

FIRST REGULAR SESSION

[CORRECTED]

HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR

SENATE BILL NO. 406

94TH GENERAL ASSEMBLY

Reported from the Special Committee on Retirement April 5, 2007 with recommendation that House Committee Substitute No. 2 for Senate Bill No. 406 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

1648L.06C

AN ACT

To repeal sections 87.006, 103.085, 104.010, 104.040, 104.160, 104.312, 104.320, 104.344, 104.352, 104.354, 104.380, 104.395, 104.805, 104.1003, 104.1012, 104.1015, 104.1021, 104.1024, 104.1027, 104.1039, 104.1051, 104.1072, 104.1087, 104.1090, 105.660, 105.665, 105.910, 105.915, 105.920, 169.010, 169.070, 169.466, 169.471, 169.670, and 211.393, RSMo, and to enact in lieu thereof forty new sections relating to employee benefit plans.

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

Section A. Sections 87.006, 103.085, 104.010, 104.040, 104.160, 104.312, 104.320, 104.344, 104.352, 104.354, 104.380, 104.395, 104.805, 104.1003, 104.1012, 104.1015, 104.1021, 104.1024, 104.1027, 104.1039, 104.1051, 104.1072, 104.1087, 104.1090, 105.660, 105.665, 105.910, 105.915, 105.920, 169.010, 169.070, 169.466, 169.471, 169.670, and 211.393, RSMo, are repealed and forty new sections enacted in lieu thereof, to be known as sections 87.006, 103.085, 104.010, 104.040, 104.160, 104.312, 104.320, 104.344, 104.352, 104.354, 104.380, 104.395, 104.606, 104.805, 104.1003, 104.1012, 104.1015, 104.1021, 104.1024, 104.1027, 104.1039, 104.1051, 104.1072, 104.1087, 104.1090, 105.660, 105.665, 105.666, 105.667, 105.683, 105.684, 105.910, 105.915, 169.010, 169.070, 169.466, 169.471, 169.670, 211.393, and 321.800, to read as follows:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

87.006. 1. Notwithstanding the provisions of any law to the contrary, and only for the purpose of computing retirement benefits provided by an established retirement plan, after five years' service, any condition of impairment of health caused by any disease of the lungs or respiratory tract, hypotension, hypertension, or disease of the heart resulting in total or partial disability or death to a uniformed member of a paid fire department, who successfully passed a physical examination within five years prior to the time a claim is made for such disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in line of duty, unless the contrary be shown by competent evidence.

2. **Any condition of cancer affecting the skin or the central nervous, lymphatic, digestive, hematological, urinary, skeletal, oral, breast, testicular, genitourinary, liver or prostate systems, as well as any condition of cancer which may result from exposure to heat or radiation or to a known or suspected carcinogen as determined by the International Agency for Research on Cancer, which results in the total or partial disability or death to a uniformed member of a paid fire department who successfully passed a physical examination within five years prior to the time a claim is made for disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in the line of duty unless the contrary be shown by competent evidence and it can be proven to a reasonable degree of medical certainty that the condition did not result nor was contributed to by the voluntary use of tobacco.**

3. This section shall apply to paid members of all fire departments of all counties, cities, towns, fire districts and other governmental units.

103.085. Except as otherwise provided by sections 103.003 to 103.175, medical benefits coverage as provided by sections 103.003 to 103.175 shall terminate when the member ceases to be an active employee; except persons receiving or entitled to receive an annuity or retirement benefit or disability benefit or the spouse of or unemancipated children of deceased persons receiving or entitled to receive an annuity or retirement benefit or disability benefit from the state, participating member agency, institution, political subdivision or governmental entity may elect to continue coverage, provided the individuals to be covered have been continuously covered for health care benefits:

(1) Under a separate group or individual policy for the six-month period immediately preceding the member's date of death or disability or eligibility for normal or early retirement; or

(2) Pursuant to sections 103.003 to 103.175, since the effective date of the most recent open enrollment period prior to the member's date of death or disability or eligibility for normal or early retirement; or

15 (3) From the initial date of eligibility for the benefits provided by sections 103.003 to
16 103.175; or

17 (4) **Within sixty days of a loss of group coverage, provided that such coverage was**
18 **in place for at least twelve consecutive months immediately prior to the loss and that such**
19 **loss was due to the dependent's termination of employment or termination of group**
20 **coverage by the dependent's employer. This subdivision only applies to qualifying**
21 **dependents of members receiving or entitled to receive an annuity or retirement benefit**
22 **from the state, participating member agency, institution, political subdivision, or**
23 **governmental entity.**

24

25 Cost for coverage continued pursuant to this section shall be determined by the board. If an
26 eligible person does not elect to continue the coverage within thirty-one days of the first day of
27 the month following the date on which the eligible person ceases to be an employee, he or she
28 may not later elect to be covered pursuant to this section.

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

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

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

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

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

11 (5) "Actuary", the actuary who is a member of the American Academy of Actuaries or
12 who is an enrolled actuary under the Employee Retirement Income Security Act of 1974 and who
13 is employed by a board at any given time;

14 (6) "Annuity", annual payments, made in equal monthly installments, to a retired
15 member from funds provided for in, or authorized by, this chapter;

16 (7) "Average compensation", the average compensation of a member for the thirty-six
17 consecutive months of service prior to retirement when the member's compensation was greatest;
18 or if the member is on workers' compensation leave of absence or a medical leave of absence due
19 to an employee illness, the amount of compensation the member would have received may be
20 used, as reported and verified by the employing department; or if the member had less than
21 thirty-six months of service, the average annual compensation paid to the member during the
22 period up to thirty-six months for which the member received creditable service when the

23 member's compensation was the greatest; or if the member is on military leave, the amount of
24 compensation the member would have received may be used as reported and verified by the
25 employing department or, if such amount is not determinable, the amount of the employee's
26 average rate of compensation during the twelve-month period immediately preceding such period
27 of leave, or if shorter, the period of employment immediately preceding such period of leave.
28 **The board of each system may promulgate rules for purposes of calculating average**
29 **compensation and other retirement provisions to accommodate for any state payroll system**
30 **in which compensation is received on a monthly, semimonthly, biweekly, or other basis;**

31 (8) "Beneficiary", any person entitled to or nominated by a member or retiree who may
32 be legally entitled to receive benefits pursuant to this chapter;

33 (9) "Biennial assembly", the completion of no less than two years of creditable service
34 or creditable prior service by a member of the general assembly;

35 (10) "Board of trustees", "board", or "trustees", a board of trustees as established for the
36 applicable system pursuant to this chapter;

37 (11) "Chapter", sections 104.010 to 104.800;

38 (12) "Compensation":

39 (a) All salary and wages payable out of any state, federal, trust, or other funds to an
40 employee for personal services performed for a department; but including only amounts for
41 which contributions have been made in accordance with section 104.436, or section 104.070,
42 whichever is applicable, and excluding any nonrecurring single sum payments or amounts paid
43 after the member's termination of employment unless such amounts paid after such termination
44 are a final installment of salary or wages at the same rate as in effect immediately prior to
45 termination of employment in accordance with a state payroll system adopted on or after January
46 1, 2000, or any other one-time payments made as a result of such payroll system;

47 (b) All salary and wages which would have been payable out of any state, federal, trust
48 or other funds to an employee on workers' compensation leave of absence during the period the
49 employee is receiving a weekly workers' compensation benefit, as reported and verified by the
50 employing department;

51 (c) Effective December 31, 1995, compensation in excess of the limitations set forth in
52 Internal Revenue Code Section 401(a)(17) shall be disregarded. The limitation on compensation
53 for eligible employees shall not be less than the amount which was allowed to be taken into
54 account under the system as in effect on July 1, 1993. For this purpose, an "eligible employee"
55 is an individual who was a member of the system before the first plan year beginning after
56 December 31, 1995;

57 (13) "Consumer price index", the Consumer Price Index for All Urban Consumers for
58 the United States, or its successor index, as approved by a board, as such index is defined and
59 officially reported by the United States Department of Labor, or its successor agency;

60 (14) "Creditable prior service", the service of an employee which was either rendered
61 prior to the establishment of a system, or prior to the date the employee last became a member
62 of a system, and which is recognized in determining the member's eligibility and for the amount
63 of the member's benefits under a system;

64 (15) "Creditable service", the sum of membership service and creditable prior service,
65 to the extent such service is standing to a member's credit as provided in this chapter; except that
66 in no case shall more than one day of creditable service or creditable prior service be credited any
67 member for any one calendar day of eligible service credit as provided by law;

68 (16) "Deferred normal annuity", the annuity payable to any former employee who
69 terminated employment as an employee or otherwise withdrew from service with a vested right
70 to a normal annuity, payable at a future date;

71 (17) "Department", any department or agency of the executive, legislative or judicial
72 branch of the state of Missouri receiving state appropriations, including allocated funds from the
73 federal government but not including any body corporate or politic unless its employees are
74 eligible for retirement coverage from a system pursuant to this chapter as otherwise provided by
75 law;

76 (18) "Disability benefits", benefits paid to any employee while totally disabled as
77 provided in this chapter;

78 (19) "Early retirement age", a member's attainment of fifty-five years of age and the
79 completion of ten or more years of creditable service, except for uniformed members of the water
80 patrol;

81 (20) "Employee":

82 (a) Any elective or appointive officer or person employed by the state who is employed,
83 promoted or transferred by a department into a new or existing position and earns a salary or
84 wage in a position normally requiring the performance by the person of duties during not less
85 than one thousand **forty** hours per year, including each member of the general assembly but not
86 including any patient or inmate of any state, charitable, penal or correctional institution.
87 [Beginning September 1, 2001, the term "year" as used in this subdivision shall mean the
88 twelve-month period beginning on the first day of employment.] However, persons who are
89 members of the public school retirement system and who are employed by a state agency other
90 than an institution of higher learning shall be deemed employees for purposes of participating
91 in all insurance programs administered by a board established pursuant to section 104.450. This
92 definition shall not exclude any employee as defined in this subdivision who is covered only

93 under the federal Old Age and Survivors' Insurance Act, as amended. As used in this chapter,
94 the term "employee" shall include:

95 a. Persons who are currently receiving annuities or other retirement benefits from some
96 other retirement or benefit fund, so long as they are not simultaneously accumulating creditable
97 service in another retirement or benefit system which will be used to determine eligibility for or
98 the amount of a future retirement benefit;

99 b. Persons who have elected to become or who have been made members of a system
100 pursuant to section 104.342;

101 (b) Any person who **is not a retiree and** has performed services in the employ of the
102 general assembly or either house thereof, or any employee of any member of the general
103 assembly while acting in the person's official capacity as a member, and whose position does not
104 normally require the person to perform duties during at least one thousand **forty** hours per year,
105 with a month of service being any monthly pay period in which the employee was paid for
106 full-time employment for that monthly period; **except that persons described in this**
107 **paragraph shall not include any such persons who are employed on or after August 28,**
108 **2007, and who have not previously been employed in such positions;**

109 (c) "Employee" does not include special consultants employed pursuant to section
110 104.610;

111 (d) [As used in this chapter, the hours governing the definition of employee shall be
112 applied only from August 13, 1988, forward;

113 (e)] The system shall consider a person who is employed in multiple positions
114 simultaneously within a single agency to be working in a single position for purposes of
115 determining whether the person is an employee as defined in this subdivision;

116 (21) "Employer", a department of the state;

117 (22) "Executive director", the executive director employed by a board established
118 pursuant to the provisions of this chapter;

119 (23) "Fiscal year", the period beginning July first in any year and ending June thirtieth
120 the following year;

121 (24) "Full biennial assembly", the period of time beginning on the first day the general
122 assembly convenes for a first regular session until the last day of the following year;

123 (25) "Fund", the benefit fund of a system established pursuant to this chapter;

124 (26) "Interest", interest at such rate as shall be determined and prescribed from time to
125 time by a board;

126 (27) "Member", as used in sections 104.010 to 104.272 or 104.601 to 104.800 shall mean
127 [a member of the highways and transportation employees' and highway patrol retirement system
128 without regard to whether or not the member has been retired] **an employee, retiree, or former**

employee entitled to a deferred annuity covered by the Missouri department of transportation and highway patrol employees' retirement system. "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 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] **Missouri department of transportation and highway patrol employees' 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. **Notwithstanding any other law to the contrary, the board of trustees may establish a benefit plan under Section 415(m) of the Internal Revenue Code of 1986, as amended. Such plan shall be created solely for the purposes described in Section 415(m)(3)(A) of the Internal Revenue Code of 1986, as amended. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.**

104.040. 1. Any member shall be entitled to creditable prior service within the meaning of sections 104.010 to [104.270] **104.272** for all service in the United States Army, Navy, or other armed services of the United States, or any women's auxiliary thereof in time of active armed warfare, if such member was a state employee immediately prior to his or her entry into the armed services and became an employee of the state within ninety days after termination of such service by an honorable discharge or release to inactive status; the requirement of section 104.010 of duties during not less than one thousand hours for status as an "employee" shall not apply to persons who apply for creditable prior service pursuant to the provisions of this section.

9 2. Any member of the system who served as an employee prior to the original effective
10 date of sections 104.010 to [104.270] **104.272**, but was not an employee on that date, shall be
11 entitled to creditable prior service that such member would have been entitled to had such
12 member become a member of the retirement system on the date of its inception if such member
13 has, or hereafter attains, one year of continuous membership service.

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

17 4. Any member who had served in the armed forces of the United States prior to
18 becoming a member, or who is otherwise ineligible pursuant to subsection 1 of this section or
19 other provisions of this chapter, and who became a member after his or her discharge under
20 honorable conditions may elect, prior to retirement, to purchase all of his or her creditable prior
21 service equivalent to such service in the armed forces, but not to exceed four years, if the
22 member is not receiving and is not eligible to receive retirement credits or benefits from any
23 other public or private retirement plan for the service to be purchased, and an affidavit so stating
24 shall be filed by the member with the retirement system. However, if the member is eligible to
25 receive retirement credits in a United States military service retirement system, the member shall
26 be permitted to purchase creditable prior service equivalent to his or her service in the armed
27 services, but not to exceed four years, any other provision of law to the contrary notwithstanding.
28 The purchase shall be effected by the member's paying to the retirement system an amount equal
29 to what would have been contributed by the state in his or her behalf had the member been a
30 member for the period for which the member is electing to purchase credit and had his or her
31 compensation during such period of membership been the same as the annual salary rate at which
32 the member was initially employed as a member, with the calculations based on the contribution
33 rate in effect on the date of his or her employment with simple interest calculated from date of
34 employment from which the member could first receive creditable service to the date of election
35 pursuant to this subsection. The payment shall be made over a period of not longer than two
36 years, measured from the date of election, and with simple interest on the unpaid balance.
37 Payments made for such creditable prior service pursuant to this subsection shall be treated by
38 the retirement system as would contributions made by the state and shall not be subject to any
39 prohibition on member contributions or refund provisions in effect at the time of enactment of
40 this subsection.

41 5. Any uniformed member of the highway patrol who served as a certified police officer
42 prior to becoming a member may elect, prior to retirement, to purchase all of his or her creditable
43 prior service equivalent to such service in the police force, but not to exceed four years, if he or
44 she is not receiving and is not eligible to receive credits or benefits from any other public or

45 private retirement plan for the service to be purchased, and an affidavit so stating shall be filed
46 by the member with the retirement system. The purchase shall be effected by the member's
47 paying to the retirement system an amount equal to what would have been contributed by the
48 state in his or her behalf had he or she been a member of the system for the period for which the
49 member is electing to purchase credit and had his compensation during such period been the
50 same as the annual salary rate at which the member was initially employed as a member, with
51 the calculations based on the contribution rate in effect on the date of his or her employment with
52 simple interest calculated from the date of employment from which the member could first
53 receive creditable service to the date of election pursuant to the provisions of this section. The
54 payment shall be made over a period of not longer than two years, measured from the date of
55 election, and with simple interest on the unpaid balance. Payments made for such creditable
56 prior service pursuant to the provisions of this section shall be treated by the retirement system
57 as would contributions made by the state and shall not be subject to any prohibition on member
58 contributions or refund provisions in effect at the time of enactment of this section.

59 6. Any [uniformed] member of the [highway patrol] **system under section 104.030 or**
60 **104.170 who is an active employee and** who served as a nonfederal full-time public employee
61 in this state prior to becoming a member may elect, prior to retirement, to purchase all of his or
62 her creditable prior service equivalent to such service, but not to exceed four years, if he or she
63 is not receiving and is not eligible to receive credits or benefits from any other public plan for
64 the service to be purchased[, and an affidavit so stating shall be filed by the member with the
65 retirement system]. The purchase shall be effected by the member's paying to the retirement
66 system an amount equal to what would have been contributed by the state in his or her behalf had
67 he or she been a member of the system for the period for which the member is electing to
68 purchase credit and had his compensation during such period been the same as the annual salary
69 rate at which the member was initially employed as a member, with the calculations based on
70 the contribution rate in effect on the date of his or her employment with simple interest
71 calculated from the date of employment from which the member could first receive creditable
72 service to the date of election pursuant to the provisions of this section. The payment shall be
73 made over a period of not longer than two years, measured from the date of election, and with
74 simple interest on the unpaid balance. Payments made for such creditable prior service pursuant
75 to the provisions of this section shall be treated by the retirement system as would contributions
76 made by the state and shall not be subject to any prohibition on member contributions or refund
77 provisions in effect at the time of enactment of this section. **All purchase payments under this**
78 **subsection must be completed prior to retirement or prior to termination of employment.**
79 **If a member who purchased creditable service under this subsection dies prior to**
80 **retirement, the surviving spouse may, upon written request, receive a refund of the amount**

81 **contributed for such purchase of such creditable service. The surviving spouse shall not**
82 **be eligible for a refund under this subsection if he or she is entitled to survivorship benefits**
83 **payable under section 104.140. A member who is entitled to a deferred annuity under**
84 **section 104.035 shall be ineligible to purchase service under this subsection.**

104.160. The board of trustees shall consist of three members of the state highways and
2 transportation commission elected by the members of the commission. The superintendent of
3 the highway patrol and the director of the department of transportation shall serve as members
4 by virtue of their respective offices, and their successors shall succeed them as members of the
5 board of trustees. In addition, one member of the senate appointed by the president pro tem of
6 the senate and one member of the house of representatives, appointed by the speaker of the house
7 shall serve as members of the board of trustees. In addition to the appointed legislators, two
8 active employee members of the system shall be elected by a plurality vote of the active
9 employee members of the system, herein designated for four-year terms to commence July 1,
10 1982, and every four years thereafter. One elected member shall be elected from the active
11 employees of the department of transportation and one elected member shall be elected from the
12 active employees of the civilian or uniformed highway patrol. In addition to the two active
13 employee members, [one retired member] **two retirees** of the system shall be elected to serve
14 on the board by a plurality vote of the [retired members] **retirees** of the system. [The retired
15 member] **One retiree** shall be elected by the retired employees of the transportation department
16 and **one retiree shall be elected by** the retired [members] **employees** of the civilian or
17 uniformed highway patrol. [The first retired member elected to the board shall serve for a term
18 which shall commence on January 1, 1993, and expire on June 30, 1994. Subsequently elected
19 retired members shall serve for four-year terms commencing on July 1, 1994, and every four
20 years thereafter, which shall coincide with the terms of the active employee members of the
21 board.] **The retiree serving on the board on August 28, 2007, shall continue to serve on the**
22 **board as the representative of the retired employees of the transportation department until**
23 **June 30, 2010. An election shall be held prior to January 1, 2008, for the retiree to be**
24 **elected by the retired employees of the civilian or uniformed highway patrol with said term**
25 **to commence on January 1, 2008, and expire on June 30, 2010. All terms of elected retired**
26 **employees shall be for four years after June 30, 2010.** The board shall determine the
27 procedures for nomination and election of the elective board members. Nominations may be
28 entered by any member of the system, provided members of the system have a reasonable
29 opportunity to vote.

104.312. 1. The provisions of subsection 2 of section 104.250, subsection 2 of section
2 104.540, subsection 2 of section 287.820, RSMo, and section 476.688, RSMo, to the contrary
3 notwithstanding, any pension, annuity, benefit, right, or retirement allowance provided pursuant

4 to this chapter, chapter 287, RSMo, or chapter 476, RSMo, is marital property and after August
5 28, 1994, a court of competent jurisdiction may divide the pension, annuity, benefits, rights, and
6 retirement allowance provided pursuant to this chapter, chapter 287, RSMo, or chapter 476,
7 RSMo, between the parties to any action for dissolution of marriage. A division of benefits order
8 issued pursuant to this section:

9 (1) Shall not require the applicable retirement system to provide any form or type of
10 annuity or retirement plan not selected by the member and not normally made available by that
11 system;

12 (2) Shall not require the applicable retirement system to commence payments until the
13 member submits a valid application for an annuity and the annuity becomes payable in
14 accordance with the application;

15 (3) Shall identify the monthly amount to be paid to the alternate payee, which shall be
16 expressed as a percentage and which shall not exceed fifty percent of the amount of the member's
17 annuity accrued during all or part of the time while the member and alternate payee were
18 married; and which shall be based on the member's vested annuity on the date of the dissolution
19 of marriage or an earlier date as specified in the order, which amount shall be adjusted
20 proportionately if the member's annuity is reduced due to early retirement **or the member's**
21 **annuity is reduced pursuant to section 104.395 under an annuity option in which the**
22 **member named the alternate payee as beneficiary prior to the dissolution of marriage or**
23 **pursuant to section 104.090 under an annuity option in which the member on or after**
24 **August 28, 2007, named the alternative payee as beneficiary prior to the dissolution of**
25 **marriage**, and the percentage established shall be applied to the pro rata portion of any lump
26 sum distribution pursuant to subsection 6 of section 104.335, accrued during the time while the
27 member and alternate payee were married;

28 (4) Shall not require the payment of an annuity amount to the member and alternate
29 payee which in total exceeds the amount which the member would have received without regard
30 to the order;

31 (5) Shall provide that any benefit formula increases, additional years of service,
32 increased average compensation or other type of increases accrued after the date of the
33 dissolution of marriage shall accrue solely to the benefit of the member; except that on or after
34 September 1, 2001, any annual benefit increase shall not be considered to be an increase accrued
35 after the date of termination of marriage and shall be part of the monthly amount subject to
36 division pursuant to any order issued after September 1, 2001;

37 (6) Shall terminate upon the death of either the member or the alternate payee, whichever
38 occurs first;

39 (7) Shall not create an interest which is assignable or subject to any legal process;

40 (8) Shall include the name, address and Social Security number of both the member and
41 the alternate payee, and the identity of the retirement system to which it applies;

42 (9) Shall be consistent with any other division of benefits orders which are applicable
43 to the same member.

44 2. A system established by this chapter shall provide the court having jurisdiction of a
45 dissolution of marriage proceeding or the parties to the proceeding with information necessary
46 to issue a division of benefits order concerning a member of the system, upon written request
47 from either the court, the member or the member's spouse, which cites this section and identifies
48 the case number and parties.

49 3. A system established by this chapter shall have the discretionary authority to reject a
50 division of benefits order for the following reasons:

51 (1) The order does not clearly state the rights of the member and the alternate payee;

52 (2) The order is inconsistent with any law governing the retirement system.

53 4. The amount paid to an alternate payee under an order issued pursuant to this section
54 shall be based on [what the member would have received had the member elected coverage under
55 the closed plan pursuant to section 104.1015 regardless of the actual election made by the
56 member pursuant to that section] **the plan the member was in on the date of the dissolution**
57 **of marriage**; except that any annual benefit increases subject to division shall be based on the
58 actual annual benefit increases received after the retirement plan election.

104.320. 1. For the purpose of providing retirement income and other benefits to
2 employees of the state, there is hereby created and established a retirement system which shall
3 be a body corporate and an instrumentality of the state, which shall be under the management of
4 a board of trustees herein described, and shall be known as the "Missouri State Employees'
5 Retirement System". In the system shall be vested the powers and duties specified in sections
6 104.010 and 104.320 to 104.800 and such other powers as may be necessary or proper to enable
7 it, its officers, employees, and agents to carry out fully and effectively all the purposes of sections
8 104.010 and 104.320 to 104.800.

9 2. **Notwithstanding any provision of law to the contrary, the system is also**
10 **authorized and empowered to provide services in connection with medical benefit funds**
11 **established or maintained for state employees, retirees, and their dependents who are**
12 **participants in a state medical plan administered by the Missouri consolidated health plan**
13 **established under section 103.005, RSMo, or other medical benefit plans established or**
14 **maintained by the state for its employees, retirees, and their dependents. All such plans**
15 **described in this section shall be welfare plans referred to as "State Medical Plans". The**
16 **services to be provided by the system shall include, but not be limited to, the investment**
17 **of assets of such state medical plans. Such services to be provided by the system shall be**

18 provided under a trust agreement between the board, as trustee, and the state medical
19 plan, subject to approval by the board of trustees of the Missouri state employees'
20 retirement system and the state medical plan. The system shall be vested with the powers
21 and duties specified in section 104.010 and sections 104.320 to 104.1093 and such other
22 powers as may be necessary or proper to enable it, its officers, employees, and agents to
23 carry out fully and effectively all the purposes of this subsection. Whenever the system is
24 acting under section 104.010 and sections 104.320 to 104.1093 with respect to services
25 provided under this subsection, the provisions of such sections shall be read to apply to
26 services provided under this subsection and not to services provided under subsection 1 of
27 this section.

28 3. Notwithstanding any provision of law to the contrary, the board shall set up and
29 maintain a separate employee and retiree medical benefit trust for each state medical plan
30 that the system contracts with under subsection 2 of this section in which shall be placed
31 contributions made to the board by the state of Missouri, either directly or indirectly
32 through the medical benefit plan, to fund benefits payable under such state medical plan.
33 No such contributions made from the medical benefit plan's trust fund shall be transferred
34 to the board without the approval of the medical benefit plan's governing body. All
35 property, money, funds, investments, and rights so received and accepted by the board
36 together with proceeds and reinvestments thereof shall be dedicated to and held in a
37 separate trust, known as the medical benefit trust, for the exclusive purpose of satisfying
38 the obligations of the applicable state medical plan to pay health care and other medical
39 benefits to employee and retiree participants and their dependents under such state
40 medical plan. At no time shall any part of a medical benefit trust be used for or diverted
41 to any purpose other than for the exclusive purpose of satisfying the obligations of the
42 applicable state medical plan to provide health care and other medical benefits to employee
43 and retiree participants and their dependents, including payment of benefits on behalf of
44 such participants under such state medical plan and payment of reasonable expenses of the
45 medical benefit trust. The board may establish one or more trust instruments that set forth
46 the terms and conditions for holding, investing, and distributing assets of a medical benefit
47 trust that are consistent with subsection 2 of this section. Such medical benefit trust may
48 be irrevocable. A separate account for a state medical plan may be established under a
49 separate trust instrument. The board may consolidate the retiree assets of one or more
50 medical benefit trusts in a single fund or funds, a "master trust", that may be commingled
51 for investment purposes, and subject to the applicable trust agreement, may commingle the
52 retiree assets of one or more medical benefit trusts with assets of the system for investment
53 purposes. In the event the board commingles assets of one or more trusts for investment

54 purposes, it shall maintain separate bookkeeping accounts reflecting the separate share in
55 each investment pool of each participating trust. The board shall have power to purchase,
56 acquire, hold, invest, lend, lease, sell, assign, transfer, and dispose of all property, rights,
57 and securities and enter into written contracts all as may be necessary or proper to carry
58 out the purposes of this subsection and subsection 2 of this section. Whenever the system
59 is acting under section 104.010 and sections 104.320 to 104.1093 with respect to an account
60 established under this subsection, the provisions of such sections shall be read to apply to
61 an account provided under this subsection and not accounts established under subsection
62 1 of section 104.440.

63 **4. The board shall make such payments from a medical benefit trust to or for the**
64 **benefit of the participants in a state medical plan and their dependents, at such time, in**
65 **such manner, in such amounts, in such form, and for such purposes as may be specified in**
66 **one or more directives by the state medical plan administrator authorized to direct**
67 **payment of benefits under such state medical plan from time to time or as provided in a**
68 **trust agreement governing such medical benefit trust, and the board shall have no**
69 **responsibility and shall be without liability for any payment made under such direction.**
70 **The board shall be under no duty or obligation to make any inquiry or investigation as to**
71 **whether any direction is made under the provisions of any state medical plan and shall not**
72 **be responsible in any respect for the administration of any state medical plan. Payment**
73 **in response to such direction shall be a complete discharge of the board of its responsibility**
74 **for the holding and safekeeping of such assets and any assets paid over shall no longer**
75 **constitute part of the medical benefit trust.**

76 **5. The board shall invest the funds of a medical benefit trust in the same manner**
77 **as it invests funds of the retirement system as permitted by sections 105.686 to 105.690,**
78 **RSMo.**

79 **6. The board may authorize the executive director to assist with programs and**
80 **procedures pertaining to payroll for state employees and any state employee benefits as**
81 **requested by the office of administration or other state agencies.**

104.344. Notwithstanding any other law to the contrary, any person who is actively
2 employed by the state of Missouri in a position covered by a retirement plan administered by the
3 Missouri state employees' retirement system and who had nonfederal full-time public
4 employment in the state of Missouri [or who had provided full-time services for compensation
5 to the state of Missouri under a contract], and who by virtue of such employment was a member
6 of a retirement system or other employer-sponsored retirement plan other than the Missouri state
7 employees' retirement system but is not vested in such other retirement system or plan, or was
8 not a member of any retirement system or plan, may elect, prior to retirement, to purchase all of

9 the member's creditable prior service but not to exceed four years for such service in any plan
10 administered by the Missouri state employees' retirement system in which the person is receiving
11 service credit for active employment or is eligible for a deferred annuity. The purchase shall be
12 effected by the person paying to the Missouri state employees' retirement system an amount
13 equal to what would have been contributed by the state in his or her behalf had the person been
14 a member for the period for which he or she is electing to purchase credit and had the person's
15 compensation during such period been the same as the annual salary rate at which the person was
16 initially employed in a position covered by a plan administered by the Missouri state employees'
17 retirement system **or the Missouri department of transportation and highway patrol**
18 **employees' retirement system**, with the calculations based on the contribution rate in effect on
19 the date of his or her employment under the provisions of the Missouri state employees'
20 retirement system with simple interest calculated from the date of employment from which the
21 person could first receive creditable service from the Missouri state employees' retirement system
22 to the date of election to purchase such service. The payment shall be made over a period of not
23 longer than two years, with simple interest on the unpaid balance. In no event shall any [person
24 receive credit or benefits under any other] **individual be eligible to purchase creditable service**
25 **under this section if such individual after the completion of such purchase has or will**
26 **receive credit or service under another** retirement plan as defined pursuant to section 105.691,
27 RSMo, for [creditable service] **the same time period of service being purchased pursuant to the**
28 provisions of this section. The contribution rate for any judge who elects to purchase service for
29 a period prior to July 1, 1998, shall be equal to a contribution rate which would be used if the
30 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
2 subdivision (18) of section 104.010 is entitled to credit for all prior service and membership
3 service as if he had been a member of the system on the date of its inception. Any such
4 employee shall be considered a member of the system from the date of his or her employment
5 and shall receive credit for each month of service for which he is employed with service being
6 computed as if part-time employment with the general assembly were full-time employment for
7 the period the member was so employed.

8 2.] Each employee described in paragraph (b) of subdivision [(18)] **(20)** of section
9 104.010 shall be entitled to the same insurance benefits provided under sections 103.003 to
10 103.175, RSMo to employees described in paragraph (a) of subdivision [(18)] **(20)** of section
11 104.010 to cover the medical expenses of such employees and their spouses and children. Such
12 insurance benefits shall be made available to employees described in paragraph (b) of
13 subdivision [(18)] **(20)** of section 104.010 upon their initial employment as such employees in
14 the same manner provided for employees described in paragraph (a) of subdivision [(18)] **(20)**

15 of section 104.010, and shall be continued during any period of time, not to exceed one year, in
16 which such employees are not paid for full-time employment, so long as such employees pay the
17 same amount for such insurance benefits as is required of employees described in paragraph (a)
18 of subdivision [(18)] **(20)** of section 104.010 who continue receiving such insurance benefits
19 during a leave of absence without pay from their employment with the state. Any employee
20 described in paragraph (b) of subdivision [(18)] **(20)** of section 104.010 who is reemployed by
21 the general assembly or either house thereof, or by any member of the general assembly while
22 acting in his official capacity as a member, by the thirteenth legislative day of the session of the
23 general assembly immediately following the session of the general assembly in which such
24 employee was last so employed, without having elected to discontinue the insurance benefits
25 described in this subsection, shall be entitled to continue such insurance benefits without having
26 to prove insurability for himself or any of his covered dependents for whom he has paid for such
27 coverage continuously since last employed as an employee described in paragraph (b) of
28 subdivision [(18)] **(20)** of section 104.010. Any employee described in paragraph (b) of
29 subdivision [(18)] **(20)** of section 104.010 who is not reemployed by the general assembly or
30 either house thereof, or by any member of the general assembly while acting in his official
31 capacity as a member, by the thirteenth legislative day of the session of the general assembly
32 immediately following the session of the general assembly in which such employee was last so
33 employed, shall be deemed terminated as an employee as of such thirteenth legislative day, and
34 the insurance benefits provided for such employee under this subsection and sections 103.003
35 to 103.175, RSMo, shall be terminated as provided for employees described in paragraph (a) of
36 subdivision [(18)] **(20)** of section 104.010 whose employment is terminated. During each month
37 of service in which an employee described in paragraph (b) of subdivision [(18)] **(20)** of section
38 104.010 is employed, the state shall make any contribution required by sections 103.003 to
39 103.175, RSMo, for such employee.

40 [3.] **2.** Any employee described in paragraph (b) of subdivision [(18)] **(20)** of section
41 104.010 who is actively employed on or after September 28, 1992, shall be deemed vested for
42 purposes of determining eligibility for benefits under sections 104.320 to 104.620 after being so
43 employed for at least sixty months.

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

104.380. If a retired member is elected to any state office or is appointed to any state office or is employed by a department in a position normally requiring the performance by the person of duties during not less than one thousand **forty** hours per year, the member shall not receive an annuity for any month or part of a month for which the member serves as an officer or employee, but the member shall be considered to be a new employee with no previous creditable service and must accrue creditable service **continuously for at least one year** in order to receive any additional annuity. Any retired member who again becomes an employee and who accrues additional creditable service and later retires shall receive an additional amount of monthly annuity calculated to include only the creditable service and the average compensation earned by the member since such employment or creditable service earned as a member of the general assembly. Years of membership service and twelfths of a year are to be used in calculating any additional annuity except for creditable service earned as a member of the general assembly, and such additional annuity shall be based on the type of service accrued. In either event, the original annuity and the additional annuity, if any, shall be paid commencing with the end of the first month after the month during which the member's term of office has been completed, or the member's employment terminated. If a retired member is employed by a department in a position that does not normally require the person to perform duties during at least one thousand **forty** hours per year, the member shall not be considered an employee as defined pursuant to section 104.010. A retired member who becomes reemployed as an employee on or after August 28, 2001, in a position covered by the highways and transportation employees' and highway patrol retirement system shall not be eligible to receive retirement benefits or additional creditable service from the state employees' retirement system.

104.395. 1. In lieu of the normal annuity otherwise payable to a member pursuant to [section] **sections** 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

15 application for retirement or as otherwise provided pursuant to subsection 5 of this section. Such
16 annuity shall be reduced in the same manner as an annuity under option 2 as in effect
17 immediately prior to August 28, 1997. The surviving spouse shall designate a beneficiary to
18 receive any final monthly payment due after the death of the surviving spouse; or

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

27 Option 3. An actuarial reduction approved by the board of the member's normal annuity
28 in reduced monthly payments for the member's life with the provision that if the member dies
29 prior to the member having received one hundred twenty monthly payments of the member's
30 reduced annuity, the member's reduced annuity to which the member would have been entitled
31 had the member lived shall be paid for the remainder of the one hundred twenty months' period
32 to such person as the member shall have nominated by written designation duly executed and
33 filed with the board. If there is no such beneficiary surviving the retirant, the reserve for such
34 annuity for the remainder of such one hundred twenty months' period shall be paid [to the
35 retirant's estate] **as provided under subsection 3 of section 104.620**. If such beneficiary dies
36 after the member's date of death but before having received the remainder of the one hundred
37 twenty monthly payments of the retiree's reduced annuity, the reserve for such annuity for the
38 remainder of such one hundred twenty-month period shall be paid [to the beneficiary's estate]
39 **as provided under subsection 3 of section 104.620**; or

40 Option 4. An actuarial reduction approved by the board of the member's normal annuity
41 in reduced monthly payments for the member's life with the provision that if the member dies
42 prior to the member having received sixty monthly payments of the member's reduced annuity,
43 the member's reduced annuity to which the member would have been entitled had the member
44 lived shall be paid for the remainder of the sixty months' period to such person as the member
45 shall have nominated by written designation duly executed and filed with the board. If there be
46 no such beneficiary surviving the retirant, the reserve for such annuity for the remainder of such
47 sixty months' period shall be paid [to the retirant's estate] **as provided under subsection 3 of**
48 **section 104.620**. If such beneficiary dies after the member's date of death but before having
49 received the remainder of the sixty monthly payments of the retiree's reduced annuity, the reserve

50 for such annuity for the remainder of the sixty-month period shall be paid [to the beneficiary's
51 estate] **as provided under subsection 3 of section 104.620.**

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

57 3. For members who retire on or after August 28, 1995, in the event such member
58 elected a joint and survivor option pursuant to the provisions of this section and the member's
59 eligible spouse or eligible former spouse precedes the member in death, the member's annuity
60 shall revert effective the first of the month following the death of the spouse or eligible former
61 spouse regardless of when the board receives the member's written application for the benefit
62 provided in this subsection, to an amount equal to the member's normal annuity, as adjusted for
63 early retirement if applicable; such benefit shall include any increases the member would have
64 received since the date of retirement had the member elected a normal annuity. **If a member**
65 **dies prior to notifying the system of the spouse's death, the benefit will not revert to a**
66 **normal annuity and no retroactive payments shall be made.**

67 4. Effective on or after August 28, 1995, any retired member who had elected a joint and
68 survivor option and whose spouse or eligible former spouse precedes or preceded the member
69 in death shall upon application to the board be made, constituted, appointed and employed by
70 the board as a special consultant on the problems of retirement, aging and other state matters.
71 As a special consultant pursuant to the provisions of this section, the member's reduced annuity
72 shall revert to a normal annuity as adjusted for early retirement, if applicable, effective the first
73 of the month following the death of the spouse or eligible former spouse or August 28, 1995,
74 whichever is later, [regardless of when the board receives the member's written application] **if**
75 **the member cancels the member's original joint and survivor election;** such annuity shall
76 include any increases the retired member would have received since the date of retirement had
77 the member elected a normal annuity.

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

81 (1) The member elected to receive a normal annuity and was not eligible to elect option
82 1 or 2 on the date retirement benefits were initiated; or

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

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

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

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

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

 104.805. 1. Employees who are earning creditable service in the closed plan of the
2 Missouri state employees' retirement system and who are, as a result of the provisions of this
3 section and sections 226.008, 389.005, 389.610, and 621.040, RSMo, transferred to the
4 department of transportation will not become members of the closed plan of the [highways and
5 transportation employees' and highway patrol] **Missouri department of transportation and**
6 **highway patrol employees'** retirement system unless they elect to transfer membership and
7 creditable service to the closed plan of the [highways and transportation employees' and highway
8 patrol] **Missouri department of transportation and highway patrol employees'** retirement
9 system. The election must be in writing and must be made within [ninety] **sixty** days of [July
10 11, 2002] **August 28, 2007**. Any election to transfer membership and creditable service to the
11 [highways and transportation employees' and highway patrol] **Missouri department of**
12 **transportation and highway patrol employees'** retirement system shall result in the forfeiture
13 of any rights or benefits in the Missouri state employees' retirement system. Any failure to elect
14 to transfer membership and creditable service pursuant to this subsection will result in the
15 employees remaining in the closed plan of the Missouri state employees' retirement system. If
16 an election is made, the effective date for commencement of membership and transfer of such
17 creditable service shall be January 1, [2003] **2008**.

18 2. Employees who are earning credited service in the year 2000 plan of the Missouri state
19 employees' retirement system and who are, as a result of the provisions of this section and

20 sections 226.008, 389.005, 389.610, and 621.040, RSMo, transferred to the department of
21 transportation will remain in the year 2000 plan administered by the Missouri state employees'
22 retirement system unless they elect to transfer membership and credited service to the year 2000
23 plan administered by the [highways and transportation employees' and highway patrol] **Missouri**
24 **department of transportation and highway patrol employees'** retirement system. The
25 election must be in writing and must be made within [ninety] **sixty** days of [July 11, 2002]
26 **August 28, 2007**. Any election to transfer membership and credited service to the year 2000
27 plan administered by the [highways and transportation employees' and highway patrol] **Missouri**
28 **department of transportation and highway patrol employees'** retirement system shall result
29 in the forfeiture of any rights or benefits in the Missouri state employees' retirement system. Any
30 failure to elect to transfer membership and credited service pursuant to this subsection will result
31 in the employees remaining in the year 2000 plan administered by the Missouri state employees'
32 retirement system. If an election is made, the effective date for commencement of membership
33 and transfer of such creditable service shall be January 1, [2003] **2008**.

34 3. For any employee who elects under subsection 1 or 2 of this section to transfer to the
35 [highways and transportation employees' and highway patrol] **Missouri department of**
36 **transportation and highway patrol employees'** retirement system, the Missouri state
37 employees' retirement system shall pay to the [highways and transportation employees' and
38 highway patrol] **Missouri department of transportation and highway patrol employees'**
39 retirement system, by December 31, [2002] **2007**, an amount actuarially determined to equal the
40 liability transferred from the Missouri state employees' retirement system.

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

43 5. For any transferred employee who elects under subsection 1 or 2 of this section to
44 transfer to the [highways and transportation employee's and highway patrol] **Missouri**
45 **department of transportation and highway patrol employees'** retirement system, the only
46 medical coverage available for the employee shall be the medical coverage provided in section
47 104.270. The effective date for commencement of medical coverage shall be January 1, [2003]
48 **2008**. However, this does not preclude medical coverage for the transferred employee as a
49 dependent under any other health care plan.

50 6. **Those employees transferred to the department of transportation prior to**
51 **January 1, 2003, under the provisions of this section and sections 226.008, 389.005, 389.610,**
52 **and 621.040, RSMo, shall not be eligible for the election provisions under this section.**

104.1003. 1. Unless a different meaning is plainly required by the context, the following
2 words and phrases as used in sections 104.1003 to 104.1093 shall mean:

3 (1) "Act", the "Year 2000 Plan" created by sections 104.1003 to 104.1093;

4 (2) "Actuary", an actuary who is experienced in retirement plan financing and who is
5 either a member of the American Academy of Actuaries or an enrolled actuary under the
6 Employee Retirement Income Security Act of 1974;

7 (3) "Annuity", annual benefit amounts, paid in equal monthly installments, from funds
8 provided for in, or authorized by, sections 104.1003 to 104.1093;

9 (4) "Annuity starting date" means the first day of the first month with respect to which
10 an amount is paid as an annuity pursuant to sections 104.1003 to 104.1093;

11 (5) "Beneficiary", any person or entity entitled to receive an annuity or other benefit
12 pursuant to sections 104.1003 to 104.1093 based upon the employment record of another person;

13 (6) "Board of trustees", "board", or "trustees", a governing body or bodies established
14 for the year 2000 plan pursuant to sections 104.1003 to 104.1093;

15 (7) "Closed plan", a benefit plan created pursuant to this chapter and administered by a
16 system prior to July 1, 2000. No person first employed on or after July 1, 2000, shall become
17 a member of the closed plan, but the closed plan shall continue to function for the benefit of
18 persons covered by and remaining in the closed plan and their beneficiaries;

19 (8) "Consumer price index", the Consumer Price Index for All Urban Consumers for the
20 United States, or its successor index, as approved by the board, as such index is defined and
21 officially reported by the United States Department of Labor, or its successor agency;

22 (9) "Credited service", the total credited service to a member's credit as provided in
23 sections 104.1003 to 104.1093; **except that in no case shall more than one day of credited**
24 **service be credited to any member or vested former member for any one calendar day of**
25 **eligible credit as provided by law;**

26 (10) "Department", any department or agency of the executive, legislative, or judicial
27 branch of the state of Missouri receiving state appropriations, including allocated funds from the
28 federal government but not including any body corporate or politic unless its employees are
29 eligible for retirement coverage from a system pursuant to this chapter as otherwise provided by
30 law;

31 (11) "Early retirement eligibility", a member's attainment of fifty-seven years of age and
32 the completion of at least five years of credited service;

33 (12) "Effective date", July 1, 2000;

34 (13) "Employee" shall be any person who is employed by a department and is paid a
35 salary or wage by a department in a position normally requiring the performance of duties of not
36 less than one thousand **forty** hours per year, provided:

37 (a) The term "employee" shall not include any patient or inmate of any state, charitable,
38 penal or correctional institution, or any person who is employed by a department in a position
39 that is covered by a state-sponsored defined benefit retirement plan not created by this chapter;

40 (b) The term "employee" shall be modified as provided by other provisions of sections
41 104.1003 to 104.1093;

42 (c) The system shall consider a person who is employed in multiple positions
43 simultaneously within a single agency to be working in a single position for purposes of
44 determining whether the person is an employee as defined in this subdivision;

45 (d) Beginning September 1, 2001, the term "year" as used in this subdivision shall mean
46 the twelve-month period beginning on the first day of employment;

47 **(e) The term "employee" shall include any person as defined under paragraph (b)**
48 **of subdivision (20) of subsection 1 of section 104.010 who is first employed on or after July**
49 **1, 2000, but prior to August 28, 2007;**

50 (14) "Employer", a department;

51 (15) "Executive director", the executive director employed by a board established
52 pursuant to the provisions of sections 104.1003 to 104.1093;

53 (16) "Final average pay", the average pay of a member for the thirty-six full consecutive
54 months of service before termination of employment when the member's pay was greatest; or if
55 the member was on workers' compensation leave of absence or a medical leave of absence due
56 to an employee illness, the amount of pay the member would have received but for such leave
57 of absence as reported and verified by the employing department; or if the member was
58 employed for less than thirty-six months, the average monthly pay of a member during the period
59 for which the member was employed. **The board of each system may promulgate rules for**
60 **purposes of calculating final average pay and other retirement provisions to accommodate**
61 **for any state payroll system in which pay is received on a monthly, semimonthly, biweekly,**
62 **or other basis;**

63 (17) "Fund", a fund of the year 2000 plan established pursuant to sections 104.1003 to
64 104.1093;

65 (18) "Investment return", or "interest", rates as shall be determined and prescribed from
66 time to time by a board;

67 (19) "Member", a person who is included in the membership of the system, as set forth
68 in section 104.1009;

69 (20) "Normal retirement eligibility", a member's attainment of at least sixty-two years
70 of age and the completion of at least five or more years of credited service or, the attainment of
71 at least forty-eight years of age with a total of years of age and years of credited service which
72 is at least eighty or, in the case of a member of the highway patrol who shall be subject to the
73 mandatory retirement provisions of section 104.080, the mandatory retirement age and
74 completion of five years of credited service or, the attainment of at least forty-eight years of age
75 with a total of years of age and years of credited service which is at least eighty;

76 (21) "Pay" shall include:

77 (a) All salary and wages payable to an employee for personal services performed for a
78 department; but excluding:

79 a. Any amounts paid after an employee's employment is terminated, unless the payment
80 is made as a final installment of salary or wages at the same rate as in effect immediately prior
81 to termination of employment in accordance with a state payroll system adopted on or after
82 January 1, 2000;

83 b. Any amounts paid upon termination of employment for unused annual leave or unused
84 sick leave;

85 c. Pay in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue
86 Code of 1986 as amended and other applicable federal laws or regulations; [and]

87 d. Any nonrecurring single sum payments; **and**

88 **e. Any amounts for which contributions have not been made in accordance with**
89 **section 104.1066;**

90 (b) All salary and wages which would have been payable to an employee on workers'
91 compensation leave of absence during the period the employee is receiving a weekly workers'
92 compensation benefit, as reported and verified by the employing department;

93 (c) All salary and wages which would have been payable to an employee on a medical
94 leave due to employee illness, as reported and verified by the employing department;

95 (d) For purposes of members of the general assembly, pay shall be the annual salary
96 provided to each senator and representative pursuant to section 21.140, RSMo, plus any salary
97 adjustment pursuant to section 21.140, RSMo;

98 (22) "Retiree", a person receiving an annuity from the year 2000 plan based upon the
99 person's employment record;

100 (23) "State", the state of Missouri;

101 (24) "System" or "retirement system", the Missouri state employees' retirement system
102 or the [transportation department and highway patrol retirement system] **Missouri department**
103 **of transportation and highway patrol employees' retirement system**, as the case may be;

104 (25) "Vested former member", a person entitled to receive a deferred annuity pursuant
105 to section 104.1036;

106 (26) "Year 2000 plan", the benefit plan created by sections 104.1003 to 104.1093.

107 **2. Benefits paid under the provisions of this chapter shall not exceed the limitations**
108 **of Internal Revenue Code Section 415, the provisions of which are hereby incorporated by**
109 **reference. Notwithstanding any other law to the contrary, the board of trustees may**
110 **establish a benefit plan under Section 415(m) of the Internal Revenue Code of 1986, as**
111 **amended. Such plan shall be created solely for the purposes described in Section**

112 **415(m)(3)(A) of the Internal Revenue Code of 1986, as amended. The board of trustees**
113 **may promulgate regulations necessary to implement the provisions of this subsection and**
114 **to create and administer such benefit plan.**

104.1012. 1. Any new state employee who would have become a member of the closed
2 plan administered by the transportation department and highway patrol retirement system except
3 for the creation of the year 2000 plan and persons covered by the closed plan administered by
4 the highway and transportation employees' and highway patrol retirement system who elect year
5 2000 plan coverage as provided in section 104.1015 shall have their year 2000 plan coverage
6 managed by that board.

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

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

104.1015. 1. Persons covered by a closed plan on July 1, 2000, shall elect whether or
2 not to change to year 2000 plan coverage. Any such person who elects to be covered by the year
3 2000 plan shall forfeit all rights to receive benefits under this chapter except as provided under
4 the year 2000 plan and all creditable service of such person under the closed plan shall be
5 credited under the year 2000 plan. Any such person who elects not to be covered by the year
6 2000 plan shall waive all rights to receive benefits under the year 2000 plan. In no event shall
7 any retroactive annuity be paid to such persons pursuant to sections 104.1003 to 104.1093 except
8 as described in subsection 2 of this section.

9 2. Each retiree of the closed plan on July 1, 2000, shall be furnished by the appropriate
10 system a written comparison of the retiree's closed plan coverage and the retiree's potential year
11 2000 plan coverage. A retiree shall elect whether or not to change to year 2000 plan coverage
12 by making a written election, on a form furnished by the appropriate board, and providing that
13 form to the system by no later than twelve months after July 1, 2000, and any retiree who fails

14 to make such election within such time period shall be deemed to have elected to remain covered
15 under the closed plan; provided the election must be after the retiree has received from the
16 appropriate system such written comparison. The retirement option elected under the year 2000
17 plan shall be the same as the retirement option elected under the closed plan, except any retiree
18 who is receiving one of the options providing for a continuing lifetime annuity to a surviving
19 spouse under the closed plan may elect to receive an annuity under option 1 or 2 of section
20 104.1027, or a life annuity under subsection 2 of section 104.1024, provided the person who was
21 married to the member at the time of retirement, if any, consents in writing to such election made
22 pursuant to section 104.1024, or to any election described in this section if the person was
23 married to a member of the Missouri state employees' retirement system. The effective date of
24 payment of an annuity under the year 2000 plan as provided in this subsection shall begin on July
25 1, 2000. No adjustment shall be made to retirement benefits paid to the retiree prior to July 1,
26 2000. In order to calculate a new monthly annuity for retirees electing coverage under the year
27 2000 plan pursuant to this subsection, the following calculations shall be made:

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

36 (2) If option 1 or 2 pursuant to section 104.1027 is chosen by the retiree under the year
37 2000 plan, the new monthly retirement annuity calculated pursuant to subdivision (1) of this
38 subsection shall be recalculated using the reduction factors for the option chosen pursuant to
39 section 104.1027.

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

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

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

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

63 4. Each person who is not an employee and not a retiree and is eligible for a deferred
64 annuity from the closed plan on July 1, 2000, shall elect whether or not to change to the year
65 2000 plan coverage prior to the last business day of the month before the person's annuity
66 starting date, and if such election has not been made within such time, annuity payments due
67 beginning on and after the month of the annuity starting date shall be made the month following
68 the receipt by the appropriate system of such election and any other information required by the
69 year 2000 plan created by sections 104.1003 to 104.1093; provided, the election must be after
70 the person has received from the year 2000 plan a written comparison of the person's closed plan
71 coverage and the person's potential year 2000 plan coverage and the election must be made in
72 writing on a form furnished by the appropriate board. If such person dies after the annuity
73 starting date but before making such election and providing such other information, no benefits
74 shall be paid except as required pursuant to section 104.420 or subsection 2 of section 104.372
75 for members of the general assembly.

76 5. Each person who is not an employee and not a retiree and is eligible for a deferred
77 annuity from the closed plan and returns to covered employment on or after July 1, 2000, shall
78 be covered under the closed plan; provided, such person shall elect whether or not to change to
79 the year 2000 plan coverage prior to the last business day of the month before the person's
80 annuity starting date, and if such election has not been made within such time, annuity payments
81 due beginning on and after the month of the annuity starting date shall be made the month
82 following the receipt by the appropriate system of such election and any other information
83 required by the year 2000 plan created by sections 104.1003 to 104.1093 and the election must
84 be after the person has received from the year 2000 plan a written comparison of the person's
85 closed plan coverage and the person's potential year 2000 plan coverage and the election must

86 be made in writing on a form furnished by the appropriate board. If such person dies after the
87 annuity starting date but before making such election and providing such other information, no
88 benefits shall be paid except as required under section 104.420 or subsection 2 of section
89 104.372 for members of the general assembly.

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

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

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

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

104.1021. 1. The appropriate board shall determine how much credited service shall be
2 given each member consistent with this section.

3 2. If a member terminates employment and is eligible to receive an annuity pursuant to
4 the year 2000 plan, or becomes a vested former member at the time of termination, the member's
5 or former member's unused sick leave as reported through the financial and human resources
6 system maintained by the office of administration, or if a department's employees are not paid
7 salaries or wages through such system, as reported directly by the department, for which the
8 member has not been paid will be converted to credited service at the time of application for
9 retirement benefits. The member shall receive one-twelfth of a year of credited service for each
10 one hundred and sixty-eight hours of such unused sick leave. The employing department shall
11 not certify unused sick leave unless such unused sick leave could have been used by the member
12 for sickness or injury. The rate of accrual of sick leave for purposes of computing years of
13 service pursuant to this section shall be no greater than ten hours per month. Such credited
14 service shall not be used in determining the member's eligibility for retirement or final average
15 pay. Such credited service shall be added to the credited service in the last position of
16 employment held as a member of the system.

17 3. If a member is employed in a covered position and simultaneously employed in one
18 or more other covered or noncovered positions, credited service shall be determined as if all such
19 employment were in one position, and covered pay shall be the total of pay for all such positions.

20 4. In calculating any annuity, "credited service" means a period expressed as whole years
21 and any fraction of a year measured in twelfths that begins on the date an employee commences
22 employment in a covered position and ends on the date such employee's membership terminates
23 pursuant to section 104.1018 plus any additional period for which the employee is credited with
24 service pursuant to this section.

25 5. A member shall be credited for all military service after membership commences as
26 required by state and federal law.

27 6. Any member who had active military service in the United States Army, Air Force,
28 Navy, Marine Corps, Army or Air National Guard, Coast Guard, or any reserve component
29 thereof prior to last becoming a member, or who is otherwise ineligible to receive credited
30 service pursuant to subsection 1 or 5 of this section, and who became a member after the person's
31 discharge from military service under honorable conditions may elect, prior to retirement, to
32 purchase credited service for all such military service, but not to exceed four years, provided the
33 person is not receiving and is not eligible to receive retirement credits or benefits from any other
34 public or private retirement plan, other than a United States military service retirement system,
35 for the military service to be purchased along with the submission of appropriate documentation
36 verifying the member's dates of active service. The purchase shall be effected by the member
37 paying to the system an amount equal to the state's contributions that would have been made to
38 the system on the member's behalf had the member been a member for the period for which the
39 member is electing to purchase credit and had the member's pay during such period of
40 membership been the same as the annual pay rate as of the date the member was initially
41 employed as a member, with the calculations based on the contribution rate in effect on the date
42 of such member's employment with simple interest calculated from the date of employment to
43 the date of election pursuant to this subsection. The payment shall be made over a period of not
44 longer than two years, measured from the date of election, and with simple interest on the unpaid
45 balance. If a member who purchased credited service pursuant to this subsection dies prior to
46 retirement, the surviving spouse may, upon written request, receive a refund of the amount
47 contributed for such purchase of such credited service, provided the surviving spouse is not
48 entitled to survivorship benefits payable pursuant to the provisions of section 104.1030.

49 7. Any member of the Missouri state employees' retirement system shall receive credited
50 service for the creditable prior service that such employee would have been entitled to under the
51 closed plan pursuant to section 104.339, subsections 2, and 6 to 9 of section 104.340, subsection
52 12 of section 104.342, section 104.344, subsection 4 of section 104.345, subsection 4 of section

53 104.372, section 178.640, RSMo, and section 211.393, RSMo, provided such service has not
54 been credited under the closed plan.

55 8. Any member who has service in both systems and dies or terminates employment shall
56 have the member's service in the other system transferred to the last system that covered such
57 member and any annuity payable to such member shall be paid by that system. Any such
58 member may elect to transfer service between systems prior to termination of employment,
59 provided, any annuity payable to such member shall be paid by the last system that covered such
60 member prior to the receipt of such annuity.

61 9. In no event shall any person or member receive credited service pursuant to the year
62 2000 plan if that same service is credited for retirement benefits under any defined benefit
63 retirement system not created pursuant to this chapter.

64 10. Any additional credited service as described in subsections 5 to 7 of this section shall
65 be added to the credited service in the first position of employment held as a member of the
66 system. Any additional creditable service received pursuant to section 105.691, RSMo, shall be
67 added to the credited service in the position of employment held at the time the member
68 completes the purchase or transfer pursuant to such section.

69 11. A member may not purchase any credited service described in this section unless the
70 member has met the five-year minimum service requirement as provided in subdivisions (11) and
71 (20) of **subsection 1 of** section 104.1003, the [two] **three** full biennial assemblies minimum
72 service requirement as provided in section 104.1084, or the four-year minimum service
73 requirement as provided in section 104.1084.

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

104.1024. 1. Any member who terminates employment may retire on or after attaining
2 normal retirement eligibility by making application in written form and manner approved by the
3 appropriate board. The written application shall set forth the annuity starting date which shall
4 not be earlier than the first day of the second month following the month of the execution and
5 filing of the member's application for retirement nor later than the first day of the fourth month
6 following the month of the execution and filing of the member's application for retirement. **The**
7 **payment of the annuity shall be made the last working day of each month, providing all**
8 **documentation required under section 104.1027 for the calculation and payment of the**
9 **benefits is received by the board.**

10 2. A member's annuity shall be paid in the form of a life annuity, except as provided in
11 section 104.1027, and shall be an amount for life equal to one and seven-tenths percent of the
12 final average pay of the member multiplied by the member's years of credited service.

13 3. The life annuity defined in subsection 2 of this section shall not be less than a monthly
14 amount equal to fifteen dollars multiplied by the member's full years of credited service.

15 4. If as of the annuity starting date of a member who has attained normal retirement
16 eligibility the sum of the member's years of age and years of credited service equals eighty or
17 more years and if the member's age is at least forty-eight years but less than sixty-two years, or,
18 in the case of a member of the highway patrol who shall be subject to the mandatory retirement
19 provision of section 104.080, the mandatory retirement age and completion of five years of
20 credited service, then in addition to the life annuity described in subsection 2 of this section, the
21 member shall receive a temporary annuity equal to eight-tenths of one percent of the member's
22 final average pay multiplied by the member's years of credited service. The temporary annuity
23 and any cost-of-living adjustments attributable to the temporary annuity pursuant to section
24 104.1045 shall terminate at the end of the calendar month in which the earlier of the following
25 events occurs: the member's death or the member's attainment of the earliest age of eligibility
26 for reduced Social Security retirement benefits, **but no later than age sixty-two.**

27 5. The annuity described in subsection 2 of this section for any person who has credited
28 service not covered by the federal Social Security Act, as provided in sections 105.300 to
29 105.445, RSMo, shall be calculated as follows: the life annuity shall be an amount equal to two
30 and five-tenths percent of the final average pay of the member multiplied by the number of years
31 of service not covered by the federal Social Security Act in addition to one and seven-tenths
32 percent of the final average pay of the member multiplied by the member's years of credited
33 service covered by the federal Social Security Act.

34 6. Effective July 1, 2002, any member, except an elected official or a member of the
35 general assembly, who has not been paid retirement benefits and continues employment for at
36 least two years beyond the date of normal retirement eligibility, may elect to receive an annuity
37 and lump sum payment or payments, determined as follows:

38 (1) A retroactive starting date shall be established which shall be a date selected by the
39 member; provided, however, that the retroactive starting date selected by the member shall not
40 be a date which is earlier than the date when a normal annuity would have first been payable.
41 In addition, the retroactive starting date shall not be more than five years prior to the annuity
42 starting date. The member's selection of a retroactive starting date shall be done in twelve-month
43 increments, except this restriction shall not apply when the member selects the total available
44 time between the retroactive starting date and the annuity starting date;

45 (2) The prospective annuity payable as of the annuity starting date shall be determined
46 pursuant to the provisions of this section, with the exception that it shall be the amount which
47 would have been payable at the annuity starting date had the member actually retired on the
48 retroactive starting date under the retirement plan selected by the member. Other than for the
49 lump sum payment or payments specified in subdivision (3) of this subsection, no other amount
50 shall be due for the period between the retroactive starting date and the annuity starting date;

51 (3) The lump sum payable shall be ninety percent of the annuity amounts which would
52 have been paid to the member from the retroactive starting date to the annuity starting date had
53 the member actually retired on the retroactive starting date and received a life annuity. The
54 member shall elect to receive the lump sum amount either in its entirety at the same time as the
55 initial annuity payment is made or in three equal annual installments with the first payment made
56 at the same time as the initial annuity payment;

57 (4) Any annuity payable pursuant to this section that is subject to a division of benefit
58 order pursuant to section 104.1051 shall be calculated as follows:

59 (a) Any service of a member between the retroactive starting date and the annuity
60 starting date shall not be considered credited service except for purposes of calculating the
61 division of benefit; and

62 (b) The lump sum payment described in subdivision (3) of this section shall not be
63 subject to any division of benefit order; and

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

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

11 Option 1. A retiree's life annuity shall be reduced to a certain percent of the annuity
12 otherwise payable. Such percent shall be ninety percent adjusted as follows: if the retiree's age
13 on the annuity starting date is younger than sixty-two years, an increase of three-tenths of one
14 percent for each year the retiree's age is younger than age sixty-two years[, to a maximum

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

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

35 Option 3. A retiree's life annuity shall be reduced to ninety-five percent of the annuity
36 otherwise payable. If the retiree dies before having received one hundred twenty monthly
37 payments, the reduced annuity shall be continued for the remainder of the one hundred
38 twenty-month period to the retiree's designated beneficiary provided that if there is no beneficiary
39 surviving the retiree, the present value of the remaining annuity payments shall be paid [to the
40 retiree's estate] **as provided under subsection 3 of section 104.620.** If the beneficiary survives
41 the retiree but dies before receiving the remainder of such one hundred twenty monthly
42 payments, the present value of the remaining annuity payments shall be paid [to the beneficiary's
43 estate] **as provided under subsection 3 of section 104.620.**

44 Option 4. A retiree's life annuity shall be reduced to ninety percent of the annuity
45 otherwise payable. If the retiree dies before having received one hundred eighty monthly
46 payments, the reduced annuity shall be continued for the remainder of the one hundred
47 eighty-month period to the retiree's designated beneficiary provided that if there is no beneficiary
48 surviving the retiree, the present value of the remaining annuity payments shall be paid [to the
49 retiree's estate] **as provided under subsection 3 of section 104.620.** If the beneficiary survives
50 the retiree but dies before receiving the remainder of such one hundred eighty monthly payments,

51 the present value of the remaining annuity payments shall be paid [to the beneficiary's estate] as
52 **provided under subsection 3 of section 104.620.**

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

57 3. If a member has elected at the annuity starting date option 1 or 2 pursuant to this
58 section and if the member's spouse or eligible former spouse dies after the annuity starting date
59 but before the member dies, then the member may cancel the member's election and return to the
60 life annuity form of payment and annuity amount, effective the first of the month following the
61 date of such spouse's or eligible former spouse's death. **If a member dies prior to notifying the**
62 **system of the spouse's death, the benefit will not revert to a life annuity and no retroactive**
63 **payments shall be made.**

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

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

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

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

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

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

104.1039. If a retiree is employed as an employee by a department, the retiree shall not
2 receive an annuity payment for any calendar month in which the retiree is so employed. While

3 reemployed the retiree shall be considered to be a new employee with no previous credited
4 service [upon subsequent retirement] **and must accrue credited service continuously for at**
5 **least one year in order to receive any additional annuity.** Such retiree shall receive an
6 additional annuity in addition to the original annuity, calculated based only on the credited
7 service and the pay earned by such retiree during reemployment and paid in accordance with the
8 annuity option originally elected; provided such retiree who ceases to receive an annuity pursuant
9 to this section shall not receive such additional annuity if such retiree is employed by a
10 department in a position that is covered by a state-sponsored defined benefit retirement plan not
11 created pursuant to this chapter. The original annuity and any additional annuity shall be paid
12 commencing as of the end of the first month after the month during which the retiree's
13 reemployment terminates.

104.1051. 1. Any annuity provided pursuant to the year 2000 plan is marital property
2 and a court of competent jurisdiction may divide such annuity between the parties to any action
3 for dissolution of marriage if at the time of the dissolution the member has at least five years of
4 credited service pursuant to sections 104.1003 to 104.1093. A division of benefits order issued
5 pursuant to this section:

6 (1) Shall not require the applicable retirement system to provide any form or type of
7 annuity or retirement plan not selected by the member;

8 (2) Shall not require the applicable retirement system to commence payments until the
9 member's annuity starting date;

10 (3) Shall identify the monthly amount to be paid to the former spouse, which shall be
11 expressed as a percentage and which shall not exceed fifty percent of the amount of the member's
12 annuity accrued during all or part of the period of the marriage of the member and former spouse
13 and which shall be based on the member's vested annuity on the date of the dissolution of
14 marriage or an earlier date as specified in the order, which amount shall be adjusted
15 proportionately upon the annuity starting date if the member's annuity is reduced due to the
16 receipt of an early retirement annuity **or the member's annuity is reduced pursuant to section**
17 **104.1027 under an annuity option in which the member named the alternate payee as**
18 **beneficiary prior to the dissolution of marriage;**

19 (4) Shall not require the payment of an annuity amount to the member and former spouse
20 which in total exceeds the amount which the member would have received without regard to the
21 order;

22 (5) Shall provide that any annuity increases, additional years of credited service,
23 increased final average pay, increased pay pursuant to subsections 2 and 5 of section 104.1084,
24 or other type of increases accrued after the date of the dissolution of marriage and any temporary
25 annuity received pursuant to subsection 4 of section 104.1024 shall accrue solely to the benefit

26 of the member; except that on or after September 1, 2001, any cost-of-living adjustment (COLA)
27 due after the annuity starting date shall not be considered to be an increase accrued after the date
28 of termination of marriage and shall be part of the monthly amount subject to division pursuant
29 to any order issued after September 1, 2001;

30 (6) Shall terminate upon the death of either the member or the former spouse, whichever
31 occurs first;

32 (7) Shall not create an interest which is assignable or subject to any legal process;

33 (8) Shall include the name, address, date of birth, and Social Security number of both
34 the member and the former spouse, and the identity of the retirement system to which it applies;

35 (9) Shall be consistent with any other division of benefits orders which are applicable
36 to the same member.

37 2. A system shall provide the court having jurisdiction of a dissolution of a marriage
38 proceeding or the parties to the proceeding with information necessary to issue a division of
39 benefits order concerning a member of the system, upon written request from either the court,
40 the member, or the member's spouse, citing this section and identifying the case number and
41 parties.

42 3. A system shall have the discretionary authority to reject a division of benefits order
43 for the following reasons:

44 (1) The order does not clearly state the rights of the member and the former spouse;

45 (2) The order is inconsistent with any law governing the retirement system.

46 **4. Any member of the closed plan who elected the year 2000 plan pursuant to**
47 **section 104.1015 and then becomes divorced and subject to a division of benefits order shall**
48 **have the division of benefits order calculated pursuant to the provisions of the year 2000**
49 **plan.**

104.1072. 1. Each board shall provide or contract, or both, for life insurance benefits
2 for employees covered pursuant to the year 2000 plan as follows:

3 (1) Employees shall be provided fifteen thousand dollars of life insurance until
4 December 31, 2000. Effective January 1, 2001, the system shall provide or contract or both for
5 basic life insurance for employees covered under any retirement plan administered by the system
6 pursuant to this chapter, persons covered by sections 287.812 to 287.856, RSMo, for employees
7 who are members of the judicial retirement system as provided in section 476.590, RSMo, and,
8 at the election of the state highways and transportation commission, employees who are members
9 of the highways and transportation employees' and highway patrol retirement system, in the
10 amount equal to one times annual pay, subject to a minimum amount of fifteen thousand dollars.
11 The board shall establish by rule or contract the method for determining the annual rate of pay
12 and any other terms of such insurance as it deems necessary to implement the requirements

13 pursuant to this section. Annual rate of pay shall not include overtime or any other irregular
14 payments as determined by the board. Such life insurance shall provide for triple indemnity in
15 the event the cause of death is a proximate result of a personal injury or disease arising out of and
16 in the course of actual performance of duty as an employee;

17 (2) Any member who terminates employment after reaching normal or early retirement
18 eligibility and becomes a retiree within sixty days of such termination shall receive five thousand
19 dollars of life insurance coverage.

20 2. (1) In addition to the life insurance authorized by the provisions of subsection 1 of
21 this section, any person for whom life insurance is provided or contracted for pursuant to such
22 subsection may purchase, at the person's own expense and only if monthly voluntary payroll
23 deductions are authorized, additional life insurance at a cost to be stipulated in a contract with
24 a private insurance company or as may be required by a system if the board of trustees
25 determines that the system should provide such insurance itself. The maximum amount of
26 additional life insurance which may be so purchased prior to January 1, 2004, is that amount
27 which equals six times the amount of the person's annual rate of pay, subject to any maximum
28 established by a board, except that if such maximum amount is not evenly divisible by one
29 thousand dollars, then the maximum amount of additional insurance which may be purchased
30 is the next higher amount evenly divisible by one thousand dollars. The maximum amount of
31 additional life insurance which may be so purchased on or after January 1, 2004, is an amount
32 to be stipulated in a contract with a private insurance company or as may be required by the
33 system if the board of trustees determines that the system should provide the insurance itself.

34 (2) Any person defined in subdivision (1) of this subsection may retain an amount not
35 to exceed sixty thousand dollars of life insurance following the date of his or her retirement if
36 such person becomes a retiree the month following termination of employment and makes
37 written application for such life insurance at the same time such person's application is made to
38 the board for retirement benefits. Such life insurance shall only be provided if such person pays
39 the entire cost of the insurance, as determined by the board, by allowing voluntary deductions
40 from the member's annuity.

41 (3) In addition to the life insurance authorized in subdivision (1) of this subsection, any
42 person for whom life insurance is provided or contracted for pursuant to this subsection may
43 purchase, at the person's own expense and only if monthly voluntary payroll deductions are
44 authorized, life insurance covering the person's children or the person's spouse or both at
45 coverage amounts to be determined by the board at a cost to be stipulated in a contract with a
46 private insurer or as may be required by the system if the board of trustees determines that the
47 system should provide such insurance itself.

48 (4) Effective July 1, 2000, any member who applies and is eligible to receive an annuity
49 based on the attainment of at least forty-eight years of age with a total of years of age and years
50 of credited service which is at least eighty shall be eligible to retain any optional life insurance
51 described in subdivision (1) of this subsection. The amount of such retained insurance shall not
52 be greater than the amount in effect during the month prior to termination of employment. Such
53 insurance may be retained until the member's attainment of the earliest age for eligibility for
54 reduced Social Security retirement benefits **but no later than age sixty-two**, at which time the
55 amount of such insurance that may be retained shall be that amount permitted pursuant to
56 subdivision (2) of this subsection.

57 3. The state highways and transportation commission may provide for insurance benefits
58 to cover medical expenses for members of the highways and transportation employees' and
59 highway patrol retirement system. The state highways and transportation commission may
60 provide medical benefits for dependents of members and for retired members. Contributions by
61 the state highways and transportation commission to provide the benefits shall be on the same
62 basis as provided for other state employees pursuant to the provisions of section 104.515. Except
63 as otherwise provided by law, the cost of benefits for dependents of members and for retirees and
64 their dependents shall be paid by the members or retirees. The commission may contract with
65 other persons or entities including but not limited to third-party administrators, health network
66 providers and health maintenance organizations for all, or any part of, the benefits provided for
67 in this section. The commission may require reimbursement of any medical claims paid by the
68 commission's medical plan for which there was third-party liability.

69 4. The highways and transportation employees' and highway patrol retirement system
70 may request the state highways and transportation commission to provide life insurance benefits
71 as required in subsections 1 and 2 of this section. If the state highways and transportation
72 commission agrees to the request, the highways and transportation employees' and highway
73 patrol retirement system shall reimburse the state highways and transportation commission for
74 any and all costs for life insurance provided pursuant to subdivision (2) of subsection 1 of this
75 section. The person who is covered pursuant to subsection 2 of this section shall be solely
76 responsible for the costs of any additional life insurance. In lieu of the life insurance benefit in
77 subdivision (2) of subsection 1 of this section, the highways and transportation employees' and
78 highway patrol retirement system is authorized in its sole discretion to provide a death benefit
79 of five thousand dollars.

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

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

84 (2) Any member who has been denied life insurance benefits by the insurer or service
85 organization and has exhausted all appeal procedures provided by the insurer or service
86 organization may appeal such decision by filing a petition against the insurer or service
87 organization in a court of law in the member's county of residence; and

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

104.1087. 1. If a member has credited service with more than one selected plan at time
2 of separation of covered employment from all selected plans, then the annuity payable from each
3 selected plan shall be based upon the annuity program, pay record and service record with that
4 selected plan; provided, however, that the total of credited service with all selected plans shall
5 be used for the sole purpose of determining whether or not the member has met the credited
6 service requirement contained in subdivisions (11) and (20) of **subsection 1 of** section 104.1003
7 and subsections 1 and 4 of section 104.1084 for each selected plan.

8 2. The selected plans cited in this section are:

- 9 (1) Year 2000 plan - basic provisions;
10 (2) Year 2000 plan - general assembly provisions;
11 (3) Year 2000 plan - statewide elected official provisions.

104.1090. 1. Any member who as described in subdivision (1) of subsection 1 of section
2 104.1009 has been employed in a position covered by the system for at least ten or more years
3 and has received credited service for such employment in the year 2000 plan shall receive
4 additional credited service for previous public employment within the state covered by another
5 retirement plan as defined in section 105.691, RSMo, if all of the following conditions are met:

6 (1) Such member has a vested right to receive a retirement benefit from the other
7 retirement plan at the time of application pursuant to this section;

8 (2) The other retirement plan transfers to the system an amount equal to the employee's
9 account balance under a defined contribution plan or the amount equal to the employee's pension
10 benefit obligation under a defined benefit plan at the time of transfer to the extent that obligation
11 is funded as of the plan's most recent actuarial valuation, not to exceed one hundred percent, as
12 determined by the other retirement plan's actuary using the same assumption used in performing
13 the last regular actuarial valuation of the transferring plan, except that in no event shall the
14 transferred amount be less than the employee's accumulated contributions on deposit with the
15 transferring plan;

16 (3) No such credited service remains credited in such other retirement plan; [and]

17 (4) The member applies for the additional credited service prior to the members's annuity
18 starting date in manner and form established by the appropriate board. Such additional credited
19 service shall be added to the credited service in the first position of employment held as a
20 member of the system; **and**

21 **(5) The other retirement plan enters into an agreement with the system to comply**
22 **with the provisions of this section.**

23 2. Any member described in subsection 3 of section 104.1015 who elects to be covered
24 by the year 2000 plan shall be eligible to receive service under the terms and conditions of
25 subsection 1 of this section.

105.660. The following words and phrases as used in sections 105.660 to 105.685,
2 unless a different meaning is plainly required by the context, shall mean:

3 (1) "Actuarial valuation", a mathematical process which determines plan financial
4 condition and plan benefit cost;

5 (2) "Actuary", an actuary (I) who is a member of the American Academy of Actuaries
6 or who is an enrolled actuary under the Employee Retirement Income Security Act of 1974 and
7 (ii) who is experienced in retirement plan financing;

8 (3) **"Board", the governing board or decision-making body of a plan that is**
9 **authorized by law to administer the plan;**

10 (4) **"Defined benefit plan", a plan providing a definite benefit formula for**
11 **calculating retirement benefit amounts;**

12 (5) **"Defined contribution plan", a plan in which the contributions are made to an**
13 **individual retirement account for each employee;**

14 (6) **"Funded ratio", the ratio of the actuarial value of assets over its actuarial**
15 **accrued liability;**

16 (7) **"Lump sum benefit plan", payment within one taxable year of the entire**
17 **balance to the participant from a plan;**

18 (8) "Plan", any retirement system established by the state of Missouri or any political
19 subdivision or instrumentality of the state for the purpose of providing plan benefits for elected
20 or appointed public officials or employees of the state of Missouri or any political subdivision
21 or instrumentality of the state;

22 [(4)] (9) "Plan benefit", the benefit amount payable from a plan together with any
23 supplemental payments from public funds;

24 [(5)] (10) "Substantial proposed change", a proposed change in future plan benefits
25 which would increase or decrease the total contribution percent by at least one-quarter of one
26 percent of active employee payroll, or would increase or decrease a plan benefit by five percent

27 or more, or would materially affect the actuarial soundness of the plan. In testing for such
28 one-quarter of one percent of payroll contribution increase, the proposed change in plan benefits
29 shall be added to all actual changes in plan benefits since the last date that an actuarial valuation
30 was prepared.

105.665. 1. The legislative body or committee thereof which determines the amount and
2 type of plan benefits to be paid shall, before taking final action on any substantial proposed
3 change in plan benefits, cause to be prepared a statement regarding the cost of such change.

4 2. The cost statement shall be prepared by an actuary using the methods used in
5 preparing the most recent periodic actuarial valuation for the plan and shall, without limitation
6 by enumeration, include the following:

7 (1) The level normal cost of plan benefits currently in effect, which cost is expressed as
8 a percent of active employee payroll;

9 (2) The contribution for unfunded accrued liabilities currently payable by the plan, which
10 cost is expressed as a percent of active employee payroll and shall be over a period not to exceed
11 [forty] **thirty** years;

12 (3) The total contribution rate expressed as a percent of active employees payroll, which
13 contribution rate shall be the total of the normal cost percent plus the contribution percent for
14 unfunded accrued liabilities;

15 (4) A statement as to whether the legislative body is currently paying the total
16 contribution rate as defined in subdivision (3) of this subsection;

17 (5) The total contribution rate expressed as a percent of active employee payroll which
18 would be sufficient to adequately fund the proposed change in benefits;

19 (6) A statement as to whether such additional contributions are mandated by the
20 proposed change;

21 (7) A statement as to whether or not the proposed change would in any way impair the
22 ability of the plan to meet the obligations thereof in effect at the time the proposal is made;

23 (8) All assumptions relied upon to evaluate the present financial condition of the plan
24 and all assumptions relied upon to evaluate the impact of the proposed change upon the financial
25 condition of the plan, which shall be those assumptions used in preparing the most recent
26 periodic actuarial valuation for the plan, unless the nature of the proposed change is such that
27 alternative assumptions are clearly warranted, and shall be made and stated with respect to at
28 least the following:

29 (a) Investment return;

30 (b) Pay increase;

31 (c) Mortality of employees and officials, and other persons who may receive benefits
32 under the plan;

- 33 (d) Withdrawal (turnover);
34 (e) Disability;
35 (f) Retirement ages;
36 (g) Change in active employee group size;
37 (9) The actuary shall certify that in the actuary's opinion the assumptions used for the
38 valuation produce results which, in the aggregate, are reasonable;
39 (10) A description of the actuarial funding method used in preparing the valuation
40 including a description of the method used and period applied in amortizing unfunded actuarial
41 accrued liabilities;
42 (11) The increase in the total contribution amount required to adequately fund the
43 proposed change in benefits, expressed in annual dollars as determined by multiplying the
44 increase in total contribution rate by the active employee annual payroll used for this valuation.

**105.666. 1. Each plan shall, in conjunction with its staff and advisors, establish a
2 board member education program, which shall be in effect on or after January 1, 2008.
3 The curriculum shall include, at a minimum, education in the areas of duties and
4 responsibilities of board members as trustees, ethics, governance process and procedures,
5 pension plan design and administration of benefits, investments including but not limited
6 to the fiduciary duties as defined under section 105.688, legal liability and risks associated
7 with the administration of a plan, sunshine law requirements under chapter 610, RSMo,
8 actuarial principles and methods related to plan administration, and the role of staff and
9 consultants in plan administration. Board members appointed or elected on a board on
10 or after January 1, 2008, shall complete a board member education program designated
11 to orient new board members in the areas described in this section within ninety days of
12 becoming a new board member. Board members who have served one or more years shall
13 attend at least two continuing education programs each year in the areas described in this
14 section.**

**2. Each plan shall, upon the request of any individual participant, provide an
16 annual pension benefit statement which shall be written in a manner calculated to be
17 understood by the average plan participant and may be delivered in written, electronic, or
18 other appropriate form to the extent such form is reasonably accessible to each participant
19 or beneficiary. Such pension benefit statement shall include, but not be limited to, accrued
20 participant contributions to the plan, total benefits accrued, date first eligible for a normal
21 retirement benefit, and projected benefit at normal retirement. Any plan failing to do so
22 shall submit in writing to the joint committee on public employee retirement as to why the
23 information may not be provided as requested.**

105.667. 1. Any appointing authority, board member, or employee shall be prohibited from receiving any gain or profit from any funds or transaction of the plan, except benefits from interest in investments common to all members of the plan, if entitled thereto.

2. Any appointing authority, board member, or employee accepting any political contribution, gratuity, or compensation for the purpose of influencing his or her action with respect to the investment of the funds of the system shall thereby forfeit his or her office and in addition thereto be subject to the penalties prescribed for bribery.

3. Any trustee, employee, or participant of a plan who pleads guilty to or is found guilty of a plan-related felony after August 28, 2007, that is determined by a court of law to have been directly committed in connection with the member's duties as either a trustee, employee, or participant of a plan shall not be eligible to receive any retirement benefits from the respective plan.

105.683. Any plan, whose actuary determines that the plan has a funded ratio below sixty percent and the political subdivision has failed to make one hundred percent of the actuarially required contribution payment for three successive plan years with a descending funded ratio for three successive plan years after August 28, 2007, shall be deemed delinquent in the contribution payment and such delinquency in the contribution payment shall constitute a first lien on the funds of the political subdivision, and the board as defined under section 105.660 is authorized to compel payment by application for a writ of mandamus; and in addition, such delinquency in the contribution payment shall be certified by the board to the state treasurer and director of the department of revenue. Until such delinquency in the contribution payment, together with regular interest, is satisfied, the state treasurer and director of the department of revenue shall withhold twenty-five percent of the certified contribution deficiency from the total moneys due the political subdivision from the state.

105.684. 1. Notwithstanding any law to the contrary, no plan shall adopt or implement any additional benefit increase, supplement, enhancement, lump sum benefit payments to participants, or cost-of-living adjustment beyond current plan provisions in effect prior to August 28, 2007, unless the plan's actuary determines that the funded ratio prior to such adoption or implementation is at least eighty percent and will not be less than seventy-five percent after such adoption or implementation.

2. The unfunded actuarial accrued liabilities associated with benefit changes described in this section shall be amortized over a period not to exceed twenty years for purposes of determining the contributions associated with the adoption or implementation of any such benefit increase, supplement, or enhancement.

11 **3. Any plan with a funded ratio below sixty percent shall have the actuary prepare**
12 **an accelerated contribution schedule based on a descending amortization period for**
13 **inclusion in the actuarial valuation.**

14 **4. Nothing in this section shall apply to any plan established under chapter 70,**
15 **RSMo, or chapter 476, RSMo.**

105.910. 1. Sections 105.900 to [105.925] **105.927** shall provide for the establishment
2 of the "Missouri State Public Employees Deferred Compensation Fund". This fund shall be
3 administered by the Missouri state public employees deferred compensation commission. The
4 commission shall approve any deferred compensation agreement entered into by the state
5 [pursuant to] **under** sections 105.900 to [105.925] **105.927** and shall oversee the orderly
6 administration of the fund in compliance with the subsequent provisions of sections 105.900 to
7 [105.925] **105.927.**

8 2. Such commission shall have five commissioners, including one member of the
9 Missouri state house of representatives to be selected by the speaker of the house, one member
10 of the Missouri state senate to be selected by the president pro tempore of the senate, and three
11 other such commissioners to be appointed by the governor of the state of Missouri by and with
12 the advice and consent of the senate. The legislators appointed as commissioners shall serve
13 during their terms of office in the general assembly. The commissioners appointed by the
14 governor shall serve a term of three years; except that, of the commissioners first appointed, one
15 shall be appointed for a term of one year, one shall be appointed for a term of two years, and one
16 shall be appointed for a term of three years. The commission shall annually elect a chairman and
17 shall be required to meet not less than quarterly or at any other such time as called by the
18 chairman or a majority of the commission.

19 **3. On August 28, 2007, the commission shall transfer administration of the fund to**
20 **the board of trustees of the Missouri state employees' retirement system. Following such**
21 **transfer:**

22 **(1) The board shall assume sole control over and shall be authorized to administer**
23 **the fund beginning on the first day of the month following the month that the commission**
24 **transfers administration to the board;**

25 **(2) The commission shall provide for the orderly transfer of all records pertaining**
26 **to the fund, and shall take any other action necessary for the board to assume its duties**
27 **under section 105.915; and**

28 **(3) The commission shall be dissolved upon such transfer.**

105.915. 1. [Subject to the approval of Missouri state public employees deferred
2 compensation commission, the office of administration] **The board of trustees of the Missouri**
3 **state employees' retirement system** shall [establish and] administer [a] **the deferred**

4 compensation [plan] **fund** for the employees of the state of Missouri **that was previously**
5 **administered by the deferred compensation commission, as established in section 105.910,**
6 **prior to August 28, 2007. The board shall be vested with the same powers that it has under**
7 **chapter 104, RSMo, to enable it and its officers, employees, and agents to administer the**
8 **fund under sections 105.900 to 105.927. Two of the commissioners serving on the deferred**
9 **compensation commission immediately prior to the transfer made to the board under**
10 **section 105.910 shall serve as ex officio members of the board solely to participate in the**
11 **duties of administering the deferred compensation fund. One such commissioner serving**
12 **as an ex officio board member shall be a member of the house of representatives selected**
13 **by the speaker of the house of representatives, and such commissioner's service on the**
14 **board shall cease on December 31, 2009. The other commissioner serving as an ex officio**
15 **board member shall be the chairman of the deferred compensation commission**
16 **immediately prior to the transfer made to the board under section 105.910, and such**
17 **commissioner's service on the board shall cease December 31, 2008.**

18 **2.** Participation in such plan shall be by a specific written agreement between [such]
19 **state** employees and the state, which shall provide for the deferral of such [amount] **amounts**
20 of compensation as requested by the employee **subject to any limitations imposed under**
21 **federal law.** Participating employees must authorize that such deferrals be made from their
22 wages for the purpose of participation in such program. **All assets and income of such fund**
23 **shall be held in trust by the board for the exclusive benefit of participants and their**
24 **beneficiaries. Assets of such trust may be pooled solely for investment management**
25 **purposes with assets of the trust established under section 104.320, RSMo.**

26 [2] **3.** Notwithstanding any other provision of [this code] **sections 105.900 to 105.927,**
27 funds held for the state by the [Missouri public employees deferred compensation commission
28 pursuant to] **board in accordance with** written deferred compensation [agreement] **agreements**
29 between the state and participating employees may be invested[,] in such investments as are
30 deemed appropriate by the [office of administration and approved by the commission, including,
31 but not limited to, life insurance or annuity contracts or mutual funds] **board.** [It is further
32 provided that all such insurance, annuities, mutual funds, or other such investment products to
33 be offered pursuant to this plan shall have been reviewed and selected by the commission based
34 on a competitive bidding process as established by such specifications and considerations as are
35 deemed appropriate by the commission. Such investments shall not be construed to be a
36 prohibited use of the general assets of the state] **All administrative costs of the program**
37 **described in this section, including staffing and overhead expenses, may be paid out of**
38 **assets of the fund, which may reduce the amount due participants in the fund. Such**
39 **investments shall not be construed to be a prohibited use of the general assets of the state.**

40 [3] 4. [In no case shall such investment be offered by other than such persons and
41 companies authorized and duly licensed by the state of Missouri and applicable federal
42 regulatory agencies to offer such insurance or investment programs in compliance with all
43 relevant provisions of this code.] **Investments offered under the deferred compensation fund
44 for the employees of the state of Missouri shall be made available at the discretion of the
45 board.**

46 5. **The board and employees of the Missouri state employees' retirement system
47 shall be immune from suit and shall not be subject to any claim or liability associated with
48 any administrative actions or decisions made by the commission with regard to the
49 deferred compensation program prior to the transfer made to the board under section
50 105.910.**

51 6. **The board and employees of the system shall not be liable for the investment
52 decisions made or not made by participating employees as long as the board acts with the
53 same skill, prudence, and diligence in the selection and monitoring of providers of
54 investment products, education, advice, or any default investment option, under the
55 circumstances then prevailing that a prudent person acting in a similar capacity and
56 familiar with those matters would use in the conduct of a similar enterprise with similar
57 aims.**

58 7. **The system shall be immune from suit and shall not be subject to any claim or
59 liability associated with the administration of the deferred compensation fund by the board
60 and employees of the system.**

169.010. The following words and phrases, as used in sections 169.010 to 169.130,
2 unless a different meaning is plainly required by the context, shall have the following meanings:

3 (1) "Accumulated contributions" shall mean the sum of the annual contributions a
4 member has made to the retirement system through deductions from the member's salary, plus
5 interest compounded annually on each year's contributions from the end of the school year during
6 which such contributions were made;

7 (2) "Board" shall mean the board of trustees provided for in sections 169.010 to 169.130;

8 (3) "Creditable service" shall mean prior service or membership service, or the sum of
9 the two, if the member has both to the member's credit;

10 (4) "District" shall mean public school, as herein defined;

11 (5) "Employ" shall have a meaning agreeable with that herein given to employer and
12 employee;

13 (6) "Employee" shall be synonymous with the term "teacher" as the same is herein
14 defined;

15 (7) "Employer" shall mean the district that makes payment directly to the teacher or
16 employee for such person's services;

17 (8) "Final average salary" shall mean the total compensation payable to a member for
18 any three consecutive years of creditable service, as elected by the member, divided by thirty-six;
19 with the proviso that any annual compensation entering into the total compensation shall not
20 exceed twelve thousand six hundred dollars for any year prior to July 1, 1967; and with the
21 proviso that the board may set a maximum percentage of increase in annual compensation from
22 one year to the next in the final average salary period. **In no instance shall the maximum**
23 **percentage of increase in annual compensation from one year to the next in the final**
24 **average salary period exceed ten percent. This limit will not apply to increases due to**
25 **bonafide changes in position or employer increases required by state statute, or district**
26 **wide salary schedule adjustments for previously unrecognized education related services;**

27 (9) "Member" shall mean a person who holds membership in the retirement system;

28 (10) "Membership service" shall mean service rendered by a member of the retirement
29 system after the system becomes operative, and may include a period of service in the armed
30 forces of the United States as provided for in section 169.055;

31 (11) "Prior service" shall mean service rendered by a member of the retirement system
32 before the system becomes operative, and may include service rendered by a member of the
33 armed forces if the member was a teacher at the time the member was inducted, for which credit
34 has been approved by the board of trustees;

35 (12) "Public school" shall mean any school conducted within the state under the
36 authority and supervision of a duly elected district or city or town board of directors or board of
37 education and the board of regents of the several state teachers' colleges, or state colleges, board
38 of trustees of the public school retirement system of Missouri, and also the state of Missouri and
39 each county thereof, to the extent that the state and the several counties are employers of teachers
40 as herein designated;

41 (13) "Retirement allowance" shall mean a monthly payment for life during retirement;

42 (14) "Retirement system" or "system" shall mean the public school retirement system
43 of Missouri created by sections 169.010 to 169.130;

44 (15) "Salary", "salary rate" or "compensation" shall mean the regular remuneration,
45 including any payments made pursuant to sections 168.500 to 168.515, RSMo, which is earned
46 by a member as an employee of a district, but not including employer-paid fringe benefits except
47 the value of employer-paid medical benefits (including dental and vision) for members, and not
48 including employer-paid medical benefits (including dental and vision) for anyone other than the
49 member, employer contributions to any deferred compensation plan, consideration for agreeing
50 to terminate employment or other nonrecurring or unusual payments that are not a part of regular

51 remuneration. The board by its rules may further define salary, salary rate and compensation in
52 a manner consistent with this definition and with sections 169.010 to 169.141;

53 (16) "School year" shall mean the year from July first of one year to June thirtieth of next
54 year, inclusive, which shall also be the fiscal year of the system;

55 (17) "Teacher" shall mean any person who shall be employed by any public school, on
56 a full-time basis and who shall be duly certificated under the law governing the certification of
57 teachers; any person employed in the state department of elementary and secondary education
58 or by the state board of education on a full-time basis who shall be duly certificated under the
59 law governing the certification of teachers and who did not become a member of the Missouri
60 state employees' retirement system pursuant to section 104.342, RSMo; and persons employed
61 by the board of trustees of the public school retirement system of Missouri on a full-time basis
62 who shall be duly certified under the law governing the certification of teachers. The term
63 "teacher" shall be synonymous with the term "employee" as defined in this section.

169.070. 1. The retirement allowance of a member whose age at retirement is sixty years
2 or more and whose creditable service is five years or more, or whose sum of age and creditable
3 service equals eighty years or more, or who has attained age fifty-five and whose creditable
4 service is twenty-five years or more or whose creditable service is thirty years or more regardless
5 of age, may be the sum of the following items, not to exceed one hundred percent of the
6 member's final average salary:

7 (1) Two and five-tenths percent of the member's final average salary for each year of
8 membership service;

9 (2) Six-tenths of the amount payable for a year of membership service for each year of
10 prior service not exceeding thirty years.

11 In lieu of the retirement allowance otherwise provided in subdivisions (1) and (2) of this
12 subsection, a member may elect to receive a retirement allowance of:

13 (3) Between July 1, 1998, and July 1, [2008] **2013**, two and four-tenths percent of the
14 member's final average salary for each year of membership service, if the member's creditable
15 service is twenty-nine years or more but less than thirty years, and the member has not attained
16 age fifty-five;

17 (4) Between July 1, 1998, and July 1, [2008] **2013**, two and thirty-five-hundredths
18 percent of the member's final average salary for each year of membership service, if the
19 member's creditable service is twenty-eight years or more but less than twenty-nine years, and
20 the member has not attained age fifty-five;

21 (5) Between July 1, 1998, and July 1, [2008] **2013**, two and three-tenths percent of the
22 member's final average salary for each year of membership service, if the member's creditable

23 service is twenty-seven years or more but less than twenty-eight years, and the member has not
24 attained age fifty-five;

25 (6) Between July 1, 1998, and July 1, [2008] **2013**, two and twenty-five-hundredths
26 percent of the member's final average salary for each year of membership service, if the
27 member's creditable service is twenty-six years or more but less than twenty-seven years, and the
28 member has not attained age fifty-five;

29 (7) Between July 1, 1998, and July 1, [2008] **2013**, two and two-tenths percent of the
30 member's final average salary for each year of membership service, if the member's creditable
31 service is twenty-five years or more but less than twenty-six years, and the member has not
32 attained age fifty-five;

33 (8) Between July 1, 2001, and July 1, [2008] **2013**, two and fifty-five hundredths percent
34 of the member's final average salary for each year of membership service, if the member's
35 creditable service is thirty-one years or more regardless of age.

36 2. In lieu of the retirement allowance provided in subsection 1 of this section, a member
37 whose age is sixty years or more on September 28, 1975, may elect to have the member's
38 retirement allowance calculated as a sum of the following items:

39 (1) Sixty cents plus one and five-tenths percent of the member's final average salary for
40 each year of membership service;

41 (2) Six-tenths of the amount payable for a year of membership service for each year of
42 prior service not exceeding thirty years;

43 (3) Three-fourths of one percent of the sum of subdivisions (1) and (2) of this subsection
44 for each month of attained age in excess of sixty years but not in excess of age sixty-five.

45 3. (1) In lieu of the retirement allowance provided either in subsection 1 or 2 of this
46 section, collectively called "option 1", a member whose creditable service is twenty-five years
47 or more or who has attained the age of fifty-five with five or more years of creditable service may
48 elect in the member's application for retirement to receive the actuarial equivalent of the
49 member's retirement allowance in reduced monthly payments for life during retirement with the
50 provision that:

51 Option 2. Upon the member's death the reduced retirement allowance shall be continued
52 throughout the life of and paid to such person as has an insurable interest in the life of the
53 member as the member shall have nominated in the member's election of the option, and
54 provided further that if the person so nominated dies before the retired member, the retirement
55 allowance will be increased to the amount the retired member would be receiving had the retired
56 member elected option 1;

57 OR

Option 3. Upon the death of the member three-fourths of the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 4. Upon the death of the member one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance shall be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the total of the remainder of such one hundred twenty monthly payments shall be paid to the estate of the last person to receive a monthly allowance. If the total of the one hundred twenty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum;

OR

Option 6. Upon the death of the member prior to the member having received sixty monthly payments of the member's reduced allowance, the remainder of the sixty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the sixty monthly payments, the total of the remainder of such sixty monthly payments shall be paid to the estate of the last person to receive a monthly allowance. If the total of the sixty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum.

(2) The election of an option may be made only in the application for retirement and such application must be filed prior to the date on which the retirement of the member is to be effective. If either the member or the person nominated to receive the survivorship payments dies before the effective date of retirement, the option shall not be effective, provided that:

(a) If the member or a person retired on disability retirement dies after acquiring twenty-five or more years of creditable service or after attaining the age of fifty-five years and acquiring five or more years of creditable service and before retirement, except retirement with disability benefits, and the person named by the member as the member's beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either survivorship benefits under option 2 or a payment of the accumulated contributions of the member. If survivorship benefits under option 2 are elected and the member at the time of death would have been eligible to receive an actuarial equivalent of the member's retirement allowance, the designated beneficiary may further elect to defer the option 2 payments until the date the member would have been eligible to receive the retirement allowance provided in subsection 1 or 2 of this section;

(b) If the member or a person retired on disability retirement dies before attaining age fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the person named as the member's beneficiary has an insurable interest in the life of the deceased member, the designated beneficiary may elect to receive either a payment of the member's accumulated contributions, or survivorship benefits under option 2 to begin on the date the member would first have been eligible to receive an actuarial equivalent of the member's retirement allowance, or to begin on the date the member would first have been eligible to receive the retirement allowance provided in subsection 1 or 2 of this section.

4. If the total of the retirement or disability allowance paid to an individual before the death of the individual is less than the accumulated contributions at the time of retirement, the difference shall be paid to the beneficiary of the individual, or to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the individual in that order of precedence. If an optional benefit as provided in option 2, 3 or 4 in subsection 3 of this section had been elected, and the beneficiary dies after receiving the optional benefit, and if the total retirement allowance paid to the retired individual and the beneficiary of the retired individual is less than the total of the contributions, the difference shall be paid to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the beneficiary, in that order of precedence, unless the retired individual designates a different recipient with the board at or after retirement.

5. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the death of the member shall be paid to the beneficiary of the

member or, if there is no beneficiary, to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) to the estate of the member in that order of precedence; except that, no such payment shall be made if the beneficiary elects option 2 in subsection 3 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the beneficiary, in that order of precedence.

6. If a member ceases to be a public school employee as herein defined and certifies to the board of trustees that such cessation is permanent, or if the membership of the person is otherwise terminated, the member shall be paid the member's accumulated contributions with interest.

7. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, if a member ceases to be a public school employee after acquiring five or more years of membership service in Missouri, the member may at the option of the member leave the member's contributions with the retirement system and claim a retirement allowance any time after reaching the minimum age for voluntary retirement. When the member's claim is presented to the board, the member shall be granted an allowance as provided in sections 169.010 to 169.141 on the basis of the member's age, years of service, and the provisions of the law in effect at the time the member requests the member's retirement to become effective.

8. The retirement allowance of a member retired because of disability shall be nine-tenths of the allowance to which the member's creditable service would entitle the member if the member's age were sixty, or fifty percent of one-twelfth of the annual salary rate used in determining the member's contributions during the last school year for which the member received a year of creditable service immediately prior to the member's disability, whichever is greater, except that no such allowance shall exceed the retirement allowance to which the member would have been entitled upon retirement at age sixty if the member had continued to teach from the date of disability until age sixty at the same salary rate.

9. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, from October 13, 1961, the contribution rate pursuant to sections 169.010 to 169.141 shall be multiplied by the factor of two-thirds for any member of the system for whom federal Old Age and Survivors Insurance tax is paid from state or local tax funds on account of the member's employment entitling the person to membership in the system. The monetary benefits for a member who elected not to exercise an option to pay into the system a retroactive contribution of four percent on that part of the member's annual salary rate which was in excess of four thousand eight hundred dollars but not in excess of eight thousand four hundred dollars for each

165 year of employment in a position covered by this system between July 1, 1957, and July 1, 1961,
166 as provided in subsection 10 of this section as it appears in RSMo, 1969, shall be the sum of:

167 (1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for
168 years of membership service;

169 (2) For years of membership service after July 1, 1946, in which the full contribution rate
170 was paid, full benefits under the formula in effect at the time of the member's retirement;

171 (3) For years of membership service after July 1, 1957, and prior to July 1, 1961, the
172 benefits provided in this section as it appears in RSMo, 1959; except that if the member has at
173 least thirty years of creditable service at retirement the member shall receive the benefit payable
174 pursuant to that section as though the member's age were sixty-five at retirement;

175 (4) For years of membership service after July 1, 1961, in which the two-thirds
176 contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of
177 the member's retirement.

178 10. The monetary benefits for each other member for whom federal Old Age and
179 Survivors Insurance tax is or was paid at any time from state or local funds on account of the
180 member's employment entitling the member to membership in the system shall be the sum of:

181 (1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for
182 years of membership service;

183 (2) For years of membership service after July 1, 1946, in which the full contribution rate
184 was paid, full benefits under the formula in effect at the time of the member's retirement;

185 (3) For years of membership service after July 1, 1957, in which the two-thirds
186 contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of
187 the member's retirement.

188 11. Any retired member of the system who was retired prior to September 1, 1972, or
189 beneficiary receiving payments under option 1 or option 2 of subsection 3 of this section, as such
190 option existed prior to September 1, 1972, will be eligible to receive an increase in the retirement
191 allowance of the member of two percent for each year, or major fraction of more than one-half
192 of a year, which the retired member has been retired prior to July 1, 1975. This increased amount
193 shall be payable commencing with January, 1976, and shall thereafter be referred to as the
194 member's retirement allowance. The increase provided for in this subsection shall not affect the
195 retired member's eligibility for compensation provided for in section 169.580 or 169.585, nor
196 shall the amount being paid pursuant to these sections be reduced because of any increases
197 provided for in this section.

198 12. If the board of trustees determines that the cost of living, as measured by generally
199 accepted standards, increases two percent or more in the preceding fiscal year, the board shall
200 increase the retirement allowances which the retired members or beneficiaries are receiving by

two percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board with the provision that the increases provided for in this subsection shall not become effective until the fourth January first following the member's retirement or January 1, 1977, whichever later occurs, or in the case of any member retiring on or after July 1, 2000, the increase provided for in this subsection shall not become effective until the third January first following the member's retirement, or in the case of any member retiring on or after July 1, 2001, the increase provided for in this subsection shall not become effective until the second January first following the member's retirement. Commencing with January 1, 1992, if the board of trustees determines that the cost of living has increased five percent or more in the preceding fiscal year, the board shall increase the retirement allowances by five percent. The total of the increases granted to a retired member or the beneficiary after December 31, 1976, may not exceed eighty percent of the retirement allowance established at retirement or as previously adjusted by other subsections. If the cost of living increases less than five percent, the board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

13. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 12 of this section if the cost of living, as determined by the board and as measured by generally accepted standards, is less than the cost of living was at the time of the first increase granted to the member; except that, the reductions shall not exceed the amount of increases which have been made to the member's allowance after December 31, 1976.

14. Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

15. Notwithstanding any other provision of law, any person retired prior to September 28, 1983, who is receiving a reduced retirement allowance under option 1 or option 2 of subsection 3 of this section, as such option existed prior to September 28, 1983, and whose beneficiary nominated to receive continued retirement allowance payments under the elected option dies or has died, shall upon application to the board of trustees have his or her retirement allowance increased to the amount he or she would have been receiving had the option not been elected, actuarially adjusted to recognize any excessive benefits which would have been paid to him or her up to the time of application.

16. Benefits paid pursuant to the provisions of the public school retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code except as provided pursuant to this subsection. Notwithstanding any other law to the contrary,

the board of trustees may establish a benefit plan pursuant to Section 415(m) of Title 26 of the United States Code. Such plan shall be created solely for the purpose described in Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.

17. Notwithstanding any other provision of law to the contrary, any person retired before, on, or after May 26, 1994, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties the person shall receive an amount based on the person's years of service so that the total amount received pursuant to sections 169.010 to 169.141 shall be at least the minimum amounts specified in subdivisions (1) to (4) of this subsection. In determining the minimum amount to be received, the amounts in subdivisions (3) and (4) of this subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was applied to the person's retirement allowance. In determining the minimum amount to be received, beginning September 1, 1996, the amounts in subdivisions (1) and (2) of this subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was applied to the person's retirement allowance due to election of an optional form of retirement having a continued monthly payment after the person's death. Notwithstanding any other provision of law to the contrary, no person retired before, on, or after May 26, 1994, and no beneficiary of such a person, shall receive a retirement benefit pursuant to sections 169.010 to 169.141 based on the person's years of service less than the following amounts:

- (1) Thirty or more years of service, one thousand two hundred dollars;
- (2) At least twenty-five years but less than thirty years, one thousand dollars;
- (3) At least twenty years but less than twenty-five years, eight hundred dollars;
- (4) At least fifteen years but less than twenty years, six hundred dollars.

18. Notwithstanding any other provisions of law to the contrary, any person retired prior to May 26, 1994, and any designated beneficiary of such a retired member who was deceased prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement or aging and upon request shall give written or oral opinions to the board in response to such requests. Beginning September 1, 1996, as compensation for such service, the member shall have added, pursuant to this subsection, to the member's monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars or the product of two dollars multiplied by the member's number of years of creditable service. Beginning September 1, 1999, the designated beneficiary of the deceased member shall as compensation for such service have added, pursuant to this subsection, to the

273 monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars
274 or the product of two dollars multiplied by the member's number of years of creditable service.
275 The total compensation provided by this section including the compensation provided by this
276 subsection shall be used in calculating any future cost-of-living adjustments provided by
277 subsection 12 of this section.

278 19. Any member who has retired prior to July 1, 1998, and the designated beneficiary
279 of a deceased retired member shall be made, constituted, appointed and employed by the board
280 as a special consultant on the matters of education, retirement and aging, and upon request shall
281 give written or oral opinions to the board in response to such requests. As compensation for such
282 duties the person shall receive a payment equivalent to eight and seven-tenths percent of the
283 previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity
284 and which shall not be subject to the provisions of subsections 12 and 13 of this section for the
285 purposes of the limit on the total amount of increases which may be received.

286 20. Any member who has retired shall be made, constituted, appointed and employed
287 by the board as a special consultant on the matters of education, retirement and aging, and upon
288 request shall give written or oral opinions to the board in response to such request. As
289 compensation for such duties, the beneficiary of the retired member, or, if there is no beneficiary,
290 the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal
291 shares, or (4) estate of the retired member, in that order of precedence, shall receive as a part of
292 compensation for these duties a death benefit of five thousand dollars.

293 21. Any member who has retired prior to July 1, 1999, and the designated beneficiary
294 of a retired member who was deceased prior to July 1, 1999, shall be made, constituted,
295 appointed and employed by the board as a special consultant on the matters of education,
296 retirement and aging, and upon request shall give written or oral opinions to the board in
297 response to such requests. As compensation for such duties, the person shall have added,
298 pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount
299 equal to five dollars times the member's number of years of creditable service.

300 22. Any member who has retired prior to July 1, 2000, and the designated beneficiary
301 of a deceased retired member shall be made, constituted, appointed and employed by the board
302 as a special consultant on the matters of education, retirement and aging, and upon request shall
303 give written or oral opinions to the board in response to such requests. As compensation for such
304 duties, the person shall receive a payment equivalent to three and five-tenths percent of the
305 previous month's benefit, which shall be added to the member or beneficiary's monthly annuity
306 and which shall not be subject to the provisions of subsections 12 and 13 of this section for the
307 purposes of the limit on the total amount of increases which may be received.

23. Any member who has retired prior to July 1, 2001, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall receive a dollar amount equal to three dollars times the member's number of years of creditable service, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

24. Notwithstanding the provisions of subsection 6 of section 169.030 to the contrary, any member who has retired, attained the age of seventy-five and above and received cost of living increases totaling eighty percent as provided in subsection 12 of this section prior to January 1, 2008, shall be made, constituted, and employed by the board as a special consultant on the matters of education, retirement, and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, beginning January 1, 2008, and through January 1, 2013, the member shall receive an amount equal to five dollars per month multiplied by years of service which shall be added to the member's monthly annuity.

169.466. 1. Any retired member with fifteen or more years of creditable service at retirement receiving [a pension] **retirement benefits** on August 28, 1997, shall receive on January first of each year, commencing on January 1, 1998, an increase in the amount of [pension] **benefits** received by the retired member pursuant to sections 169.410 to 169.540 during the preceding year of one hundred percent of the increase in the consumer price index calculated in the manner provided in this section; except that, no such increase in [pension] **retirement** benefits shall be paid for any year if such increase in the consumer price index is less than one percent. Such annual [pension] **retirement benefit** increase, however, shall not exceed three percent [and the total increases in the amount of pension benefits received by any retired member shall not, in the aggregate, exceed ten percent of the pension benefits such retired member received during the year preceding January first of the first year the retired member is entitled to receive an increase pursuant to this section]. A retired member qualified to receive an annual [pension] **retirement benefit** increase pursuant to this section shall not be eligible to receive an additional benefit until the January first after the first anniversary of the date on which he or she commenced receiving [a pension] **retirement benefits** pursuant to sections 169.410 to 169.540. Benefits shall not be decreased in the case of a decrease in the consumer price index for any year.

2. For the purpose of this section, any increase in the consumer price index shall be determined by the board of trustees in November of each year based on the consumer price index

20 for the twelve-month period ended on September thirtieth of such year over the consumer price
21 index for the twelve-month period ended on September thirtieth of the year immediately prior
22 thereto. Any increase so determined shall be applied by the board of trustees in calculating
23 increases in [pension] **retirement** benefits that become payable pursuant to this section for the
24 twelve-month period beginning on the January first immediately following such determination.
25 3. An annual increase in [pension] **retirement** benefits, if any, shall be payable monthly
26 with monthly installments of other [pension] **retirement** benefits pursuant to sections 169.410
27 to 169.540.

169.471. **1.** The board of education is authorized from time to time, in its discretion, to
2 increase the [pension] **retirement** benefits now or hereafter provided pursuant to sections
3 169.410 to 169.540 and to adopt and implement additional [pension] **retirement** benefits and
4 plans, including without limitation, early retirement plans, deferred retirement option plans and
5 cost-of-living adjustments, but excluding compensation to retired members pursuant to section
6 169.475, and for such purpose the contribution rate of members of the retirement system may
7 be increased to provide part of the cost thereof, subject to the following conditions:

8 (1) Any such increase in [pension] **retirement** benefits and additional [pension]
9 **retirement** benefits and plans shall be approved by the board of trustees;

10 (2) The board of trustees shall have presented to the board of education the projected
11 increases in rates of contribution which will be required to be made by members and the board
12 of education to the retirement system to pay the cost of such increases in [pension] **retirement**
13 benefits and additional [pension] **retirement** benefits and plans; and

14 (3) Any increase in the contribution rate of members of the retirement system shall be
15 approved by the board of trustees and shall be deducted from the compensation of each member
16 by the employing board and transferred and credited to the individual account of each member
17 from whose compensation the deduction was made, and shall be administered in accordance with
18 sections 169.410 to 169.540; provided that, any such increase in the members' contribution rate
19 shall not exceed one-half of one percent of compensation in any year for such increases to
20 [pension] **retirement** benefits and additional [pension] **retirement** benefits and plans adopted
21 during such year by the board of education pursuant to this section, and all such increases in the
22 members' contribution rate shall, in the aggregate, not exceed two percent of compensation.

23 **2.** The board of trustees is authorized from time to time, in its discretion, to
24 increase the retirement benefits, now or hereinafter provided under sections 169.410 to
25 169.540, and to adopt and implement additional retirement benefits for persons who have
26 retired, including cost-of-living adjustments, provided that the board of trustees finds the
27 additional benefit will not require an increase in the contribution rate required by the
28 members, will not increase the contribution required from the board of education, and is

29 **actuarially sound. In the event the board of trustees authorizes an increase under this**
30 **section, it shall certify in writing to the board of education the findings, including but not**
31 **limited to all actuarial assumptions, upon which the board of trustees determined that the**
32 **increase in benefits would result in no increase in contributions by members or the board**
33 **of education.**

169.670. 1. The retirement allowance of a member whose age at retirement is sixty years
2 or more and whose creditable service is five years or more, or whose sum of age and creditable
3 service equals eighty years or more, or whose creditable service is thirty years or more regardless
4 of age, shall be the sum of the following items:

5 (1) For each year of membership service, one and sixty-one hundredths percent of the
6 member's final average salary;

7 (2) Six-tenths of the amount payable for a year of membership service for each year of
8 prior service;

9 (3) Eighty-five one-hundredths of one percent of any amount by which the member's
10 average compensation for services rendered prior to July 1, 1973, exceeds the average monthly
11 compensation on which federal Social Security taxes were paid during the period over which
12 such average compensation was computed, for each year of membership service credit for
13 services rendered prior to July 1, 1973, plus six-tenths of the amount payable for a year of
14 membership service for each year of prior service credit;

15 (4) In lieu of the retirement allowance otherwise provided by subdivisions (1) to (3) of
16 this subsection, between July 1, 2001, and July 1, [2008] **2013**, a member may elect to receive
17 a retirement allowance of:

18 (a) One and fifty-nine hundredths percent of the member's final average salary for each
19 year of membership service, if the member's creditable service is twenty-nine years or more but
20 less than thirty years and the member has not attained the age of fifty-five;

21 (b) One and fifty-seven hundredths percent of the member's final average salary for each
22 year of membership service, if the member's creditable service is twenty-eight years or more but
23 less than twenty-nine years, and the member has not attained the age of fifty-five;

24 (c) One and fifty-five hundredths percent of the member's final average salary for each
25 year of membership service, if the member's creditable service is twenty-seven years or more but
26 less than twenty-eight years and the member has not attained the age of fifty-five;

27 (d) One and fifty-three hundredths percent of the member's final average salary for each
28 year of membership service, if the member's creditable service is twenty-six years or more but
29 less than twenty-seven years and the member has not attained the age of fifty-five;

30 (e) One and fifty-one hundredths percent of the member's final average salary for each
31 year of membership service, if the member's creditable service is twenty-five years or more but
32 less than twenty-six years and the member has not attained the age of fifty-five; and

33 (5) In addition to the retirement allowance provided in subdivisions (1) to (3) of this
34 subsection, a member retiring on or after July 1, 2001, whose creditable service is thirty years
35 or more or whose sum of age and creditable service is eighty years or more, shall receive a
36 temporary retirement allowance equivalent to eight-tenths of one percent of the member's final
37 average salary multiplied by the member's years of service until such time as the member reaches
38 the minimum age for Social Security retirement benefits.

39 2. If the board of trustees determines that the cost of living, as measured by generally
40 accepted standards, increases five percent or more in the preceding fiscal year, the board shall
41 increase the retirement allowances which the retired members or beneficiaries are receiving by
42 five percent of the amount being received by the retired member or the beneficiary at the time
43 the annual increase is granted by the board; provided that, the increase provided in this
44 subsection shall not become effective until the fourth January first following a member's
45 retirement or January 1, 1982, whichever occurs later, and the total of the increases granted to
46 a retired member or the beneficiary after December 31, 1981, may not exceed eighty percent of
47 the retirement allowance established at retirement or as previously adjusted by other provisions
48 of law. If the cost of living increases less than five percent, the board of trustees may determine
49 the percentage of increase to be made in retirement allowances, but at no time can the increase
50 exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no
51 increase in allowances for retired members on the following January first.

52 3. The board of trustees may reduce the amounts which have been granted as increases
53 to a member pursuant to subsection 2 of this section if the cost of living, as determined by the
54 board and as measured by generally accepted standards, is less than the cost of living was at the
55 time of the first increase granted to the member; provided that, the reductions shall not exceed
56 the amount of increases which have been made to the member's allowance after December 31,
57 1981.

58 4. (1) In lieu of the retirement allowance provided in subsection 1 of this section, called
59 "option 1", a member whose creditable service is twenty-five years or more or who has attained
60 age fifty-five with five or more years of creditable service may elect, in the application for
61 retirement, to receive the actuarial equivalent of the member's retirement allowance in reduced
62 monthly payments for life during retirement with the provision that:

63 Option 2. Upon the member's death, the reduced retirement allowance shall be continued
64 throughout the life of and paid to such person as has an insurable interest in the life of the
65 member as the member shall have nominated in the member's election of the option, and

66 provided further that if the person so nominated dies before the retired member, the retirement
67 allowance will be increased to the amount the retired member would be receiving had the
68 member elected option 1;

69 OR

70 Option 3. Upon the death of the member three-fourths of the reduced retirement
71 allowance shall be continued throughout the life of and paid to such person as has an insurable
72 interest in the life of the member and as the member shall have nominated in an election of the
73 option, and provided further that if the person so nominated dies before the retired member, the
74 retirement allowance will be increased to the amount the retired member would be receiving had
75 the member elected option 1;

76 OR

77 Option 4. Upon the death of the member one-half of the reduced retirement allowance
78 shall be continued throughout the life of, and paid to, such person as has an insurable interest in
79 the life of the member and as the member shall have nominated in an election of the option, and
80 provided further that if the person so nominated dies before the retired member, the retirement
81 allowance shall be increased to the amount the retired member would be receiving had the
82 member elected option 1;

83 OR

84 Option 5. Upon the death of the member prior to the member having received one
85 hundred twenty monthly payments of the member's reduced allowance, the remainder of the one
86 hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as
87 the member shall have nominated in the member's election of the option or in a subsequent
88 nomination. If there is no beneficiary so nominated who survives the member for the remainder
89 of the one hundred twenty monthly payments, the reserve for the remainder of such one hundred
90 twenty monthly payments shall be paid to the estate of the last person to receive a monthly
91 allowance. If the total of the one hundred twenty payments paid to the retired individual and the
92 beneficiary of the retired individual is less than the total of the member's accumulated
93 contributions, the difference shall be paid to the beneficiary in a lump sum;

94 OR

95 Option 6. Upon the death of the member prior to the member having received sixty
96 monthly payments of the member's reduced allowance, the remainder of the sixty monthly
97 payments of the reduced allowance shall be paid to such beneficiary as the member shall have
98 nominated in the member's election of the option or in a subsequent nomination. If there is no
99 beneficiary so nominated who survives the member for the remainder of the sixty monthly
100 payments, the reserve for the remainder of such sixty monthly payments shall be paid to the
101 estate of the last person to receive a monthly allowance. If the total of the sixty payments paid

102 to the retired individual and the beneficiary of the retired individual is less than the total of the
103 member's accumulated contributions, the difference shall be paid to the beneficiary in a lump
104 sum;

105 OR

106 Option 7. A plan of variable monthly benefit payments which provides, in conjunction
107 with the member's retirement benefits under the federal Social Security laws, level or near-level
108 retirement benefit payments to the member for life during retirement, and if authorized, to an
109 appropriate beneficiary designated by the member. Such a plan shall be actuarially equivalent
110 to the retirement allowance under option 1 and shall be available for election only if established
111 by the board of trustees under duly adopted rules.

112 (2) The election of an option may be made only in the application for retirement and such
113 application must be filed prior to the date on which the retirement of the member is to be
114 effective. If either the member or the person nominated dies before the effective date of
115 retirement, the option shall not be effective, provided that:

116 (a) If the member or a person retired on disability retirement dies after attaining age
117 fifty-five and acquiring five or more years of creditable service or after acquiring twenty-five or
118 more years of creditable service and before retirement, except retirement with disability benefits,
119 and the person named by the member as the member's beneficiary has an insurable interest in the
120 life of the deceased member, the designated beneficiary may elect to receive either survivorship
121 payments under option 2 or a payment of the member's accumulated contributions. If
122 survivorship benefits under option 2 are elected and the member at the time of death would have
123 been eligible to receive an actuarial equivalent of the member's retirement allowance, the
124 designated beneficiary may further elect to defer the option 2 payments until the date the member
125 would have been eligible to receive the retirement allowance provided in subsection 1 of this
126 section.

127 (b) If the member or a person retired on disability retirement dies before attaining age
128 fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the
129 person named as the beneficiary has an insurable interest in the life of the deceased member or
130 disability retiree, the designated beneficiary may elect to receive either a payment of the person's
131 accumulated contributions, or survivorship benefits under option 2 to begin on the date the
132 member would first have been eligible to receive an actuarial equivalent of the person's
133 retirement allowance, or to begin on the date the member would first have been eligible to
134 receive the retirement allowance provided in subsection 1 of this section.

135 5. If the total of the retirement or disability allowances paid to an individual before the
136 person's death is less than the person's accumulated contributions at the time of the person's
137 retirement, the difference shall be paid to the person's beneficiary or, if there is no beneficiary,

to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) person's estate in that order of precedence; provided, however, that if an optional benefit, as provided in option 2, 3 or 4 in subsection 4, had been elected and the beneficiary dies after receiving the optional benefit, then, if the total retirement allowances paid to the retired individual and the individual's beneficiary are less than the total of the contributions, the difference shall be paid to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the beneficiary, in that order of precedence, unless the retired individual designates a different recipient with the board at or after retirement.

6. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the member's death shall be paid to the member's beneficiary or, if there is no beneficiary, to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) to the member's estate; provided, however, that no such payment shall be made if the beneficiary elects option 2 in subsection 4 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving parents in equal shares, or (4) estate of the beneficiary, in that order of precedence.

7. If a member ceases to be an employee as defined in section 169.600 and certifies to the board of trustees that such cessation is permanent or if the person's membership is otherwise terminated, the person shall be paid the person's accumulated contributions with interest.

8. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, if a member ceases to be an employee as defined in section 169.600 after acquiring five or more years of creditable service, the member may, at the option of the member, leave the member's contributions with the retirement system and claim a retirement allowance any time after the member reaches the minimum age for voluntary retirement. When the member's claim is presented to the board, the member shall be granted an allowance as provided in sections 169.600 to 169.715 on the basis of the member's age and years of service.

9. The retirement allowance of a member retired because of disability shall be nine-tenths of the allowance to which the member's creditable service would entitle the member if the member's age were sixty.

10. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, any member who is a member prior to October 13, 1969, may elect to have the member's retirement allowance computed in accordance with sections 169.600 to 169.715 as they existed prior to October 13, 1969.

11. Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

12. Notwithstanding any other provision of law, any person retired prior to August 14, 1984, who is receiving a reduced retirement allowance under option 1 or 2 of subsection 4 of this section, as the option existed prior to August 14, 1984, and whose beneficiary nominated to receive continued retirement allowance payments under the elected option dies or has died, shall upon application to the board of trustees have the person's retirement allowance increased to the amount the person would have been receiving had the person not elected the option, actuarially adjusted to recognize any excessive benefits which would have been paid to the person up to the time of the application.

13. Benefits paid pursuant to the provisions of the public education employee retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code, except as provided under this subsection. Notwithstanding any other law, the board of trustees may establish a benefit plan under Section 415(m) of Title 26 of the United States Code. Such plan shall be credited solely for the purpose described in Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.

14. Any member who has retired prior to July 1, 1999, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to seven and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

15. Any member who has retired prior to July 1, 2000, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to three and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

16. Any member who has retired prior to July 1, 2001, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed

209 by the board as a special consultant on the matters of education, retirement and aging. As
210 compensation for such duties the person shall receive a payment equivalent to seven and
211 one-tenth percent of the previous month's benefit, which shall be added to the member's or
212 beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2
213 and 3 of this section for the purposes of the limit on the total amount of increases which may be
214 received.

215 **17. Notwithstanding the provisions of subsection 7 of section 169.620 to the**
216 **contrary, any member who has retired, attained the age of seventy-five and above and**
217 **received cost of living increases totaling eighty percent as provided in subsection 2 of this**
218 **section prior to January 1, 2008, shall be made, constituted, and employed by the board**
219 **as a special consultant on the matters of education, retirement, and aging, and upon**
220 **request shall give written or oral opinions to the board in response to such requests. As**
221 **compensation for such duties, beginning January 1, 2008, and through January 1, 2013,**
222 **the member shall receive an amount equal to three dollars per month multiplied by years**
223 **of service which shall be added to the member's monthly annuity.**

211.393. 1. For purposes of this section, the following words and phrases mean:

2 (1) "County retirement plan", any public employees' defined benefit retirement plan
3 established by law that provides retirement benefits to county or city employees, but not to
4 include the county employees' retirement system as provided in sections 50.1000 to 50.1200,
5 RSMo;

6 (2) "Juvenile court employee", any person who is employed by a juvenile court in a
7 position normally requiring one thousand hours or more of service per year [but not including
8 any service in such a position that was financed in whole or in part by a public or private grant
9 on or after July 1, 1999];

10 (3) "Juvenile officer", any juvenile officer appointed pursuant to section 211.351;

11 (4) "Multicounty circuit", all other judicial circuits not included in the definition of a
12 single county circuit;

13 (5) "Single county circuit", a judicial circuit composed of a single county of the first
14 classification, including the circuit for the city of St. Louis;

15 (6) "State retirement plan", the public employees' retirement plan administered by the
16 Missouri state employees' retirement system pursuant to chapter 104, RSMo.

17 2. Juvenile court employees employed in a single county circuit shall be subject to the
18 following provisions:

19 (1) The juvenile officer employed in such circuits on and prior to July 1, 1999, shall:

20 (a) Be state employees on that portion of their salary received from the state pursuant to
21 section 211.381, and in addition be county employees on that portion of their salary provided by
22 the county at a rate determined pursuant to section 50.640, RSMo;

23 (b) Receive state-provided benefits, including retirement benefits from the state
24 retirement plan, on that portion of their salary paid by the state and may participate as members
25 in a county retirement plan on that portion of their salary provided by the county except any
26 juvenile officer whose service as a juvenile court officer is being credited based on all salary
27 received from any source in a county retirement plan on June 30, 1999, shall not be eligible to
28 receive state-provided benefits, including retirement benefits, or any creditable prior service as
29 described in this section but shall continue to participate in such county retirement plan;

30 (c) Receive creditable prior service in the state retirement plan for service rendered as
31 a juvenile court employee **prior to July 1, 1999**, to the extent they have not already received
32 credit for such service in a county retirement plan on salary paid to them for such service, if such
33 service was rendered in a [judicial circuit that was not a single county of the first classification]
34 **single county circuit or a multicounty circuit; except that if the juvenile officer forfeited**
35 **such credit in such county retirement plan prior to being eligible to receive creditable prior**
36 **service under this paragraph, they may receive service under this paragraph;**

37 (d) Receive creditable prior service pursuant to paragraph (c) of this subdivision even
38 though they already have received credit for such creditable service in a county retirement plan
39 if they elect to forfeit their creditable service from such plan in which case such plan shall
40 transfer to the state retirement plan an amount equal to the actuarial accrued liability for the
41 forfeited creditable service, determined as if the person were going to continue to be an active
42 member of the county retirement plan, less the amount of any refunds of member contributions;

43 (e) Receive creditable prior service for service rendered as a juvenile court employee **in**
44 **a multicounty circuit** in a position that was financed in whole or in part by a public or private
45 grant [prior to July 1, 1999], pursuant to the provisions of paragraph (e) of subdivision (1) of
46 subsection 3 of this section;

47 (2) Juvenile officers who begin employment for the first time as a juvenile officer in a
48 single county circuit on or after July 1, 1999, shall:

49 (a) Be county employees and receive salary from the county at a rate determined
50 pursuant to section 50.640, RSMo, subject to reimbursement by the state as provided in section
51 211.381; and

52 (b) Participate as members in the applicable county retirement plan subject to
53 reimbursement by the state for the retirement contribution due on that portion of salary
54 reimbursed by the state;

55 (3) All other juvenile court employees who are employed in a single county circuit on
56 or after July 1, 1999:

57 (a) Shall be county employees and receive a salary from the county at a rate determined
58 pursuant to section 50.640, RSMo; and

59 (b) Shall, in accordance with their status as county employees, receive other
60 county-provided benefits including retirement benefits from the applicable county retirement
61 plan if such employees otherwise meet the eligibility requirements for such benefits;

62 (4) (a) The state shall reimburse each county comprised of a single county circuit for an
63 amount equal to the greater of:

64 a. Twenty-five percent of such circuit's total juvenile court personnel budget, excluding
65 the salary for a juvenile officer, for calendar year 1997, and excluding all costs of retirement,
66 health and other fringe benefits; or

67 b. The sum of the salaries of one chief deputy juvenile officer and one deputy juvenile
68 officer class I, as provided in section 211.381;

69 (b) The state may reimburse a single county circuit up to fifty percent of such circuit's
70 total calendar year 1997 juvenile court personnel budget, subject to appropriations. The state
71 may reimburse, subject to appropriations, the following percentages of such circuits' total
72 juvenile court personnel budget, expended for calendar year 1997, excluding the salary for a
73 juvenile officer, and excluding all costs of retirement, health and other fringe benefits: thirty
74 percent beginning July 1, 2000, until June 30, 2001; forty percent beginning July 1, 2001, until
75 June 30, 2002; fifty percent beginning July 1, 2002; however, no county shall receive any
76 reimbursement from the state in an amount less than the greater of:

77 a. Twenty-five percent of the total juvenile court personnel budget of the single county
78 circuit expended for calendar year 1997, excluding fringe benefits; or

79 b. The sum of the salaries of one chief deputy juvenile officer and one deputy juvenile
80 officer class I, as provided in section 211.381;

81 (5) Each single county circuit shall file a copy of its initial 1997 and each succeeding
82 year's budget with the office of the state courts administrator after January first each year and
83 prior to reimbursement. The office of the state courts administrator shall make payment for the
84 reimbursement from appropriations made for that purpose on or before July fifteenth of each year
85 following the calendar year in which the expenses were made. The office of the state courts
86 administrator shall submit the information from the budgets relating to full-time juvenile court
87 personnel from each county to the general assembly;

88 (6) Any single county circuit may apply to the office of the state courts administrator to
89 become subject to subsection 3 of this section, and such application shall be approved subject
90 to appropriation of funds for that purpose;

91 (7) The state auditor may audit any single county circuit to verify compliance with the
92 requirements of this section, including an audit of the 1997 budget.

93 3. Juvenile court employees in multicounty circuits shall be subject to the following
94 provisions:

95 (1) Juvenile court employees including detention personnel hired in 1998 in those
96 multicounty circuits who began actual construction on detention facilities in 1996, employed in
97 a multicounty circuit on or after July 1, 1999, shall:

98 (a) **Not** be state employees [and] **unless they** receive all salary from the state, which
99 shall include any salary as provided in section 211.381 in addition to any salary provided by the
100 applicable county or counties during calendar year 1997 and any general salary increase approved
101 by the state of Missouri for fiscal year 1999 and fiscal year 2000;

102 (b) Participate in the state retirement plan;

103 (c) Receive creditable prior service in the state retirement plan for service rendered as
104 a juvenile court employee **prior to July 1, 1999**, to the extent they have not already received
105 credit for such service in a county retirement plan on salary paid to them for such service if such
106 service was rendered in a [judicial circuit that was not a single county of the first classification]
107 **single county circuit or a multicounty circuit**, except that if they forfeited such credit in such
108 county retirement plan prior to being eligible to receive creditable prior service under this
109 paragraph, they may receive creditable service under this paragraph;

110 (d) Receive creditable prior service pursuant to paragraph (c) of this subdivision even
111 though they already have received credit for such creditable service in a county retirement plan
112 if they elect within six months from the date they become participants in the state retirement plan
113 pursuant to this section to forfeit their service from such plan in which case such plan shall
114 transfer to the state retirement plan an amount equal to the actuarial accrued liability for the
115 forfeited creditable service, determined as if the person was going to continue to be an active
116 member of the county retirement plan, less the amount of any refunds of member contributions;

117 (e) Receive creditable prior service for service rendered as a juvenile court employee **in**
118 **a multicounty circuit** in a position that was financed in whole or in part by a public or private
119 grant [prior to July 1, 1999] **to the extent they have not already received credit for such**
120 **service in a county retirement plan on salary paid to them for such service except that if**
121 **they:**

122 a. **Forfeited such credit in such county retirement plan prior to being eligible to**
123 **receive creditable service under this paragraph, they may receive creditable service under**
124 **paragraph (e) of this subdivision;**

125 b. [Pursuant to paragraph (c) of this subdivision, except that if they already] Received
126 credit for such creditable service in a county retirement plan, they may not receive creditable

127 prior service pursuant to paragraph [(c)] **(e)** of this subdivision unless they elect to forfeit their
128 service from such plan, in which case such plan shall transfer to the state retirement plan an
129 amount equal to the actuarial liability for the forfeited creditable service, determined as if the
130 person was going to continue to be an active member of the county retirement plan, less the
131 amount of any refunds of member contributions;

132 [b. Pursuant to subparagraph a. of this paragraph, if they] **c.** Terminated employment
133 prior to August 28, [2004] **2007**, and apply to the board of trustees of the state retirement plan
134 to be made and employed as a special consultant and be available to give opinions regarding
135 retirement **they may receive creditable service under paragraph (e) of this subdivision;**

136 [c. Pursuant to subparagraph a. of this paragraph, if they] **d.** Retired prior to August 28,
137 [2004] **2007**, and apply to the board of trustees of the state retirement plan to be made and
138 employed as a special consultant and be available to give opinions regarding retirement, [in
139 which case] they shall have their retirement benefits adjusted so they receive retirement benefits
140 equal to the amount they would have received had their retirement benefit been initially
141 calculated to include such creditable prior service; **or**

142 [d. Pursuant to subparagraph a. of this paragraph, if they] **e.** Purchased creditable prior
143 service pursuant to section 104.344, RSMo, or section 105.691, RSMo, based on service as a
144 juvenile court employee in a position that was financed in whole or in part by a public or private
145 grant [prior to July 1, 1999], [in which case] they shall receive a refund based on the amount paid
146 for such purchased service;

147 (2) Juvenile court employee positions added after December 31, 1997, shall be
148 terminated and not subject to the provisions of subdivision (1) of this subsection, unless the
149 office of the state courts administrator requests and receives an appropriation specifically for
150 such positions;

151 (3) The salary of any juvenile court employee who becomes a state employee, effective
152 July 1, 1999, shall be limited to the salary provided by the state of Missouri, which shall be set
153 in accordance with guidelines established by the state pursuant to a salary survey conducted by
154 the office of the state courts administrator, but such salary shall in no event be less than the
155 amount specified in paragraph (a) of subdivision (1) of this subsection. Notwithstanding any
156 provision to the contrary in subsection 1 of section 211.394, such employees shall not be entitled
157 to additional compensation paid by a county as a public officer or employee. Such employees
158 shall be considered employees of the judicial branch of state government for all purposes;

159 (4) All other employees of a multicounty circuit who are not juvenile court employees
160 as defined in subsection 1 of this section shall be county employees subject to the county's own
161 terms and conditions of employment.

162 4. The receipt of creditable prior service as described in paragraph (c) of subdivision (1)
163 of subsection 2 of this section and paragraph (c) of subdivision (1) of subsection 3 of this section
164 is contingent upon the office of the state courts administrator providing the state retirement plan
165 information, in a form subject to verification and acceptable to the state retirement plan,
166 indicating the dates of service and amount of monthly salary paid to each juvenile court
167 employee for such creditable prior service.

168 5. No juvenile court employee employed by any single or multicounty circuit shall be
169 eligible to participate in the county employees' retirement system fund pursuant to sections
170 50.1000 to 50.1200, RSMo.

171 6. Each county in every circuit in which a juvenile court employee becomes a state
172 employee shall maintain each year in the local juvenile court budget an amount, defined as
173 "maintenance of effort funding", not less than the total amount budgeted for all employees of the
174 juvenile court including any juvenile officer, deputy juvenile officer, or other juvenile court
175 employees in calendar year 1997, minus the state reimbursements as described in this section
176 received for the calendar year 1997 personnel costs for the salaries of all such juvenile court
177 employees who become state employees. The juvenile court shall provide a proposed budget to
178 the county commission each year. The budget shall contain a separate section specifying all
179 funds to be expended in the juvenile court. Such funding may be used for contractual costs for
180 detention services, guardians ad litem, transportation costs for those circuits without detention
181 facilities to transport children to and from detention and hearings, short-term residential services,
182 indebtedness for juvenile facilities, expanding existing detention facilities or services,
183 continuation of services funded by public grants or subsidy, and enhancing the court's ability to
184 provide prevention, probation, counseling and treatment services. The county commission may
185 review such budget and may appeal the proposed budget to the judicial finance commission
186 pursuant to section 50.640, RSMo.

187 7. Any person who is employed on or after July 1, 1999, in a position covered by the
188 state retirement plan or the transportation department and highway patrol retirement system and
189 who has rendered service as a juvenile court employee in a judicial circuit that was not a single
190 county of the first classification shall be eligible to receive creditable prior service in such plan
191 or system as provided in subsections 2 and 3 of this section. For purposes of this subsection, the
192 provisions of paragraphs (c) and (d) of subdivision (1) of subsection 2 of this section and
193 paragraphs (c) and (d) of subdivision (1) of subsection 3 of this section that apply to the state
194 retirement plan shall also apply to the transportation department and highway patrol retirement
195 system.

196 8. (1) Any juvenile officer who is employed as a state employee in a multicounty circuit
197 on or after July 1, 1999, shall not be eligible to participate in the state retirement plan as provided
198 by this section unless such juvenile officer elects to:

199 (a) Receive retirement benefits from the state retirement plan based on all years of
200 service as a juvenile officer and a final average salary which shall include salary paid by the
201 county and the state; and

202 (b) Forfeit any county retirement benefits from any county retirement plan based on
203 service rendered as a juvenile officer.

204 (2) Upon making the election described in this subsection, the county retirement plan
205 shall transfer to the state retirement plan an amount equal to the actuarial accrued liability for the
206 forfeited creditable service determined as if the person was going to continue to be an active
207 member of the county retirement plan, less the amount of any refunds of member contributions.

208 9. The elections described in this section shall be made on forms developed and made
209 available by the state retirement plan.

**321.800. Notwithstanding any other law to the contrary, any board of directors
2 established under the provisions of this chapter administering its own retirement or other
3 benefits-related plan shall administer such plan by a separate five-member pension board
4 of trustees. Pension plan participants shall elect three such participants to be submitted
5 to the board of directors. The board of directors shall select two of the three participants
6 to serve on the five-member pension board of trustees. The board of directors shall be the
7 other three members of the five-member pension board of trustees.**

 [105.920. The financial liability of the state, or political subdivision
2 under a deferred compensation program shall be limited in each instance to the
3 value of the particular fixed or variable life insurance or annuity contract, mutual
4 funds or other such investment options purchased on behalf of any employee.]

✓

Copy