

FIRST REGULAR SESSION

# SENATE BILL NO. 276

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Read 1st time February 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

1064S.02I

## AN ACT

To repeal sections 104.010, 104.335, 104.342, 104.344, 104.352, 104.354, 104.378, 104.395, 104.410, 104.450, 104.601, 104.620, 104.800, 104.1003, 104.1012, 104.1015, 104.1021, 104.1024, 104.1027, 104.1030, 104.1042, 104.1072, 104.1205, 104.1215, and 476.682, RSMo, and to enact in lieu thereof twenty-eight new sections relating to the state employees retirement system.

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

Section A. Sections 104.010, 104.335, 104.342, 104.344, 104.352, 104.354, 104.378, 104.395, 104.410, 104.450, 104.601, 104.620, 104.800, 104.1003, 104.1012, 104.1015, 104.1021, 104.1024, 104.1027, 104.1030, 104.1042, 104.1072, 104.1205, 104.1215, and 476.682, RSMo, are repealed and twenty-eight new sections enacted in lieu thereof, to be known as sections 104.010, 104.335, 104.342, 104.344, 104.352, 104.354, 104.378, 104.395, 104.410, 104.450, 104.601, 104.603, 104.606, 104.607, 104.620, 104.800, 104.1003, 104.1012, 104.1015, 104.1021, 104.1024, 104.1027, 104.1030, 104.1042, 104.1072, 104.1205, 104.1215, and 476.682, to read as follows:

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

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

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

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

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

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

(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. **The board of each system may promulgate rules for purposes of calculating average compensation and other retirement provisions to accommodate for any state payroll system in which compensation is received on a monthly, semimonthly, biweekly, or other basis;**

(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 **and forty** 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 **is not a retiree and** 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 **and forty** 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 104.601 to 104.800 shall mean [a member of the highways and] **an employee, retiree, or former employee entitled to a deferred annuity covered by the Missouri department of transportation** [employees'] and highway patrol **employees'** 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] **an employee, retiree, or former employee entitled to a deferred annuity covered by 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 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 104.601 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.

104.335. 1. Any member whose employment terminated prior to September 1, 1972, and (a) who had served at least three full biennial assemblies as a member of the general assembly, or (b) who was other than a member of the general assembly and who had fifteen or more years of vesting service shall be entitled to a deferred normal annuity based on the member's creditable service, average compensation and the law in effect at the time the member's employment was terminated.

2. (1) Any member whose employment terminated on or after September 1, 1972, and prior to July 1, 1981, and (a) who had served at least three full biennial assemblies as a member of the general assembly, or (b) who was other than a member of the general assembly and who had fifteen or more years of vesting service or who had ten or more years of vesting service and was at least thirty-five years of age at the date of termination of employment shall be entitled to a deferred normal annuity based on the member's creditable

service, average compensation and the law in effect at the time the member's employment was terminated.

(2) Any member whose employment terminated on or after July 1, 1981, and (a) who had served at least three full biennial assemblies as a member of the general assembly, or (b) who was other than a member of the general assembly and who had ten or more years of vesting service at the date of termination of employment shall be entitled to a deferred normal annuity based on the member's creditable service, average compensation and the law in effect at the time the member's employment was terminated.

(3) Any member whose employment terminated on or after September 1, 1972, and who had four or more years of vesting service as governor, lieutenant governor, secretary of state, auditor, treasurer, or attorney general of this state shall be entitled to a deferred normal annuity based on the member's creditable service, average compensation and the law in effect at the time the member's employment was terminated.

(4) Any member whose employment terminated on or after September 28, 1985, and who (a) had served less than three full biennial assemblies as a member of the general assembly, and (b) has less than ten years of vesting service as an employee other than a member of the general assembly shall be entitled to two years of vesting service for each full biennial assembly in which the member served plus an additional amount of vesting service for each partial biennial assembly served, which amount shall be equal to the pro rata portion of the biennial assembly so served. The total amount of vesting service provided for in this subdivision shall be used to calculate the deferred normal annuity or deferred partial annuity to which such member is entitled based on the member's creditable service, which includes all service designated as vesting service under this subdivision, the member's average compensation, and the law in effect at the time the member's employment was terminated.

3. Any member whose employment terminated on or after October 1, 1984, but before September 28, 1992, and who was other than a member of the general assembly and who has five or more years of vesting service as an employee at the date of termination of employment shall be entitled to a deferred partial annuity based on the member's creditable service, average compensation, and the law in effect at the time the member's employment was terminated, in the following amounts:

(1) An employee with at least five years of vesting service, but less than six years, is entitled to fifty percent of the amount payable as a deferred normal annuity;

(2) An employee with six years of vesting service, but less than seven years, is entitled to sixty percent of the amount payable as a deferred normal annuity;

(3) An employee with seven years of vesting service, but less than eight years, is entitled to seventy percent of the amount payable as a deferred normal annuity;

(4) An employee with eight years of vesting service, but less than nine years, is

entitled to eighty percent of the amount payable as a deferred normal annuity;

(5) An employee with nine years of vesting service, but less than ten years, is entitled to ninety percent of the amount payable as a deferred normal annuity.

4. Any member whose employment terminated on or after September 28, 1992, and who was other than a member of the general assembly and who has five or more years of vesting service as an employee at the date of termination of employment shall be entitled to a deferred normal annuity based on the member's creditable service, average compensation, and the law in effect at the time the member's employment was terminated.

5. Any member who is entitled to a deferred normal annuity as provided in subsection 1, 2, 3, or 4 of this section and who reenters the service of a department and again becomes a member of the system shall have the member's prior period of vesting service combined with the member's current membership service, so that any benefits that may become payable under this system by reason of the member's retirement or subsequent withdrawal will recognize such prior period of vesting service.

6. [(1) A vested member, an administrative law judge or legal advisor as defined in section 287.812, RSMo, or a judge as defined in section 476.515, RSMo, who has terminated all employment with the state of Missouri for a period of six months or longer, may make a one-time election for the system to pay the present value of a deferred annuity or a benefit as defined in section 287.812, RSMo, or section 476.515, RSMo, if the amount of such terminated member's or person's creditable service is less than ten years, and if such terminated member or person is not within five years of eligibility for receiving an annuity or benefit. Any such member, administrative law judge, legal advisor or judge who terminates employment on or after August 28, 1997, shall be eligible for the one-time election provided for in this subsection only if the present value of the deferred annuity does not exceed ten thousand dollars. The present value shall be actuarially determined by the system. Except as provided in subdivision (2) of this subsection, any payment so made shall be a complete discharge of the existing liability of the system with respect to such terminated member or person.

(2) Upon subsequent employment in a position covered under a system administered by the Missouri state employees' retirement system, the employee, administrative law judge or judge may elect, within one year of such employment, to purchase creditable service equal to the amount of creditable service surrendered due to a payment as specified in this subsection. The cost of such purchase shall be actuarially determined by the system, and shall be paid over a period of not longer than two years from the date of election, with interest on the unpaid balance.

(3) Persons described in subdivision (1) of this subsection who terminate employment on or after September 1, 2002, shall no longer be eligible to make the election described in subdivision (1) of this subsection.



7.] Any individual, covered by a retirement plan identified in this chapter, chapter 287 or chapter 476, RSMo, who terminated employment prior to August 28, 1993, 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 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 or transfer, prior to retirement, creditable service as set forth in section 105.691, RSMo.

104.342. 1. Any person hired by the state on or after August 13, 1986, in any of the positions described in this subsection shall be a member of the system from the date on which such employment begins. This subsection shall apply to any person duly certified under the law governing the certification of teachers who is employed full time:

- (1) As a teacher by the division of youth services;
- (2) As a teacher by a division of the state department of social services and who renders services in a school whose standards of education are set and which is supervised by a public school officer of the county in which the school is located, by the department of elementary and secondary education or by the coordinating board for higher education;
- (3) As a teacher by the section of inmate education of the department of corrections;
- (4) In either a teaching or supervisory teaching capacity by the department of mental health, in which his or her duties include participation in the educational program of the department of mental health.

2. Any person employed in any of the positions described in subsection 1 of this section immediately prior to and on August 13, 1986, may elect, in writing, to:

- (1) Become a member of the Missouri state employees' retirement system effective January 1, 1987. Any person who, by virtue of an election made under this subdivision, becomes a member of the Missouri state employees' retirement system shall be entitled to creditable prior service credit for service rendered in any of the positions described in subsection 1 of this section. Members who so elect shall be eligible, upon written request filed with the public school retirement system, to receive a refund of their accumulated contributions including interest of six percent and upon payment of such refund, the public school retirement systems shall pay to the state employees' retirement system before June 30, 1987, an amount equal to the amount paid the public school retirement system on behalf of each member so electing by the member's employer; or

- (2) Remain a member of the public school retirement system of Missouri created under sections 169.010 to 169.140, RSMo. Any person entitled to make the election provided by this subsection who does not make such election, in writing, by January 1, 1987, shall be deemed to have elected to be governed by subdivision (1) of this subsection.

3. Any person who is employed on a full-time basis by Truman State University, Northwest Missouri State University, Central Missouri State University, Southeast Missouri State University, Southwest Missouri State University, Harris-Stowe State College or Missouri Southern State College and Missouri Western State College shall be a member of the system; except that any person who is duly certified under the laws governing the certification of teachers and who is a full-time employee of such institution or institutions on June 14, 1989, and is contributing because of such employment to a retirement system established under sections 169.010 to 169.140, RSMo, or sections 169.410 to 169.540, RSMo, may make an election to continue in that retirement system if such election is made on or before December 31, 1989. This election shall not apply to any such person who commenced receiving retirement benefits prior to January 1, 1990, from any state retirement system because of such service.

4. Effective January 1, 1990, only after an affirmative referendum in accordance with section 105.353, RSMo, any person who is employed on a full-time basis by the department of elementary and secondary education shall be a member of the system; except that any person duly certified under the law governing the certification of teachers who is a full-time employee at any time during the period extending from June 14, 1989, through December 31, 1989, and is contributing because of such employment to the retirement system established under sections 169.010 to 169.140, RSMo, may elect to continue in that retirement system if such election is made on or before December 31, 1989. This election shall not apply to any such person who commenced receiving retirement benefits prior to January 1, 1990, from any state retirement system because of such service.

5. On June 14, 1989, all newly employed persons in the positions described in subsection 3 of this section shall become members of the Missouri state employees' retirement system. Effective January 1, 1990, and only after an affirmative referendum provided for in subsection 4 of this section, all newly employed persons in the positions described in subsection 4 of this section shall become members of the Missouri state employees' retirement system.

6. Any employee actively employed on June 14, 1989, who, because of employment in a position described in subsection 1, 3 or 4 of this section, has creditable service in this system for such employment which at the time the service was rendered was not covered by the federal Social Security Act, shall remain in this system and be entitled to the benefits provided under subdivision (1) of subsection 7 of this section; except that any such employee who has creditable service in this system because of employment in a position described in subsection 4 of this section which is not covered by the federal Social Security Act on January 1, 1990, shall not be entitled to the benefits provided under subdivision (1) of subsection 7 of this section for such creditable service.

7. Any person entitled to make the election provided by subsection 3 or 4 of this

section, who does not make such election, in writing, on or before December 31, 1989, shall be deemed to have elected to be governed by subdivision (1) of this subsection:

(1) Those persons described in subsections 3 and 4 of this section who elect or have elected by written request filed with the board to be members of this system, shall be entitled to creditable prior service for service rendered in any of the positions described in subsections 1, 3 and 4 of this section. Any person who so elects shall be eligible, upon written request filed with the board on or before March 31, 1990, with the retirement system established under sections 169.010 to 169.140, RSMo, or sections 169.410 to 169.540, RSMo, to receive a refund of the member's accumulated contributions for the creditable service in any of the positions described in subsections 1, 3 and 4 of this section, plus interest at an annual rate of six percent computed on the refundable balance, if any, in the member's account in that retirement system as of June 30, 1989. Such refunds shall be made prior to June 1, 1990. If any creditable prior service transferred under subsection 1, 3 or 4 of this section, or subsection 3 of section 104.372, includes periods of service not covered by the federal Social Security Act, as provided in sections 105.300 to 105.445, RSMo, then, in calculating the benefit amount payable to such member, the normal annuity shall be an amount equal to two and one-tenth percent of the average compensation of the member multiplied by the number of years of such creditable service for the positions described in subsections 1, 3 and 4 of this section not covered by the federal Social Security Act in addition to an amount payable under section 104.374 for all service covered by the federal Social Security Act. The normal annuity as described in this subdivision shall be adjusted for early retirement, if applicable;

(2) Any person described in subsections 3 and 4 of this section, who elects to remain in one of the retirement systems established under sections 169.010 to 169.140, RSMo, or sections 169.410 to 169.540, RSMo, shall, notwithstanding any provision of chapter 169, RSMo, to the contrary, be a noncontributing member of such system and shall receive a refund of the member's accumulated contributions for the creditable service in any of the positions described in subsection 1, 3 or 4 of this section, plus interest at an annual rate of six percent computed on the refundable balance, if any, in the member's account in that retirement system as of June 30, 1989. Such refunds shall be made prior to June 1, 1990. At the time of retirement under the provisions of sections 169.010 to 169.140, RSMo, or sections 169.410 to 169.540, RSMo, such person shall receive a retirement benefit computed under the then existing law of that retirement system; except that, for any person employed in a position described in subsection 4 of this section, the benefit shall be the amount computed as though the position were not covered by the federal Social Security Act, reduced by the amount of any federal Social Security benefit the person may receive which is attributable to service rendered in the positions described in subsection 4 of this section after December 31, 1989.

8. Upon payment of the refunds provided in subdivision (1) of subsection 7 of this

section, each refunding retirement system shall pay to the state employees' retirement system, by December 31, 1990, an amount actuarially determined to equal the liability transferred from such retirement systems. At least ninety days before each regular session of the general assembly the board of trustees of the affected public school retirement system shall certify to the division of budget an actuarially determined estimate of the amount which will be necessary during the next appropriation period to pay all liabilities, including costs of administration, which shall exist or accrue under subsections 1 through 7 of this section during such period. The estimate shall be computed as a level percentage of payroll [compensation] **contribution** to cover the normal cost and to amortize the accrued liability over a period not to exceed forty years. The commissioner of administration shall request appropriation of the amount calculated under the provisions of this subsection. The commissioner of administration monthly shall requisition and certify the payment to the executive secretary of the appropriate school retirement system.

9. Notwithstanding any provisions of chapter 169, RSMo, to the contrary, any member who becomes a member under the provisions of subsection 2, 5, or 7 of this section and who has creditable service with a public school retirement system under that chapter because of employment with any employer other than those defined in subsection 1, 3, or 4 of this section shall immediately vest in that public school retirement system and upon attainment of the minimum retirement age of that system shall be entitled to a monthly benefit based on such creditable service and the law in effect at that time, provided the person does not elect to withdraw the member's accumulated contributions for such creditable service from that public school retirement system.

10. Effective July 1, 1988, the Lincoln University board of curators shall terminate the Lincoln University retirement, disability and death benefit plan and shall purchase through competitive bids annuities adequate to cover the liability for all benefits presently being paid from such plan to former employees or their surviving beneficiaries upon the death of the employee as provided by such plan at the time of the commencement of benefits to such former employees or beneficiaries. Lincoln University shall pay to the Missouri state employees' retirement system on or before July 1, 1988, an amount equal to all funds and securities thereon contained in the Lincoln University retirement, disability and death benefit plan less the amount needed to purchase annuities for retiree and survivor benefits.

11. Effective July 1, 1988, the Lincoln University board of curators shall certify to the board of trustees of the Missouri state employees' retirement system all persons eligible to receive but not yet receiving benefits under the Lincoln University retirement, disability and death benefit plan, for service prior to June 30, 1988, together with the amounts payable and supporting documentation as to the methods, plan provisions and data used to calculate such benefits, to the satisfaction of the board of trustees of the Missouri state employees' retirement system, and the Missouri state employees' retirement system shall assume

responsibility for payment of such benefits in the future.

12. Any person employed on a full-time basis by Lincoln University on or after July 1, 1988, shall become a member of the Missouri state employees' retirement system, and may elect in writing to receive creditable prior service for all full-time service to Lincoln University if such service is not now credited the member under the Missouri state employees' retirement system, and provided the member elects in writing to forfeit all rights accrued under the Lincoln University retirement, disability and death benefit plan for such service.

13. (1) Any person who is employed by Harris-Stowe State College as a teacher or administrator on August 28, 1995, who was employed full time by Harris-Stowe College prior to September 1, 1978, who became a member of the Missouri state employees' retirement system on or after September 1, 1978, and who has been continuously employed by the college, may purchase creditable prior service for any service rendered to Harris-Stowe College prior to September 1, 1978, which is not otherwise credited under the Missouri state employees' retirement system, not to exceed twelve years;

(2) Any person eligible to purchase creditable prior service under the provisions of subdivision (1) of this subsection may make written application to the board of trustees of the Missouri state employees' retirement system prior to retirement, but not later than April 1, 1996. The purchase shall be effected by the member and the public school retirement system of which the member was previously a member paying to the Missouri state employees' retirement system the following amounts:

(a) The amount contributed by the employee to the St. Louis public school retirement system during the years of prior service with Harris-Stowe College for which the employee seeks to purchase creditable prior service in the Missouri state employees' retirement system, including interest which may have been credited to the member's individual account with the system, or which would have been credited to the account had it remained with the St. Louis public school retirement system; and

(b) An amount which shall not be less than zero and which shall equal the actuarial accrued liability of the St. Louis public school retirement system for the prior service, determined as of the transfer date as if the member were still in active service covered by the St. Louis public school retirement system, less the amount stipulated in paragraph (a) of this subdivision;

(c) If the member had received a refund of contributions related to service covered by the St. Louis public school retirement system, the amount stipulated in paragraph (a) of this subdivision shall be paid to the Missouri state employees' retirement system by the member, otherwise, such amount shall be paid to the Missouri state employees' retirement system by the St. Louis public school retirement system;

(3) Any amount payable to the Missouri state employees' retirement system by the

member may be paid in a lump sum or in monthly installments. If paid in monthly installments, the period over which payments are being made may not extend beyond the earlier of the member's retirement date or April 1, 1997, and shall include interest at a rate established by the board of trustees of the Missouri state employees' retirement system;

(4) Any amounts payable to the Missouri state employees' retirement system by the St. Louis public schools retirement system shall be paid in a lump sum and shall not be paid later than the earlier of the member's retirement date or April 1, 1997, and shall include interest at a rate established by the board of trustees of the Missouri state employees' retirement system;

(5) Any person who elects to purchase creditable prior service under the provisions of this section shall file with the St. Louis public school retirement system an irrevocable waiver and release of any rights and benefits in that system for the creditable prior service being purchased. The member shall file with the Missouri state employees' retirement system a copy of the waiver and an affidavit stating that he or she is no longer eligible to receive benefits or credits in any other retirement system for the creditable prior service being purchased;

(6) All retirement plans defined under section 105.660, RSMo, shall develop a procurement action plan for utilization of minority and women money managers, brokers and investment counselors. Such retirement systems shall report their progress annually to the joint committee on public employee retirement and the governor's minority advocacy commission.

14. In no event shall any person receive service credit for the same period of service under more than one retirement system.

104.344. Notwithstanding any other law to the contrary, any person who is actively employed by the state of Missouri in a position covered by a retirement plan administered by the Missouri state employees' retirement system and who had nonfederal full-time public employment in the state of Missouri [or who had provided full-time services for compensation to the state of Missouri under a contract], and who by virtue of such employment was a member of a retirement system or other employer-sponsored retirement plan other than the Missouri state employees' retirement system but is not vested in such other retirement system or plan, or was not a member of any retirement system or plan, may elect, prior to retirement, to purchase all of the member's creditable prior service but not to exceed four years for such service in any plan administered by the Missouri state employees' retirement system in which the person is receiving service credit for active employment or is eligible for a deferred annuity. The purchase shall be effected by the person paying to the Missouri state employees' retirement system an amount equal to what would have been contributed by the state in his or her behalf had the person been a member for the period for which he or she is electing to purchase credit and had the person's compensation during such period been the

same as the annual salary rate at which the person was initially employed in a position covered by a plan administered by the Missouri state employees' retirement system, with the calculations based on the contribution rate in effect on the date of his or her employment under the provisions of the Missouri state employees' retirement system with simple interest calculated from the date of employment from which the person could first receive creditable service from the Missouri state employees' retirement system to the date of election to purchase such service. The payment shall be made over a period of not longer than two years, with simple interest on the unpaid balance. In no event shall any person receive credit or benefits under any other retirement plan as defined pursuant to section 105.691, RSMo, for creditable service purchased pursuant to the provisions of this section. The contribution rate for any judge who elects to purchase service for a period prior to July 1, 1998, shall be equal to a contribution rate which would be used if the judicial system were funded on an actuarial basis prior to that date.

104.352. 1. Any employee or former employee described in paragraph (b) of subdivision [(18)] **(20)** of section 104.010 is entitled to credit for all prior service and membership service as if he had been a member of the system on the date of its inception. Any such employee shall be considered a member of the system from the date of his or her employment and shall receive credit for each month of service for which he is employed with service being computed as if part-time employment with the general assembly were full-time employment for the period the member was so employed.

2. Each employee described in paragraph (b) of subdivision [(18)] **(20)** of section 104.010 shall be entitled to the same insurance benefits provided under sections 103.003 to 103.175, RSMo to employees described in paragraph (a) of subdivision [(18)] **(20)** of section 104.010 to cover the medical expenses of such employees and their spouses and children. Such insurance benefits shall be made available to employees described in paragraph (b) of subdivision [(18)] **(20)** of section 104.010 upon their initial employment as such employees in the same manner provided for employees described in paragraph (a) of subdivision [(18)] **(20)** of section 104.010, and shall be continued during any period of time, not to exceed one year, in which such employees are not paid for full-time employment, so long as such employees pay the same amount for such insurance benefits as is required of employees described in paragraph (a) of subdivision [(18)] **(20)** of section 104.010 who continue receiving such insurance benefits during a leave of absence without pay from their employment with the state. Any employee described in paragraph (b) of subdivision [(18)] **(20)** of section 104.010 who is reemployed by the general assembly or either house thereof, or by any member of the general assembly while acting in his official capacity as a member, by the thirteenth legislative day of the session of the general assembly immediately following the session of the general assembly in which such employee was last so employed, without having elected to discontinue the insurance benefits described in this subsection, shall be

entitled to continue such insurance benefits without having to prove insurability for himself or any of his covered dependents for whom he has paid for such coverage continuously since last employed as an employee described in paragraph (b) of subdivision [(18)] **(20)** of section 104.010. Any employee described in paragraph (b) of subdivision [(18)] **(20)** of section 104.010 who is not reemployed by the general assembly or either house thereof, or by any member of the general assembly while acting in his official capacity as a member, by the thirteenth legislative day of the session of the general assembly immediately following the session of the general assembly in which such employee was last so employed, shall be deemed terminated as an employee as of such thirteenth legislative day, and the insurance benefits provided for such employee under this subsection and sections 103.003 to 103.175, RSMo, shall be terminated as provided for employees described in paragraph (a) of subdivision [(18)] **(20)** of section 104.010 whose employment is terminated. During each month of service in which an employee described in paragraph (b) of subdivision [(18)] **(20)** of section 104.010 is employed, the state shall make any contribution required by sections 103.003 to 103.175, RSMo, for such employee.

3. Any employee described in paragraph (b) of subdivision [(18)] **(20)** of section 104.010 who is actively employed on or after September 28, 1992, shall be deemed vested for purposes of determining eligibility for benefits under sections 104.320 to 104.620 after being so employed for at least sixty months.

104.354. In each fiscal year in which retirement benefits are to be paid to retired employees described in paragraph (b) of subdivision [(18)] **(20)** of section 104.010 because of the provisions of section 104.352, funding for such benefits shall be provided as set forth in section 104.436. All benefits paid because of the provisions of section 104.352 shall be paid by the retirement system along with all other retirement benefits due such retired employees under the retirement system.

104.378. Upon the death of a member who has not requested creditable prior service pursuant to **section 104.339, subsections 2, 6, 7, 8, and 9 of section 104.340, subsection 12 of section 104.342, subsection 4 of section 104.345,** subsection 4 of section 104.372, **section 104.800, section 178.639, or section 211.393,** the survivor of such member who is or would be eligible to receive benefits pursuant to section 104.420 may apply to the board of trustees and shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the surviving spouse's life, and upon request of the board shall give opinions, and be available to give opinions in writing, or orally, in response to such requests. As compensation for such services, such survivor may elect to have the member receive such creditable prior service **or transfer such service.** Upon making such election, all of the [provisions of subsection 4 of section 104.372] **applicable sections of law** shall apply. Any survivor benefits payable shall be calculated as if such creditable prior service **or transferred**



**service** had been received by such member on the date of the death of the member.

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

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

Option 2. The member's normal annuity in regular monthly payments for life during the member's retirement with the provision that upon the member's death a survivor's benefit equal to one-half the member's annuity at the date of the member's death shall be paid to the member's spouse to whom the member was married at the date of retirement and who was nominated by the member to receive such payments in the member's application for retirement or as otherwise provided pursuant to subsection 5 of this section, in regular monthly payments for life. The surviving spouse shall designate a beneficiary to receive any final monthly payment due after the death of the surviving spouse; or

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

monthly payments of the retiree's reduced annuity, the reserve for such annuity for the remainder of such one hundred twenty-month period shall be paid to the beneficiary's estate; or

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

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

3. For members who retire on or after August 28, 1995, in the event such member elected a joint and survivor option pursuant to the provisions of this section and the member's eligible spouse or eligible former spouse precedes the member in death, the member's annuity shall revert effective the first of the month following the death of the spouse or eligible former spouse [regardless of when the board receives the member's written application for the benefit provided in this subsection, to an amount equal to the member's normal annuity, as adjusted for early retirement if applicable] **to a normal annuity, as adjusted for early retirement if applicable, if the member cancels the member's original joint and survivor election**; such benefit shall include any increases the member would have received since the date of retirement had the member elected a normal annuity.

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

the member's written application] **if the member cancels the member's original joint and survivor election**; such annuity shall include any increases the retired member would have received since the date of retirement had the member elected a normal annuity.

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

(1) The member elected to receive a normal annuity and was not eligible to elect option 1 or 2 on the date retirement benefits were initiated; or

(2) The member's annuity reverted to a normal annuity pursuant to subsection 3 or 4 of this section and the member remarried.

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

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

**8. A member may change a member's election made under this section at any time prior to the system mailing or electronically transferring the first annuity payment to such member.**

104.410. 1. Any uniformed member of the water patrol who shall be affirmatively found by the board to be wholly and permanently incapable of holding any position of gainful employment as a result of injuries or illness incurred in the performance of the member's duties shall be entitled to receive disability benefits in an amount equal to one-half of the compensation that the employee was receiving at the time of the occurrence of the injury entitling the employee to such disability benefits. Any disability benefit payable pursuant to this subsection shall be decreased by any amount paid to such uniformed member of the water patrol by reason of the workers' compensation laws of this state. After termination of payment under workers' compensation, however, any such reduction and disability benefits shall be restored.

2. The board of trustees may require a medical examination of any uniformed member of the water patrol who is receiving disability benefits pursuant to this section at any time by a designated physician, and disability 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 such an examination.

3. The disability benefits described in this section shall not be paid to any uniformed member of the water patrol who has retained or regained more than fifty percent of the member's earning capacity. If any uniformed member of the water patrol who has been receiving disability benefits again becomes an employee, the member's disability benefits shall be discontinued, the member's prior period of creditable service shall be restored, and any subsequent determination of benefits due the member or the member's survivors shall be based on the sum of the member's creditable service accrued to the date the member's disability benefits commenced and the period of creditable service after the member's return to employment.

4. Any uniformed member of the water patrol receiving benefits pursuant to the provisions of this section for five or more years immediately prior to attainment of age fifty-five shall be considered a normal retiree at age fifty-five, and may elect, within thirty days preceding the attainment of age fifty-five, option 1 of section 104.395, but only for the member's spouse who was the member's spouse for two or more years prior to the member's attainment of age fifty-five.

5. Any member who is receiving disability benefits as of December 31, 1985, or any member who is disabled on December 31, 1985, and would have been entitled to receive disability benefits pursuant to this section as the provisions of this section existed immediately prior to September 28, 1985, shall be eligible to receive or shall continue to receive benefits in accordance with such prior provisions of this section until the member again becomes an employee; however, all employees of the department of conservation who are disabled shall receive benefits pursuant only to this section or section 104.518, whichever is applicable, and shall not be eligible for benefits under any other plan or program purchased or provided after September 28, 1985.

6. Any member who qualifies for disability benefits pursuant to subsection 1 of this section or pursuant to the provisions of section 104.518, or under a long-term disability program provided by the member's employing department as a consequence of employment by the department, shall continue to accrue creditable service based on the member's rate of pay immediately prior to the date the member became disabled in accordance with sections 104.370, 104.371, 104.374 and 104.615, until the date the member's retirement benefit goes into pay status, the disability benefits cease being paid to the member, or the member is no longer disabled, whichever comes first. Persons covered by the provisions of sections 476.515 to 476.565, RSMo, or sections 287.812 to 287.855, RSMo, who qualify for disability benefits pursuant to the provisions of section 104.518, at the date the person becomes disabled, shall continue to accrue creditable service based on the person's rate of pay immediately prior to the date the person becomes disabled until the date the person's retirement benefit goes into

pay status, the disability benefits cease being paid to the person or the person is no longer disabled, whichever comes first. [Members or persons continuing to accrue creditable service pursuant to this subsection shall be entitled to continue their life insurance coverage subject to the provisions of the life insurance plan administered by the board pursuant to section 104.517] **For the purposes of life insurance coverage under sections 104.515 and 104.517, a person who is receiving disability benefits under this section shall be required to pay the cost of life insurance coverage provided under section 104.517 in order to receive such coverage, unless such person is eligible to receive such insurance at no cost under any waiver of premium provision that may exist under the contract for life insurance. For purposes of eligibility to apply for retirement, persons receiving disability benefits under this section shall be treated as if they were active employees during their period of disability.** The rate of pay for purposes of calculating retirement benefits for a member or person described in this subsection who becomes disabled and retires on or after August 28, 1999, shall be the member's or person's regular monthly compensation received at the time of disablement, increased thereafter for any increases in the consumer price index. Such increases in the member's monthly pay shall be made annually beginning twelve months after disablement and shall be equal to eighty percent of the increase in the consumer price index during the calendar year prior to the adjustment, but not more than five percent of the member's monthly pay immediately before the increase. Such accruals shall continue until the earliest of: receipt of an early retirement annuity, attainment of normal retirement eligibility or termination of disability benefits.

7. A member or person who continues to be disabled as provided in subsection 6 of this section until the member's normal retirement age shall be eligible to retire on the first day of the month next following the member's or person's final payment pursuant to section 104.518 or, if applicable, subsection 1 of this section. A member or person who retires pursuant to this subsection shall receive the greater of the normal annuity or the minimum annuity, if applicable, determined pursuant to sections 104.370, 104.371, 104.374 and 104.615, and section 287.820, RSMo, and section 476.530, RSMo, as if the member or person had continued in the active employ of the employer until the member's or person's retirement benefit goes into pay status, the disability benefits cease being paid to the member or person, or the member or person is no longer disabled, whichever comes first and the member's or person's compensation for such period had been the member's or person's rate of pay immediately preceding the date the member or person became disabled.

8. If a member who has been disabled becomes an employee again and if the member was disabled during the entire period of the member's absence, then the member shall resume active participation as of the date of reemployment. Such a member shall receive creditable service for the entire period the member was disabled as provided in subsection

6 of this section.

9. If a member ceases to be disabled and if the member does not return to work as provided in subsection 8 of this section, the member's rights to further benefits shall be determined in accordance with sections 104.335, 104.380, 104.400, 104.420 and 104.615 as though the member had withdrawn from service as of the date the member ceased to be disabled, as determined by the system.

104.450. The board of trustees shall consist of the state treasurer, the commissioner of administration, two members of the senate appointed by the president pro tem of the senate, two members of the house of representatives appointed by the speaker of the house, two members appointed by the governor, and three **elected** members [who are members of the system,] **that shall each serve four-year terms**. One [of whom] **elected member** shall be a retiree elected by a plurality vote of [retired members] **retirees** and two of [whom] **the elected members** shall be employees, elected by a plurality vote of [the members of the system not retired for four-year terms] **employees and former employees eligible for a deferred annuity and not retired**. For purposes of this section, "retiree" shall include any retiree under this chapter, any judge as defined under section 476.515 who is retired, and any administrative law judge or legal advisor as those terms are defined under section 287.812 who is retired. For purposes of this section, "employees" shall include any employee under this chapter who is actively employed, any judge as defined under section 476.515 who is actively employed, and any administrative law judge or legal advisor as those terms are defined under section 287.812 who is actively employed. The board so constituted shall determine, by **board rule**, the procedures for nomination and election of the elective board members. The first two trustees designated above shall serve as trustees during their respective terms of office; the legislative members shall serve as trustees until such time as they resign, are no longer members of the general assembly, or are replaced by new appointments; and the members appointed by the governor shall serve as trustees until such time as they resign or are replaced by new appointments. Any vacancies occurring in the office of trustees shall be filled in the same manner as the office was filled previously except that vacancies occurring in the offices of the elected board members may be filled by the board of trustees until the next regularly scheduled election.

. 1. Should any error result in any member or beneficiary receiving more or less than he or she would have been entitled to receive had the error not occurred, the board shall correct such error, and, as far as practicable, make future payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was entitled shall be paid, and to this end may recover any overpayments. **In all cases in which an error has been made, no such error shall be corrected unless the system discovers or is notified of such error within ten years after the date of the error.**

2. A person who knowingly makes a false statement, or falsifies or permits to be falsified a record of the system, in an attempt to defraud the system is subject to fine or imprisonment pursuant to the Missouri revised statutes.

3. The board of trustees of the Missouri state employees' retirement system shall cease paying benefits to any survivor or beneficiary who is charged with the intentional killing of a member without legal excuse or justification. A survivor or beneficiary who is convicted of such charge shall no longer be entitled to receive benefits. If the survivor or beneficiary is not convicted of such charge, the board shall resume payment of benefits and shall pay the survivor or beneficiary any benefits that were suspended pending resolution of such charge.

104.601. Any member retiring pursuant to the provisions of this chapter or any member retiring pursuant to provisions of chapter 169, RSMo, who is a member of the public school retirement system and who is employed by a state agency other than an institution of higher learning, after working continuously until reaching retirement age, shall be credited with all his or her unused sick leave as reported through the financial and human resources system maintained by the office of administration, or if a state agency's employees are not paid salaries or wages through such system, as reported directly by the state agency. When calculating years of service, each member shall be entitled to one-twelfth of a year of creditable service for each one hundred sixty-eight hours of unused accumulated sick leave earned by the member. The employing agency 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 **regardless of whether or not the employee is employed in more than one position that qualifies the employee to receive retirement benefits under this chapter.** Nothing under this section shall allow a member to vest in the retirement system by using such credited sick leave to reach the time of vesting.

104.603. 1. **For purposes of this section, the term "member" shall include any member under this chapter, an administrative law judge or legal advisor under chapter 287, RSMo, or a judge under chapter 476, RSMo, who is receiving a retirement annuity based on the member's creditable or credited service from either system; except that a member covered under sections 104.010 to 104.272 shall not be considered a member under this section.**

2. **Notwithstanding the provisions of sections 104.380 and 104.1039 or any other law to the contrary, any member who is employed, elected, or appointed and begins serving on or after September 1, 2005, as an employee by a department, an administrative law judge or legal advisor, or a judge, shall not receive a retirement annuity based on the member's creditable or credited service under this chapter,**

chapter 287, RSMo, or chapter 476, RSMo, during any month or part of the month while such member is so employed.

3. A member described in subsection 2 of this section who is retired under the closed plan as defined under subdivision (7) of section 104.1003 and who is employed, elected, or appointed as an employee by a department shall be considered to be an employee with no previous creditable service and will accrue creditable service under the closed plan while so employed. Such member shall not be required to meet age and service requirements for retirement eligibility under the closed plan and upon termination of employment shall receive an additional monthly annuity calculated under the closed plan based on the type of service accrued. If the member's original annuity was based on an early retirement reduction, the additional annuity shall be calculated using a reduction based on the member's age at the time the additional annuity is calculated and the amount of service since reemployment unless the member's age and total years of service under the original and additional annuity would make the member eligible for a normal retirement annuity, in which case, the additional annuity shall be calculated as a normal retirement annuity based on the member's service since reemployment.

4. A member described in subsection 2 of this section who retired under the year 2000 plan under section 104.1003 to 104.1093 and who is employed, elected, or appointed as an employee by a department shall be considered to be an employee with no previous credited service and will accrue credited service under the year 2000 plan while so employed. Such member shall not be required to meet age and service requirements for retirement eligibility under the year 2000 plan and upon termination of employment shall receive an additional monthly annuity calculated under the year 2000 plan based on the type of service accrued. If the member's original annuity was based on an early retirement reduction, the additional annuity shall be calculated using a reduction based on the member's age at the time the additional annuity is calculated and the amount of service since reemployment unless the member's age and total years of service under the original and additional annuity would make the member eligible for a normal retirement annuity, in which case, the additional annuity shall be calculated as a normal retirement annuity based on the member's service since reemployment.

5. A member who was an administrative law judge, legal advisor, or judge described in subsection 2 of this section who has not retired under a retirement plan created under this chapter and who is employed, elected, or appointed as an employee by a department shall be considered to be a new employee with no previous credited service and will accrue credited service under the year 2000 plan



under sections 104.1003 to 104.1093 while so employed. Such member shall not be required to meet age and service requirements for retirement eligibility under the year 2000 plan and upon termination of employment shall receive an additional monthly annuity calculated under the year 2000 plan based on the type of service accrued.

6. The original annuity or benefit, the additional annuity described in this section, or any annuity paid under sections 104.420 or 104.1030, shall be paid commencing with the end of the first month after the month during which the member terminates employment. The original annuity or benefit, the additional annuity, or any annuity paid under sections 104.020 or 104.1030 shall be paid by the system that issued the original annuity or benefit; except that in the event a member dies prior to termination of employment, an annuity shall be paid under sections 104.420 or 104.1030 in lieu of an additional annuity otherwise described in this section, and such member shall not be required to meet age and service requirements for retirement eligibility for an annuity paid under sections 104.420 or 104.1030. A member, or the member's beneficiary in the event the member dies prior to termination of employment, shall transfer the member's creditable or credited service to the system that paid the original annuity if the member accrued such service in a different system. The system that paid the original annuity shall pay the additional annuity or the annuity under sections 104.420 or 104.1030, based on the retirement formula that otherwise would apply based on the position in which the member was employed for the period of service applicable to the additional annuity or the annuity under sections 104.420 or 104.1030. The annuity option and plan election for the additional annuity shall be the same as the original annuity or benefit subject to any modifications that may have been made to the original annuity as provided by law; except that the annuity option for an annuity paid under sections 104.420 or 104.1030 shall be as provided in those sections. Cost of living adjustments shall be paid on both annuities based on the original cost of living payment date for the original annuity or benefit. In no event shall any cost of living adjustments be paid or accrued during the member's period of employment.

104.606. Any member of either system who purchases creditable service or credited service under this chapter or chapter 105, RSMo, must apply and complete the purchase prior to applying to receive a retirement annuity in order to receive credit for such purchase.

104.607. 1. Either system may elect by a majority vote of its board of trustees to establish and administer an arrangement and fund to pay accrued benefits of its members to its members under this chapter to the extent that the

accrued benefits paid out of the fund would not otherwise be payable under limitations in Section 415 of the Internal Revenue Code. An arrangement and fund established under this section shall be kept separate from the pension's fund assets.

2. If an arrangement and fund is established by a retirement system under subsection 1 of this section, the arrangement and fund shall be established and administered in accordance with Section 415(m) of the Internal Revenue Code. The board may establish and adopt policies and procedures for the arrangement and fund.

3. If an arrangement and fund is established by a retirement system under subsection 1 of this section, the benefits paid from the fund shall be paid out of employer contributions or other eligible assets. The board shall determine the amount of the employer contribution that shall be allocated to the arrangement and fund. Employer contributions and other eligible assets that are contributed to the arrangement and fund shall be deposited in the arrangement and fund before deposits are made to the system.

4. Nothing in this section is intended to limit the amount of employer contributions that are contributed to a retirement fund for the accrued benefits that are allowed to be paid under Section 415 of the Internal Revenue Code.

104.620. 1. Any member who has not received a lump sum payment equal to the sum total of the contributions that the member paid into the retirement system, plus interest credited to his or her account, shall be entitled to such a lump sum payment. Lump sum payments made pursuant to this section shall not be reduced by any retirement benefits which a member is entitled to receive, but shall be paid in full out of appropriate funds pursuant to appropriations for this purpose.

2. In the event any accumulated contributions standing to a member of the Missouri state employees' retirement system's credit remains unclaimed by such member for a period of four years or more, such accumulated contributions shall automatically revert to the credit of the fund for the Missouri state employees' retirement system. If an application is made, after such reversion, for such accumulated contributions, the board shall pay such contributions from the fund for the Missouri state employees' retirement system; except that, no interest shall be paid on such funds after the date of the reversion to the fund for the Missouri state employees' retirement system.

3. In the event any amount is due a deceased member, survivor, or beneficiary who dies after September 1, 2002, such amount shall be paid to the person or entity designated in writing as beneficiary to receive such amount by such member, survivor, or beneficiary. The member, survivor, or beneficiary may designate in writing a beneficiary to receive any final payment due after the death of a member, survivor, or beneficiary pursuant

to this chapter. If no living person or entity so designated as beneficiary exists at the time of death, such amount shall be paid to the surviving spouse married to the deceased member, survivor, or beneficiary at the time of death. If no surviving spouse exists, such amount shall be paid to the surviving children or their descendants of such member, survivor, or beneficiary in equal parts. If no surviving children or any of their descendants exist, such amount shall be paid to the surviving parents of such member, survivor, or beneficiary in equal parts. If no surviving parents exist, such amount shall be paid to the surviving brothers, sisters, or their descendants of such member, survivor, or beneficiary in equal parts. If no surviving brothers, sisters, or their descendants exist, payment may be made as otherwise permitted by law. Notwithstanding this subsection, any amount due to a deceased member as payment of all or part of a lump sum pursuant to section 104.625 shall be paid to the member's surviving spouse married to the member at the time of death, and otherwise payment may be made as provided in this subsection. In the event any amount that is due to a member of either system remains unclaimed by such member for a period of four years or more, such amount shall automatically revert to the credit of the fund of the member's system. If an application is made after such reversion for such amount, the board shall pay such amount from the board's fund to the member, except that no interest shall be paid on such funds after the date of the reversion to the fund.

4. The beneficiary of any member who purchased creditable service in the Missouri state employees' retirement system shall receive a refund upon the member's death equal to the amount of any purchase less any retirement benefits received by the member unless an annuity is payable to a survivor or beneficiary as a result of the member's death. In that event, the beneficiary of the survivor or beneficiary who received the annuity shall receive a refund upon the survivor's or beneficiary's death equal to the amount of the member's purchase of service less any annuity amounts received by the member and the survivor or beneficiary.

**5. The provisions of this section shall apply to any administrative law judge, legal advisor, or beneficiary as defined under section 287.812, RSMo, or any judge or beneficiary as defined under section 476.515, RSMo, or any special commissioner under section 476.450, RSMo.**

104.800. 1. Except as otherwise provided by law, any person [having earned creditable service pursuant to the provisions of the state employees' retirement system or pursuant to the provisions of the state transportation department employees' and highway patrol retirement system or having service as a statewide state elective officer or having service as a member of the general assembly or having service pursuant to the provisions of sections 287.812 to 287.855, RSMo, or having service as a judge, as defined in section 476.515, RSMo, may elect prior to retirement and not after retirement, to make a one-time transfer of credit for such service or such creditable service to or from any other retirement

system or type of service specified in this section or sections 56.800 to 56.840, RSMo, for which the person has accumulated service or creditable service. The amount of transferred credit shall be accumulated with the amount of such creditable service or such service earned by the person in the retirement system or type of service to which the service is transferred for purposes of determining the benefits to which the person is entitled under the retirement system or type of service to which the service is transferred. The transfer of such creditable service or service shall become effective on the first day of the second month following the month in which the person files written notification of the person's election with the retirement boards affected by such service transfer. When the election to transfer creditable service or service becomes effective, the person shall thereby forfeit any claim to any benefit under the provisions of the retirement system or type of service, as the case may be, from which the service or creditable service was transferred regardless of the amount of service or creditable service previously earned in such retirement system or type of service.] **who has creditable service, forfeited creditable service, or service under two or more of the following categories as:**

- (1) An employee;
- (2) A member of the general assembly;
- (3) A statewide elected official;
- (4) An employee under sections 56.800 to 56.840, RSMo;
- (5) An administrative law judge or legal advisor under sections 287.812 to 287.855, RSMo; or
- (6) A judge under sections 476.515 to 476.565, RSMo;

may elect to make a one-time transfer of such service between any categories specified in this subsection in which the person has such service prior to the transfer. The transfer shall not occur unless the person has terminated employment in the category from which service is being transferred. When the election to transfer such service becomes effective, the retirement system shall credit the transferred service as service in the category to which it was transferred. Thereafter the person shall forfeit any claim to any benefit based on such transferred service and any remaining service in excess of the limitation of the amount of service that can be transferred under this section. Any person who has transferred service pursuant to this subsection prior to August 28, 2002, and who is an employee covered by a retirement plan described in this subsection after that date, may elect to make an additional transfer of service prior to retirement if additional service would otherwise be available to be transferred except for the forfeiture of that service after the previous transfer. In no event shall the amount of service that a person shall be entitled to transfer pursuant to the provisions of this section exceed eight years.

2. In the event of the death of a member before retirement and prior to exercising

transfer rights pursuant to the provisions of this section, survivorship benefits shall be computed as if such person had in fact exercised or not exercised the person's transfer rights to produce the most advantageous benefit possible.

3. Any person that has earned creditable service pursuant to the provisions governing the Missouri state employees' retirement system or pursuant to the provisions of chapter 287, RSMo, or chapter 476, RSMo, who terminated employment prior to August 13, 1986, 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 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 request. As compensation for such services, the consultant shall be eligible, prior to retirement, to make a one-time transfer of creditable service as provided in this section.

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 **and forty** 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;

**(e) The term "employee" shall include any person as defined under paragraph (b) of subdivision (20) of subsection 1 of section 104.010 who is employed on or after July 1, 2000;**

(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. **The board of each system may promulgate rules for purposes of calculating final average pay and other retirement provisions to accommodate for any state payroll system in which pay is received on a monthly, semimonthly, biweekly, or other basis;**

(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 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 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.

104.1012. 1. Any new state employee who would have become a member of the closed plan administered by the transportation department and highway patrol retirement system except for the creation of the year 2000 plan and persons covered by the closed plan administered by the highway and transportation employees' and highway patrol retirement system who elect year 2000 plan coverage as provided in section 104.1015 shall have their year 2000 plan coverage managed by that board.

2. Any new state employee who would have become a member of the closed plan administered by the Missouri state employees' retirement system except for the creation of the year 2000 plan or persons covered by the closed plan administered by the Missouri state employees' retirement system who elect year 2000 plan coverage as provided in section 104.1015 shall have their year 2000 plan coverage managed by that board.

**3. In the event either board of trustees elects to provide employees, members, or vested former members under either the closed plan or the year 2000 plan with education or advice pertaining to any aspect of retirement planning, the board will not be liable for the retirement or investment decisions made or not made by employees, members, or vested former members so long as the board acts with the same care, skill, prudence, and diligence in the selection and monitoring of providers of education and advice, under the circumstances then prevailing that a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims.**

104.1015. 1. Persons covered by a closed plan on July 1, 2000, shall elect whether or not to change to year 2000 plan coverage. Any such person who elects to be covered by the year 2000 plan shall forfeit all rights to receive benefits under this chapter except as provided under the year 2000 plan and all creditable service of such person under the closed plan shall be credited under the year 2000 plan. Any such person who elects not to be covered by the year 2000 plan shall waive all rights to receive benefits under the year 2000 plan. In no event shall any retroactive annuity be paid to such persons pursuant to sections 104.1003 to 104.1093 except as described in subsection 2 of this section.

2. Each retiree of the closed plan on July 1, 2000, shall be furnished by the appropriate system a written comparison of the retiree's closed plan coverage and the retiree's potential year 2000 plan coverage. A retiree shall elect whether or not to change to year 2000 plan coverage by making a written election, on a form furnished by the appropriate board, and providing that form to the system by no later than twelve months after July 1, 2000, and any retiree who fails to make such election within such time period shall be deemed to have elected to remain covered under the closed plan; provided the



election must be after the retiree has received from the appropriate system such written comparison. The retirement option elected under the year 2000 plan shall be the same as the retirement option elected under the closed plan, except any retiree who is receiving one of the options providing for a continuing lifetime annuity to a surviving spouse under the closed plan may elect to receive an annuity under option 1 or 2 of section 104.1027, or a life annuity under subsection 2 of section 104.1024, provided the person who was married to the member at the time of retirement, if any, consents in writing to such election made pursuant to section 104.1024, or to any election described in this section if the person was married to a member of the Missouri state employees' retirement system. The effective date of payment of an annuity under the year 2000 plan as provided in this subsection shall begin on July 1, 2000. No adjustment shall be made to retirement benefits paid to the retiree prior to July 1, 2000. In order to calculate a new monthly annuity for retirees electing coverage under the year 2000 plan pursuant to this subsection, the following calculations shall be made:

(1) Except as otherwise provided in this subsection, the retiree's gross monthly retirement annuity in effect immediately prior to July 1, 2000, shall be multiplied by the percentage increase in the life annuity formula between the closed plan and the year 2000 plan. This amount shall be added to the retiree's gross monthly retirement annuity in effect immediately prior to July 1, 2000, to arrive at the retiree's new monthly retirement annuity in the year 2000 plan on July 1, 2000. The age of eligibility and reduction factors applicable to the retiree's original annuity under the closed plan shall remain the same in the annuity payable under the year 2000 plan, except as provided in subdivision (2) of this subsection.

(2) If option 1 or 2 pursuant to section 104.1027 is chosen by the retiree under the year 2000 plan, the new monthly retirement annuity calculated pursuant to subdivision (1) of this subsection shall be recalculated using the reduction factors for the option chosen pursuant to section 104.1027.

(3) If a temporary annuity is payable pursuant to subsection 4 of section 104.1024 the additional temporary annuity shall be calculated by multiplying the retiree's credited service by the retiree's final average pay by eight-tenths of one percent.

(4) Cost-of-living adjustments paid pursuant to section 104.1045 will commence on the anniversary of the retiree's annuity starting date coincident with or next following July 1, 2000.

(5) Any retiree or other person described in this section who elects coverage under the year 2000 plan based on service rendered as a member of the general assembly or as a statewide elected official shall receive an annuity under the year 2000 plan calculated pursuant to the provisions of section 104.1084 using the current monthly pay at the time of the election with future COLAs calculated pursuant to subsection 7 of section 104.1084.

3. Each person who is an employee and covered by the closed plan and not a retiree of the closed plan on July 1, 2000, shall elect whether or not to change to year 2000 plan

coverage prior to the last business day of the month before the person's annuity starting date, and if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by the year 2000 plan created by sections 104.1003 to 104.1093; provided, such election must be after the person has received from the year 2000 plan a written comparison of the person's closed plan coverage and the person's potential year 2000 plan coverage and the election must be made in writing on a form furnished by the appropriate board. If such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required pursuant to section 104.420 or subsection 2 of section 104.372 for members of the general assembly.

4. Each person who is not an employee and not a retiree and is eligible for a deferred annuity from the closed plan on July 1, 2000, shall elect whether or not to change to the year 2000 plan coverage prior to the last business day of the month before the person's annuity starting date, and if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by the year 2000 plan created by sections 104.1003 to 104.1093; provided, the election must be after the person has received from the year 2000 plan a written comparison of the person's closed plan coverage and the person's potential year 2000 plan coverage and the election must be made in writing on a form furnished by the appropriate board. If such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required pursuant to section 104.420 or subsection 2 of section 104.372 for members of the general assembly.

5. Each person who is not an employee and not a retiree and is eligible for a deferred annuity from the closed plan and returns to covered employment on or after July 1, 2000, shall be covered under the closed plan; provided, such person shall elect whether or not to change to the year 2000 plan coverage prior to the last business day of the month before the person's annuity starting date, and if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by the year 2000 plan created by sections 104.1003 to 104.1093 and the election must be after the person has received from the year 2000 plan a written comparison of the person's closed plan coverage and the person's potential year 2000 plan coverage and the election must be made in writing on a form furnished by the appropriate board. If such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required under section 104.420 or subsection 2 of section 104.372 for members of the general assembly.

6. Each person who is not an employee and not a retiree and not eligible for a deferred annuity from the closed plan but has forfeited creditable service with the closed plan and becomes an employee on or after August 28, 2002, shall be changed to year 2000 plan coverage and upon receiving credited service continuously for one year shall receive credited service for all such forfeited creditable service under the closed plan.

7. Each person who was employed as a member of the general assembly through December 31, 2000, covered under the closed plan, and has served at least two full biennial assemblies as defined in subdivision (24) of subsection 1 of section 104.010 but who is not eligible for a deferred annuity under the closed plan shall be eligible to receive benefits under the new plan pursuant to subdivision (5) of subsection 2 of this section upon meeting the age requirements under the new plan.

8. The retirees and persons described in subsections 2 and 4 of this section shall be eligible for benefits under those subsections pursuant to subsection 8 of section 104.610.

**9. A member may change a member's plan election made under this section at any time prior to the system mailing or electronically transferring the first annuity payment to such member.**

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 **regardless of whether or not the employee is employed in more than one position that qualifies the employee to receive retirement benefits under this chapter.** 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 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] three 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.

**13. Upon the death of a member who has not requested credited service under section 104.339, subsections 2, 6, 7, 8, and 9 of section 104.340, subsection 12 of section 104.342, subsection 4 of section 104.345, subsection 4 of section 104.372, section 178.639, RSMo, or section 211.393, RSMo, the survivor of such member who is or would be eligible to receive benefits under section 104.1030 may elect to have the member receive such credited service or transfer such service. Upon making such election, all of the provisions of applicable sections of law as provided in this section shall apply. Any survivor benefits payable shall be calculated as if such credited service or transferred service had been received by such member on the date of the death of the member.**

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. **The payment of the annuity shall be made by the**

**last day of each month, providing all documentation required under section 104.1027 for the calculation and payment of the benefits is received by the board.**

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 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 **but not later than age sixty-two.**

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.

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

Option 1. A retiree's life annuity shall be reduced to a certain percent of the annuity otherwise payable. Such percent shall be ninety percent adjusted as follows: if the retiree's

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

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

Option 3. A retiree's life annuity shall be reduced to ninety-five percent of the annuity otherwise payable. If the retiree dies before having received one hundred twenty monthly payments, the reduced annuity shall be continued for the remainder of the one hundred twenty-month period to the retiree's designated beneficiary provided that if there is no beneficiary surviving the retiree, the present value of the remaining annuity payments shall be paid to the retiree's estate. If the beneficiary survives the retiree but dies before receiving the remainder of such one hundred twenty monthly payments, the present value of the remaining annuity payments shall be paid to the beneficiary's estate.

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



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

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

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

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

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

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

6. Effective September 1, 2001, the retirement application of any member who fails to make an election pursuant to subsection 1 of this section within ninety days of the annuity starting date contained in such retirement application shall be nullified. Any member whose retirement application is nullified shall not receive retirement benefits until the member files a new application for retirement pursuant to section 104.1024 and makes the election pursuant to subsection 1 of this section. In no event shall any retroactive retirement benefits be paid.

**7. A member may change a member's election made under this section at any time prior to the system mailing or electronically transferring the first payment to such member.**

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

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

(1) Retired on the date of death with a normal retirement annuity based upon

credited service and final average pay to the date of death, and without reduction if the member's age was younger than normal retirement eligibility;

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

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

3. If a spouse annuity is not payable pursuant to the provisions of subsection 2 of this section, or when a spouse annuity has ceased to be payable, eighty percent of an annuity computed in the same manner as if the member had retired on the date of death with a normal retirement annuity based upon credited service and final average pay to the date of death and without reduction if the member's age at death was younger than normal retirement eligibility shall be divided equally among the dependent children of the deceased member. A child shall be a dependent child until death or attainment of age twenty-one, whichever occurs first; provided the age twenty-one maximum shall be extended for any child who has been found totally incapacitated by a court of competent jurisdiction. Upon a child ceasing to be a dependent child, that child's portion of the dependent annuity shall cease to be paid, and the amounts payable to any remaining dependent children shall be proportionately increased. **Benefits otherwise payable to a child under eighteen years of age under this section, to a beneficiary under eighteen years of age under the administrative law judges and legal advisors retirement plan under chapter 287, RSMo, or to a beneficiary under eighteen years of age under the judicial retirement plan under chapter 476, RSMo, shall be payable to the surviving parent as natural guardian of such child if such parent has custody or assumes custody of such minor child, or to the legal guardian of such child, until such child attains age eighteen; thereafter, the benefit may be paid to the child.**

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

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

104.1042. 1. Any member who is in the Missouri state employees' retirement system pursuant to the year 2000 plan created by sections 104.1003 to 104.1093 and who becomes disabled and qualifies for long-term disability benefits and retires after August 28, 1999, or

who becomes disabled and qualifies for long-term disability benefits under a program provided by the member's employing department and retires after August 28, 1999, shall continue to accrue credited service and such member's rate of pay for purposes of calculating an annuity pursuant to the year 2000 plan created by sections 104.1003 to 104.1093 shall be the member's regular monthly pay received at the time of disablement, increased thereafter for any increases in the consumer price index. Such increases in the member's monthly pay shall be made annually beginning twelve months after disablement and shall be equal to eighty percent of the increase in the consumer price index during the calendar year prior to the adjustment, but not more than five percent of the member's monthly pay immediately before the increase. Such accruals shall continue until the earliest of receipt of an early retirement annuity, attainment of normal retirement eligibility, or termination of disability benefits. **For the purposes of life insurance coverage under section 104.1072, a person who is receiving disability benefits under this section shall be required to pay the cost of life insurance coverage provided under section 104.1072 in order to receive such coverage, unless such person is eligible to receive such insurance at no cost under any waiver of premium provision that may exist under the contract for life insurance. For purposes of eligibility to apply for retirement, persons receiving disability benefits pursuant to this section shall be treated as if they were active employees during their period of disability.**

2. A member described in subsection 1 of this section who continues to be disabled until normal retirement eligibility may elect an annuity starting date upon termination of disability payments and shall receive a normal retirement annuity provided for in section 104.1024.

3. If the member's disability terminates, disability accruals described in subsection 1 of this section shall terminate.

4. Upon termination of disability payments and not returning to a position in which the member is an employee, the member's rights to plan benefits shall be determined as if the member had terminated employment at time of termination of disability payments.

5. Any member who was disabled under the closed plan prior to July 1, 2000, and who returns to a position in which the member is an employee after July 1, 2000, shall be covered under the closed plan and shall be eligible to elect coverage under the new plan as provided by subsection 5 of section 104.1015.

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 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, **but no later than age sixty-two**, 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.

104.1205. 1. The board of trustees of the Missouri state employees' retirement system shall:

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

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

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

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

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

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

**2. In the event the board of trustees elects to provide outside employees with investment education, investment advice, or a default investment option in a fund designed to provide a diversified investment based on the outside employee's age, the board will not be liable for the investment decisions made or not made by outside employees so long as the board acts with the same care, skill, prudence, and diligence in the selection and monitoring of providers of education and advice and such default investment option, under the circumstances then**

**prevailing that a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims.**

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

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

(2) Participate in the year 2000 plan;

(3) Be considered to have met the service requirements contained in section 104.1018;

(4) Not receive any credited service for service rendered while a participant in such defined contribution plan;

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

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

476.682. 1. Any person assigned as a senior judge or senior commissioner pursuant to section 26 of article V of the Missouri Constitution and who has served in this state an aggregate of at least two years, continuously or otherwise, as a judge or commissioner, shall receive for each day of service an amount equal to fifty percent of the current annual salary of the office from which the judge or senior commissioner retired attributable to one day of service. Notwithstanding the foregoing, any judge or commissioner who has retired prior to August 28, 1999, who serves subsequent to said date as a senior judge or commissioner may receive compensation pursuant to this section regardless of their length of service; and no senior judge or senior commissioner shall receive less daily compensation than an amount, that when added to the daily amount of annual compensation payable pursuant to sections 476.450 to 476.595, is less than one hundred percent of the current annual salary of the office from which the judge or commissioner retired attributable to one day of service. For purposes of this subsection, one year shall equal two hundred thirty-five days. No senior judge or senior commissioner shall receive compensation pursuant to this subsection in a total amount that when such compensation is added to the annual compensation, salary or retirement compensation payable pursuant to sections 476.450 to 476.595, the sum is greater than the current annual salary of the office from which the judge or commissioner retired.

2. A senior judge or senior commissioner assigned pursuant to section 26 of article V of the Missouri Constitution for service outside the county where he or she resides shall be reimbursed for his or her travel and other actual and necessary expenses incurred in the performance of his or her services.

3. On or before the tenth day of each month a senior judge or senior commissioner shall certify to the state courts administrator the period during the previous month during which he or she was assigned services and, if such services were completed, the date thereof and at the same time shall certify his or her expenses incurred and allowable under this section. The state courts administrator shall then issue a warrant to the state treasurer for the payment of the salary and expenses to the extent and within limitations provided for in this section. The state treasurer upon receipt of such warrant shall pay the same out of any appropriations made for this purpose on the last day of the month during which the warrant was received by him or her.

4. On or before the twentieth day of each month the state courts administrator shall certify the period of service reported by each senior judge or senior commissioner pursuant to subsection 3 of this section to the Missouri state employees' retirement system. **[Any senior judge or senior commissioner] After accumulating two hundred thirty-five days of such service, such senior judge or senior commissioner shall receive credit for one year of judicial service for purposes of sections 476.520 and 476.545, and subsequently shall receive credit for one year of judicial service for each additional period of two hundred thirty-five days of service certified by the state courts administrator to the Missouri state employees' retirement system, except, if a pro rata portion of two hundred thirty-five days would cause the senior judge's or senior commissioner's total judicial service to equal twelve years, the Missouri state employees' retirement system shall credit the service at the time the pro rata portion is certified. [Upon receipt of such certification,] The retirement benefit of the senior judge or senior commissioner shall be recalculated [to reflect the attainment of twelve years; the adjusted benefit will become effective the first of the month following certification] and increased prospectively after receiving each additional year of service or pro rata portion of a year if such pro rata portion would cause such senior judge or commissioner's total service to equal twelve years. In no event shall such senior judge or commissioner receive service credit after such senior judge or commissioner's total judicial service equals twelve years.**

5. Notwithstanding the provisions of section 476.510 or 476.565, no person shall receive benefits pursuant to the provisions of this section if the person is engaged in the private practice of law or doing a law business.

6. The judicial conference of the state of Missouri shall annually report on the use of senior judges and senior commissioners pursuant to this section. Such report shall include at least the number of senior judges and senior commissioners assigned, the number of cases assigned and disposed of by senior judges and senior commissioners, and the expenditures made for that purpose.