member has served. For the purpose of calculating benefits due under this subsection:

(1) Service in any portion of a biennial assembly after service in at least three biennial assemblies shall be credited as service in a full biennial assembly; and

(2) Any person who is elected as a member of the general assembly at a special election and who serves the remainder of that term to which he was elected at such special election shall receive credit for a full biennial assembly for such service.

2. If a member of either retirement system established by this chapter, who has served at least three full biennial assemblies as a member of the general assembly, is elected to a state office, appointed to a state office, or employed by the state before, after, or before and after his service as a member of the general assembly, the member may, at the end of such employment, receive upon retirement, at or after the member's normal retirement age, the amount which shall be due the member for creditable service as a member of the general assembly. If he has not fully vested as a result of his employment as other than a member of the general assembly, he shall be credited with additional service as a legislator just as though all of the service combined had in fact been rendered as a member of the general assembly and receive a normal annuity. If the member retires before normal retirement age, the member shall receive the actuarial reduction approved by the board. Nothing in this section shall allow any member to simultaneously accumulate service in more than one state retirement system as a member of the general assembly and an employee or state officer; **provided that, any member who otherwise would accrue simultaneous creditable service as a member of the general assembly and as an employee or state officer, may elect prior to retirement to receive such simultaneous creditable service in the state retirement plan that covered the member's service as an employee or state officer in lieu of receiving such creditable service as a member of the general assembly pursuant to subdivision (1) of subsection 1 of this section. Any member who makes such election shall receive creditable service for the member's remaining legislative service equal to the pro rata portion of the biennial assembly actually served by such member. The provisions of this subsection providing an election with regard to simultaneous creditable service shall apply to any member of the general assembly who is employed on or after August 28, 2003, or any former member of the general assembly who is employed as an employee or state officer on or after August 28, 2003. The term "state officer" as used in this subsection includes a statewide elected official as described in section 104.371, an administrative law judge or legal advisor as defined in section 287.812, RSMo, or a judge as defined in section 476.515, RSMo.**

3. A member who has fully vested as a state officer or employee and has service as a member of the general assembly of less than three full biennial assemblies, upon retirement, at or after the member's normal retirement age, shall be credited with additional service as a state officer or employee for the time he served as a member of the general assembly. If the member retires before normal retirement age, he shall receive the actuarial reduction approved by the board.

4. Any member of the general assembly who has served at least three full biennial assemblies and whose service as such terminates on or after October 1, 1984, and who served as an employee, as that term is defined in section 104.010, prior to the respective dates on which the retirement systems to which such sections apply originally became effective, but was not such an employee on such dates, shall be entitled to the creditable prior service that such employee would have been entitled to in either or both systems had such employee become a member on the date of inception of either or both systems. The maximum number of years of creditable prior service to which a member may become entitled pursuant to this section is less than ten years. The benefits attributable to such service shall be calculated as if all service was rendered as a member of the general assembly.

5. Any former member of the general assembly who is receiving benefits under the provisions of this section shall, upon written request to the board, be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement and other related matters and shall upon request of the board give opinions in writing or orally in response to such requests. As compensation for such services, the retired member shall have his retirement benefits recalculated the first of the month next following his application under this subsection to reflect that any portion of a year of creditable service shall be counted as one full biennial session.

6. Any retired member who is receiving benefits from the system and is elected to the general assembly but does not serve at least three biennial sessions shall receive creditable service for the time he served in the general assembly and upon leaving the general assembly shall have an additional benefit calculated using such service.

7. Benefits paid for service credited to legislative service shall be funded as provided in section 104.436.

8. Any former member of the general assembly not retired on August 28, 1994, who is fifty-five years of age or more and who has creditable service in the general assembly of at least three full biennial assemblies and has not used such services as creditable services in any other retirement system shall be made and employed by the board as a special consultant on the problems related to retirement and shall, when requested by the board, give opinions either written or orally on such problems. As compensation for such duties the former member of the general assembly shall be entitled to retire with a normal annuity effective the first of the month following receipt by the board of a written application.

9. Notwithstanding any other law to the contrary, any active member of the Missouri state employees' retirement system who is vested, on August 28, 1994, under the provisions of subsection 1 of this section, and who has served as an elected county official and who, by virtue of such service was a member of a retirement system other than the Missouri state employees' retirement system but was not vested in such other retirement system, or was not a member of

any retirement system, shall receive creditable prior service in the Missouri state employees' retirement system for such previous service as an elected county official.

104.460. 1. The board shall elect by secret ballot one member as chairman and one member as vice chairman [in January] **during the first board meeting** of each year. The chairman shall preside over meetings of the board and perform such other duties as may be required by action of the board. The vice chairman shall perform the duties of the chairman in the absence of the latter or upon the chairman's inability or refusal to act. Each person who was elected to membership on the board of trustees or who is a candidate for membership on the board of trustees shall file with the [commissioner of administration] **Missouri ethics commission** a campaign finance disclosure form showing:

(1) The amounts and sources of all contributions received for the purpose of supporting such person's candidacy or for the purpose of opposing any other candidate; and

(2) The amounts and recipients of all expenditures made for the purpose of supporting such person's candidacy or for the purpose of opposing any other candidate.

The disclosure reports shall be filed not later than the fifteenth day prior to the date of the election for the period closing on the twentieth day prior to the election, and not later than the thirtieth day after the date of the election for the period from the nineteenth day prior to the date of the election to the twenty-fifth day after the date of the election. Such reports shall be public records and shall be made available by the [commissioner of administration] **Missouri ethics commission** during normal business hours. Any person who purposefully fails or refuses to file the reports required by this subsection is guilty of a class A misdemeanor.

2. The board shall appoint an executive director who shall be the executive officer of the system and who shall have charge of the offices, records, and employees of the system, subject to the direction of the board. Other employees of the system shall be chosen only upon the recommendation of the executive director.

3. All employees of the system shall be both state employees and members of the system. Except by the unanimous vote of the board, no person who has served as a trustee of the board may become an employee of the system until four years have expired between the date of his or her resignation, termination, or other removal as trustee and the date of his or her appointment as an employee of the system.

4. Employees of the system shall receive such salaries as shall be fixed by the board and their necessary travel expense within and without the state as shall be authorized by the board.

5. Any summons or other writ issued by the courts of the state shall be served upon the executive director or, in his or her absence, on the executive director's designee.

104.517. 1. The board shall provide or contract, or both, for life insurance benefits for employees pursuant to sections 104.320 to 104.540, persons covered by sections 287.812 to 287.855, RSMo, and 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 shall include employees who are members of the state transportation department employees' and highway patrol retirement system [as follows:

(1)]. Employees are entitled to 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 an 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. A conversion of such life insurance benefits shall be available. However, a member eligible to receive a lump sum death benefit as provided in subsection 4 of section 104.515 shall be entitled to convert any amount of terminated life insurance benefit in excess of the benefit provided in said section.

3. (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 the 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 on or after January 1, 1998, **but prior to January 1, 2004**, is that amount which equals six times the amount of the person's annual rate of pay, 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. **The maximum amount of additional life insurance which may be so purchased on or after January 1, 2004, is an amount to be stipulated in a contract with a private insurance company or as may be required by the system if the board of trustees determines that the system should provide the insurance itself.** The selection of a private insurance company to provide this life insurance shall be on the basis of competitive bidding.

(2) Any person defined in subdivision (1) of this subsection retiring on or after September 1, 1988, may retain an amount not to exceed ten thousand dollars of life insurance following the date of his or her retirement if such person makes written application for such life insurance at the same time such person's application is made to the board for retirement benefits. Any person, defined in subdivision (1) of this subsection, retiring on or after May 1, 1996, may retain an amount not to exceed sixty thousand dollars of life insurance following the date of the person's retirement if such person makes written application for such life insurance at the same time such person applies 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 monthly retirement benefits.

(3) Effective January 1, 1998, in addition to the life insurance authorized in 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, life insurance covering the person's children or the person's spouse or both the person's children and the person's spouse at coverage amounts to be determined by the board at a cost to be stipulated in a contract with a private insurance company or as may be required by the system if the board of trustees determines that the system should provide such insurance itself.

4. The highways and transportation employees' and highway patrol retirement system shall provide or contract or both for the death benefit for special consultants in subsection 4 of section 104.515. The highways and transportation employees' and highway patrol retirement system may request the state highways and transportation commission to administer the death benefit. If the state highways and transportation commission accepts the obligation to administer the death benefit, the highways and transportation employees' and highway patrol retirement system shall reimburse the state highways and transportation commission for any costs or expenses of administering the death benefit.

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

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

(2) Any member who has been denied life insurance 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; and

(3) The board and the system shall not be liable for life insurance benefits

provided by an insurer or service organization pursuant to this section and shall not be subject to any cause of action with regard to life insurance benefits or the denial of life insurance benefits by the insurer or service organization unless the member has obtained judgment against the insurer or service organization for life insurance benefits and the insurer or service organization is unable to satisfy that judgment.

104.806. 1. Employees who are earning creditable service in the closed plan of the Missouri state employees' retirement system and who are transferred to the department of transportation as a result of the provisions of executive order 03-05, will not become members of the closed plan of the highways and transportation employees' and highway patrol retirement system unless they elect to transfer membership and creditable service to the closed plan of the highways and transportation employees' and highway patrol retirement system. The election must be in writing and must be made within ninety days of July 1, 2003. Any election to transfer membership and creditable service to the highways and transportation employees' and highway patrol retirement system shall result in the forfeiture of any rights or benefits in the Missouri state employees' retirement system. Any failure to elect to transfer membership and creditable service pursuant to this subsection will result in the employees remaining in the closed plan of the Missouri state employees' retirement system. If an election is made, the effective date for commencement of membership and transfer of such creditable service shall be January 1, 2004.

2. Employees who are earning credited service in the year 2000 plan of the Missouri state employees' retirement system and who are transferred to the department of transportation as a result of the provisions of executive order 03-05 will remain in the year 2000 plan administered by the Missouri state employees' retirement system unless they elect to transfer membership and credited service to the year 2000 plan administered by the highways and transportation employees' and highway patrol retirement system. The election must be in writing and must be made within ninety days of July 1, 2003. Any election to transfer membership and credited service to the year 2000 plan administered by the highways and transportation employees' and highway patrol retirement system shall result in the forfeiture of any rights or benefits in the Missouri state employees' retirement system. Any failure to elect to transfer membership and credited service pursuant to this subsection will result in the employees remaining in the year 2000 plan administered by the Missouri state employees' retirement system. If an election is made, the effective date for commencement of membership and transfer of such creditable service shall be January 1, 2004.

3. For any employee who elects pursuant to subsection 1 or 2 of this section

to transfer to the highways and transportation employees' and highway patrol retirement system, the Missouri state employees' retirement system shall pay to the highways and transportation employees' and highway patrol retirement system, by December 31, 2003, an amount actuarially determined to equal the liability at the time of the transfer to the extent that liability is funded as of the most recent actuarial valuation, not to exceed one hundred percent.

4. In no event shall any employee receive service credit for the same period of service under more than one retirement system as a result of the provisions of this section.

5. For any transferred employee who elects pursuant to subsection 1 or 2 of this section to transfer to the highways and transportation employees' and highway patrol retirement system, the only medical coverage available for the employee shall be the medical coverage provided in section 104.270. The effective date for commencement of medical coverage shall be January 1, 2004. However, this does not preclude medical coverage for the transferred employee as a dependent under any other health care plan.

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.

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 reported through the financial and human resources system maintained by the office of administration, or if a department's employees are not paid salaries or wages through such system, as reported directly by the 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. The employing department shall not certify unused sick leave unless such unused sick leave could have been used by the member for sickness or injury. The rate of accrual of sick leave for purposes of computing years of service pursuant to this section shall be no greater than ten hours per month. 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 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 **last** 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 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 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.

12. Absences taken by an employee without compensation for sickness and injury of the employee of less than twelve months or for leave taken by such employee without compensation pursuant to the provisions of the Family and Medical Leave Act of 1993 shall be counted as years of credited service.

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 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] forty-eight** 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 July 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 a date selected by the member; provided, however, that the retroactive starting date selected by the member shall not be a date which is earlier than the date when a normal annuity would have first been payable. In addition, the retroactive starting date shall not be more than five years prior to the annuity starting date. The member's selection of a retroactive starting date shall be done in twelve-month increments, except this restriction shall not apply when the member selects the total available time between the retroactive starting date and 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;

(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; and

(5) For purposes of determining annual benefit increases payable as part of the lump sum and annuity provided pursuant to this section, the retroactive starting date shall be considered the member's date of retirement.

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 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 **and any temporary annuity received pursuant to subsection 4 of section 104.1024** 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 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) Any member who terminates employment after reaching normal or early retirement eligibility and becomes a retiree within sixty days of such termination shall receive five thousand dollars of life insurance coverage.

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 **prior to January 1, 2004**, 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. **The maximum amount of additional life insurance which may be so purchased on or after January 1, 2004, is an amount to be stipulated in a contract with a private insurance company or as may be required by the system if the board of trustees determines that the system should provide the insurance itself.**

(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 an annuity based on 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 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 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 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 retirees and their dependents shall be paid by the members or retirees. The commission may contract with other persons or entities including but not limited to third-party administrators, health network providers and health maintenance organizations for all, or any part of, the benefits provided for in this section. The commission may require reimbursement of any medical claims paid by the commission's medical plan for which there was third-party liability.

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 (2) 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. In lieu of the life insurance benefit in subdivision (2) of subsection 1 of this section, the highways and transportation employees' and highway patrol retirement system is authorized in its sole discretion to provide a death benefit of five thousand dollars.

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

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

(2) Any member who has been denied life insurance 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; and

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

104.1093. 1. For purposes of this section, the term "benefit recipient" shall include 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.

2. Notwithstanding any provision of law to the contrary, any benefit recipient 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 benefit recipient. The authority of such agent shall not terminate if such benefit recipient 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.

3. In the event a benefit recipient becomes disabled or incapacitated and has not designated an agent pursuant to subsection 2 of this section, the following persons may act as

agent as described in subsection 2 of this section upon submission of a written statement from a physician determining that the [beneficiary] **benefit** recipient is disabled or incapacitated:

- (1) The spouse of the [beneficiary] **benefit** recipient;
- (2) If the spouse is unavailable, to a child of the [beneficiary] **benefit** recipient;
- (3) If [a] **no** child is [unavailable] **available**, to a [brother or sister of the beneficiary] **parent of the benefit** recipient;
- (4) If [a brother or sister is unavailable] **no parent is available**, to a [parent] **brother or sister** of the [beneficiary] **benefit** recipient; **or**
- (5) **If no brother or sister is available, to a niece, nephew, or a grandchild of the benefit recipient.**

4. The system shall not be liable with regard to any payment made in good faith pursuant to this section.

168.303. The state board of education shall adopt rules to facilitate job-sharing positions for classroom teachers, as the term "job-sharing" is defined in this section. These rules shall provide that a classroom teacher in a job-sharing position shall receive paid legal holidays, annual vacation leave, sick leave, and personal leave on a pro rata basis. "Job-sharing position" shall mean any position:

- (1) Shared with one other employee;
- (2) Requiring employment of at least seventeen hours per week but not more than twenty hours per week on a regular basis; and
- (3) Requiring at least seventy percent of all time spent in classroom instruction as determined by the employer;

provided that, job-sharing position shall not include instructional support or school services positions including, but not limited to, guidance counselor, media coordinator, psychologist, social worker, audiologist, speech and language pathologist, and nursing positions.

169.712. 1. Notwithstanding any provision of law to the contrary, any person duly certificated under the law governing the certification of teachers **in Missouri** who, after August 28, 1997, is first employed in a position which would otherwise qualify the person for membership in the nonteacher school employee retirement system pursuant to the provisions of sections 169.600 to 169.710 shall be a member of the public school retirement system pursuant to the provisions of sections 169.010 to 169.141, and shall receive creditable service on a pro rata basis in that system for subsequent certificated services which would otherwise have been creditable in the nonteacher school employee retirement system. Any such person shall have the option of being a member of the nonteacher school employee retirement system. The option election must be filed with the board of trustees of the public school retirement system within ninety days of first such employment following August 28, 1997.

2. Notwithstanding any provision of law to the contrary, any person duly certificated under the law governing the certification of teachers in Missouri who, on or after August 28, 2003, is employed by a public school, as defined in section 169.010, for at least seventeen but less than twenty hours per week on a regular basis shall be a member of the public school retirement system pursuant to the provisions of sections 169.010 to 169.141, and shall receive creditable service on a pro rata basis in that system. Any such person shall have the option of being a member of the nonteacher school employee retirement system. The option election must be filed with the board of trustees of the public school retirement system within ninety days of first such employment or within ninety days of August 28, 2003, whichever later occurs.

3. Any person who is a member of the public school retirement system or the nonteacher school employee retirement system pursuant to subsection 2 of this section may purchase credit in such system for service after August 28, 1991, that would have qualified such person for membership in either retirement system pursuant to subsection 2 of this section had such subsection been in effect prior to August 28, 2003; provided that such purchase of credit in the public school retirement system shall be subject to the provisions of section 169.056 and such purchase of credit in the nonteacher school employee retirement system shall be subject to the provisions of section 169.655.

287.845. 1. The board shall administer the provisions of sections 287.812 to 287.855 and shall have the same powers, duties, and obligations in regard to the funds and the system provided for in such sections as it has in regard to the Missouri state employees' retirement system. The system shall calculate the annuity for an administrative law judge or legal advisor, as defined in section 287.812 based on the law in effect at the time the administrative law judge's or legal [advisory's] **advisor's** employment was terminated.

2. The commissioner of administration, the state treasurer, and the secretary of the Missouri state employees' retirement system shall perform the same duties in regard to the retirement system established pursuant to the provisions of sections 287.812 to 287.855 that are prescribed for such officers in sections 104.436 and 104.438, RSMo, in regard to the Missouri state employees' retirement system. Funds so certified and transferred for the retirement system established pursuant to the provisions of sections 287.812 to 287.855 shall be deposited in a separate account of the Missouri state employees' retirement fund and shall be disbursed only for the purposes of sections 287.812 to 287.855.

3. Notwithstanding any other provision of law to the contrary, nothing contained in this act shall alter or revise the administrative law judge's and legal advisor's retirement system as previously established by law.

Section 1. 1. Any state employee or retiree who retires pursuant to section 2

of this act, and who is also eligible for medical coverage as described in section 103.115, RSMo, shall be eligible to apply for the following coverage:

(1) Such retiree may elect to continue coverage for himself or herself and any eligible dependents at the same cost as if such retiree was an active employee;

(2) Such retiree may continue to pay the applicable rate as if the retiree were an active employee for a maximum period of five years or upon becoming eligible for Medicare, whichever occurs first; and

(3) After five years or upon becoming eligible for Medicare, the cost for medical coverage for such retiree and any dependents shall revert to the applicable rate in place at that time.

2. Any employee or retiree of a participating member agency who retires pursuant to section 2 of this act, shall only be eligible to have the provisions of subsection 1 of this section applied to his or her coverage if the governing body of the participating member agency elects to provide such benefits.

3. The governing boards of Truman State University, Lincoln University, the educational institutions described in section 174.020, RSMo, the highway commission that governs the health care plans of the Missouri department of transportation and the Missouri state highway patrol, and the conservation commission of the department of conservation may elect to provide its employees or retirees who retire pursuant to section 2 of this act, the same benefits as described in subsection 1 of this section under the respective medical plans of those institutions and departments. If the highway commission elects to provide retirees the benefits of this section, any special consultant pursuant to section 104.515, RSMo, who is a member of the Missouri department of transportation and Missouri state highway patrol medical and life insurance plan and who retired on or after February 1, 2003, but prior to the effective date of this section shall be eligible to receive the benefits of this section.

Section 2. 1. An employee who has not been a retiree of the system in which such employee is currently receiving creditable or credited service, who is eligible to receive a normal annuity pursuant to section 104.080, 104.090, 104.100, 104.271, or 104.400, RSMo, or a life and any temporary annuity pursuant to section 104.1024, RSMo, and whose annuity commences no later than September 1, 2003, shall be eligible to receive the medical benefits described in section 1 of this act.

2. An employee who would be eligible to receive a normal annuity pursuant to section 104.080, 104.090, 104.100, 104.271, or 104.400, RSMo, or a life and any temporary annuity pursuant to section 104.1024, RSMo, no later than January 1, 2004, shall be eligible to retire based on the employee's creditable or credited service and the average compensation or final average pay on the employee's date of termination

of employment if the employee applies to retire and whose annuity commences no later than September 1, 2003. Such employee who so retires shall be eligible to receive the medical benefits described in subsection 1 of this section.

3. Any employee described in subsections 1 and 2 of this section who otherwise would be eligible to elect to receive benefits under the provisions of sections 104.625 and 104.1024, RSMo, by no later than January 1, 2004, shall be eligible to elect to receive benefits pursuant to sections 104.625 and 104.1024, RSMo; except that in no event shall a lump sum payment be made for any time period after the employee's annuity starting date.

4. A retiree whose retirement annuity commenced on or after February 1, 2003, but no later than September 1, 2003, shall be eligible to receive the medical benefits described in section 1 of this act.

5. The state may hire employees to replace those employees retiring pursuant to this section and section 1 of this act, except that departments shall not fill more than twenty-five percent of those positions vacated. Exceptions to the twenty-five percent restriction may be made for critical or seasonal positions or positions which are entirely federally funded. Such determination shall be made by rule and regulation promulgated by the office of administration. The provisions of this subsection shall not apply to Truman University, Lincoln University or the educational institutions described in section 174.020, RSMo.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

7. The Missouri state employees' retirement system and the highways and transportation employees' and highway patrol retirement system shall make a report in writing to the governor, commissioner of administration, and the general assembly by April 1, 2004, and in addition shall provide monthly tracking of the effect of state employee retirements pursuant to this section and section 1 of this act. The report shall cover the time period of February 1, 2003, to January 31, 2004. The report shall include the number of such retirements, the amount of payroll affected as a result of retirements, and the financial effect of such retirements as expressed in a report by

each system's actuary.

8. The office of administration shall make a report in writing to the governor and the general assembly by April 1, 2004, and in addition shall provide monthly tracking of the budgetary effect of state employee retirements pursuant to this section and section 1 of this act. The report shall include the amount of payroll reduced as a result of such retirements, the number of positions that are core cut as a result of such retirements, the number of employees employed to replace those who retired pursuant to this section, and the financial effect on the budget, including any costs associated with payment of medical premiums by the state.

9. The Missouri consolidated health care plan shall make a report in writing to the governor and the general assembly by April 1, 2004, and in addition shall provide monthly tracking of the effect of state employee retirements pursuant to this section and section 1 of this act. The report may include, and not be limited to, the amount of payroll reduced as a result of such retirements, the number of positions that are core cut as a result of such retirements, the number of employees employed to replace those who retired pursuant to this section, and the financial effect on the budget, including any costs associated with payment of medical premiums by the state.

Section 3. 1. In each tax year beginning on or after January 1, 2003, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that one dollar or any amount in excess of one dollar on a single return, and two dollars or any amount in excess of two dollars on a combined return, of the refund due be credited to the workers memorial fund. The contribution designation authorized by this section shall be clearly and unambiguously printed on the first page of each income tax return form provided by this state. If any individual or corporation which is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the workers memorial fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the workers memorial fund, the individual or corporation wishes to contribute and the department of revenue shall forward such amount to the state treasurer for deposit to the workers memorial fund as provided in subsection 2 of this section.

2. The director of revenue shall transfer at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the workers memorial fund.

3. The director of revenue shall transfer at least monthly all contributions designated by corporations under this section, less an amount sufficient to cover the

cost of collection and handling by the department of revenue, to the state treasurer for deposit to the workers memorial fund.

4. A contribution designated under this section shall only be transferred and deposited in the workers memorial fund after all other claims against the refund from which such contribution is to be made have been satisfied.

Section B. Because the enactment of sections 1 and 2 of section A of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency act within the meaning of the constitution, the enactment of sections 1 and 2 of section A of this act shall be in full force and effect upon its passage and approval or July 1, 2003, whichever later occurs.

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