

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 748**  
93RD GENERAL ASSEMBLY

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Reported from the Committee on Pensions, Veterans' Affairs and General Laws, January 30, 2006, with recommendation that the Senate Committee Substitute do pass.

3374S.05C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 104.403 and 104.404, RSMo, and to enact in lieu thereof two new sections relating to state employee retirement incentive, with an emergency clause.

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

Section A. Sections 104.403 and 104.404, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 104.403 and 104.404, to read as follows:

104.403. 1. Any state employee [or retiree] who retires pursuant to section 104.404, and who is also eligible for medical coverage as described in section 103.115, RSMo, shall be eligible to apply for the following coverage:

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

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

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

2. Any employee [or retiree] of a participating member agency who retires pursuant to section 104.404 shall only be eligible to have the provisions of subsection 1 of this section applied to his or her coverage if the governing body of the participating member agency elects to provide such benefits.

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

17           3. The governing boards of Truman State University, Lincoln University,  
18 the educational institutions described in section 174.020, RSMo, the highway  
19 commission that governs the health care plans of the Missouri department of  
20 transportation and the Missouri state highway patrol, and the conservation  
21 commission of the department of conservation may elect to provide its employees  
22 or retirees who retire pursuant to section 104.404 the same benefits as described  
23 in subsection 1 of this section under the respective medical plans of those  
24 institutions and departments. [If the highway commission elects to provide  
25 retirees the benefits of this section, any special consultant pursuant to section  
26 104.515 who is a member of the Missouri department of transportation and  
27 Missouri state highway patrol medical and life insurance plan and who retired  
28 on or after February 1, 2003, but prior to July 1, 2003, shall be eligible to receive  
29 the benefits of this section.]

          104.404. 1. An employee **currently active on the effective date of**  
2 **this act** who has not been a retiree of the system in which such employee is  
3 currently receiving creditable or credited service, who is eligible to receive a  
4 normal annuity **based on the attainment of at least forty-eight years of**  
5 **age with a total of years of age and years of credited service which is**  
6 **at least eighty** pursuant to section 104.080, 104.090, [104.100, 104.271, or  
7 104.400, or a life and any temporary annuity pursuant to section 104.1024]  
8 **104.271, 104.400, or 104.1024**, and whose annuity commences [no later than  
9 September 1, 2003] **on or after May 1, 2006, but no later than August 1,**  
10 **2006**, shall be eligible to receive the medical benefits described in section  
11 104.403.

12           2. [An employee who would be eligible to receive a normal annuity  
13 pursuant to section 104.080, 104.090, 104.100, 104.271, or 104.400, or a life and  
14 any temporary annuity pursuant to section 104.1024, no later than January 1,  
15 2004, shall be eligible to retire based on the employee's creditable or credited  
16 service and the average compensation or final average pay on the employee's date  
17 of termination of employment if the employee applies to retire and whose annuity  
18 commences no later than September 1, 2003. Such employee who so retires shall  
19 be eligible to receive the medical benefits described in subsection 1 of this section.

20           3. Any employee described in subsections 1 and 2 of this section who  
21 otherwise would be eligible to elect to receive benefits under the provisions of  
22 sections 104.625 and 104.1024, by no later than January 1, 2004, shall be eligible  
23 to elect to receive benefits pursuant to sections 104.625 and 104.1024; except that

24 in no event shall a lump sum payment be made for any time period after the  
25 employee's annuity starting date.

26 4. A retiree whose retirement annuity commenced on or after February  
27 1, 2003, but no later than September 1, 2003, shall be eligible to receive the  
28 medical benefits described in section 104.403.

29 **5.] Notwithstanding any other law to the contrary, an employee**  
30 **who is currently active on the effective date of this act shall be entitled**  
31 **to creditable or credited service for any unused sick leave, calculated**  
32 **in accordance with the provisions of sections 104.601 and 104.1021, to**  
33 **reach retirement eligibility under provisions which require the**  
34 **attainment of at least forty-eight years of age with a total of years of**  
35 **age and years of credited service which is at least eighty; except that**  
36 **such employee shall not be entitled to creditable or credited service**  
37 **under this subsection unless the employee's annuity commences on or**  
38 **after May 1, 2006, but no later than August 1, 2006.**

39 3. The state may hire employees to replace those employees retiring  
40 pursuant to this section and section 104.403, except that departments shall not  
41 fill more than twenty-five percent of those positions vacated. Exceptions to the  
42 twenty-five percent restriction may be made for critical or seasonal positions or  
43 positions which are entirely federally funded. Such determination shall be made  
44 by rule and regulation promulgated by the office of administration. The  
45 provisions of this subsection shall not apply to Truman University, Lincoln  
46 University or the educational institutions described in section 174.020, RSMo.

47 [6.] 4. Any rule or portion of a rule, as that term is defined in section  
48 536.010, RSMo, that is created under the authority delegated in this section shall  
49 become effective only if it complies with and is subject to all of the provisions of  
50 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and  
51 chapter 536, RSMo, are nonseverable and if any of the powers vested with the  
52 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective  
53 date, or to disapprove and annul a rule are subsequently held unconstitutional,  
54 then the grant of rulemaking authority and any rule proposed or adopted after  
55 August 28, [2003] **2006**, shall be invalid and void.

56 [7. The Missouri state employees' retirement system and the highways  
57 and transportation employees' and highway patrol retirement system shall make  
58 a report in writing to the governor, commissioner of administration, and the  
59 general assembly by April 1, 2004, and in addition shall provide monthly tracking

60 of the effect of state employee retirements pursuant to this section and section  
61 104.403. The report shall cover the time period of February 1, 2003, to January  
62 31, 2004. The report shall include the number of such retirements, the amount  
63 of payroll affected as a result of retirements, and the financial effect of such  
64 retirements as expressed in a report by each system's actuary.

65 8. The office of administration shall make a report in writing to the  
66 governor and the general assembly by April 1, 2004, and in addition shall provide  
67 monthly tracking of the budgetary effect of state employee retirements pursuant  
68 to this section and section 104.403. The report shall include the amount of  
69 payroll reduced as a result of such retirements, the number of positions that are  
70 core cut as a result of such retirements, the number of employees employed to  
71 replace those who retired pursuant to this section, and the financial effect on the  
72 budget, including any costs associated with payment of medical premiums by the  
73 state.

74 9. The Missouri consolidated health care plan shall make a report in  
75 writing to the governor and the general assembly by April 1, 2004, and in  
76 addition shall provide monthly tracking of the effect of state employee  
77 retirements pursuant to this section and section 104.403. The report may  
78 include, and not be limited to, the amount of payroll reduced as a result of such  
79 retirements, the number of positions that are core cut as a result of such  
80 retirements, the number of employees employed to replace those who retired  
81 pursuant to this section, and the financial effect on the budget, including any  
82 costs associated with payment of medical premiums by the state.]

83 **5. Any employee making an election under the provisions of this**  
84 **section and section 104.403 shall be prohibited from any employment**  
85 **with any department as defined in this chapter for a period of three**  
86 **years from the date of election.**

Section B. Because of the need to address the current fiscal crisis, section  
2 A of this act is deemed necessary for the immediate preservation of the public  
3 health, welfare, peace and safety, and is hereby declared to be an emergency act  
4 within the meaning of the constitution, and section A of this act shall be in full  
5 force and effect upon its passage and approval.

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