

FIRST REGULAR SESSION

SENATE BILL NO. 279

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEHOE.

Read 1st time February 7, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

0814S.03I

AN ACT

To repeal sections 104.010, 104.040, 104.090, 104.140, 104.200, 104.272, 104.312, 104.352, 104.354, 104.380, 104.395, 104.420, 104.490, 104.601, 104.620, 104.800, 104.1003, 104.1015, 104.1021, 104.1030, 104.1039, 104.1051, 104.1054, 104.1060, and 476.515, RSMo, and to enact in lieu thereof twenty-five new sections relating to the administration of state employee benefits.

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

Section A. Sections 104.010, 104.040, 104.090, 104.140, 104.200, 104.272, 104.312, 104.352, 104.354, 104.380, 104.395, 104.420, 104.490, 104.601, 104.620, 104.800, 104.1003, 104.1015, 104.1021, 104.1030, 104.1039, 104.1051, 104.1054, 104.1060, and 476.515, RSMo, are repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 104.010, 104.040, 104.090, 104.140, 104.200, 104.272, 104.312, 104.352, 104.354, 104.380, 104.395, 104.420, 104.490, 104.601, 104.620, 104.800, 104.1003, 104.1015, 104.1021, 104.1030, 104.1039, 104.1051, 104.1054, 104.1060, and 476.515, to read as follows:

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

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

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

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

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

11 benefit;

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

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

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

19 (7) **"Annuity starting date", the first day of the first month with**
20 **respect to which an amount is paid as an annuity pursuant to sections**
21 **104.010 to 104.800, and the terms "retirement", "time of retirement", and**
22 **"date of retirement" shall mean "annuity starting date" as defined in this**
23 **section unless the context in which the term is used indicates**
24 **otherwise;**

25 (8) "Average compensation", the average compensation of a member for
26 the thirty-six consecutive months of service prior to retirement when the
27 member's compensation was greatest; or if the member is on workers'
28 compensation leave of absence or a medical leave of absence due to an employee
29 illness, the amount of compensation the member would have received may be
30 used, as reported and verified by the employing department; or if the member had
31 less than thirty-six months of service, the average annual compensation paid to
32 the member during the period up to thirty-six months for which the member
33 received creditable service when the member's compensation was the greatest; or
34 if the member is on military leave, the amount of compensation the member
35 would have received may be used as reported and verified by the employing
36 department or, if such amount is not determinable, the amount of the employee's
37 average rate of compensation during the twelve-month period immediately
38 preceding such period of leave, or if shorter, the period of employment
39 immediately preceding such period of leave. The board of each system may
40 promulgate rules for purposes of calculating average compensation and other
41 retirement provisions to accommodate for any state payroll system in which
42 compensation is received on a monthly, semimonthly, biweekly, or other basis;

43 [(8)] (9) "Beneficiary", any [person] **persons or entities** entitled to or
44 nominated by a member or retiree who may be legally entitled to receive benefits
45 pursuant to this chapter;

46 [(9)] (10) "Biennial assembly", the completion of no less than two years

47 of creditable service or creditable prior service by a member of the general
48 assembly;

49 [(10)] **(11)** "Board of trustees", "board", or "trustees", a board of trustees
50 as established for the applicable system pursuant to this chapter;

51 [(11)] **(12)** "Chapter", sections 104.010 to 104.800;

52 [(12)] **(13)** "Compensation":

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

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

67 (c) Effective December 31, 1995, compensation in excess of the limitations
68 set forth in Internal Revenue Code Section 401(a)(17) shall be disregarded. The
69 limitation on compensation for eligible employees shall not be less than the
70 amount which was allowed to be taken into account under the system as in effect
71 on July 1, 1993. For this purpose, an "eligible employee" is an individual who
72 was a member of the system before the first plan year beginning after December
73 31, 1995;

74 [(13)] **(14)** "Consumer price index", the Consumer Price Index for All
75 Urban Consumers for the United States, or its successor index, as approved by
76 a board, as such index is defined and officially reported by the United States
77 Department of Labor, or its successor agency;

78 [(14)] **(15)** "Creditable prior service", the service of an employee which
79 was either rendered prior to the establishment of a system, or prior to the date
80 the employee last became a member of a system, and which is recognized in
81 determining the member's eligibility and for the amount of the member's benefits
82 under a system;

83 [(15)] (16) "Creditable service", the sum of membership service and
84 creditable prior service, to the extent such service is standing to a member's
85 credit as provided in this chapter; except that in no case shall more than one day
86 of creditable service or creditable prior service be credited any member for any
87 one calendar day of eligible service credit as provided by law;

88 [(16)] (17) "Deferred normal annuity", the annuity payable to any former
89 employee who terminated employment as an employee or otherwise withdrew
90 from service with a vested right to a normal annuity, payable at a future date;

91 [(17)] (18) "Department", any department or agency of the executive,
92 legislative or judicial branch of the state of Missouri receiving state
93 appropriations, including allocated funds from the federal government but not
94 including any body corporate or politic unless its employees are eligible for
95 retirement coverage from a system pursuant to this chapter as otherwise provided
96 by law;

97 [(18)] (19) "Disability benefits", benefits paid to any employee while
98 totally disabled as provided in this chapter;

99 [(19)] (20) "Early retirement age", a member's attainment of fifty-five
100 years of age and the completion of ten or more years of creditable service, except
101 for uniformed members of the water patrol;

102 [(20)] (21) "Employee":

103 (a) **Effective August 28, 2007**, any elective or appointive officer or
104 person employed by the state who is employed, promoted or transferred by a
105 department into a new or existing position and earns a salary or wage in a
106 position normally requiring the performance by the person of duties during not
107 less than one thousand forty hours per year, including each member of the
108 general assembly but not including any patient or inmate of any state, charitable,
109 penal or correctional institution. However, persons who are members of the
110 public school retirement system and who are employed by a state agency other
111 than an institution of higher learning shall be deemed employees for purposes of
112 participating in all insurance programs administered by a board established
113 pursuant to section 104.450. This definition shall not exclude any employee as
114 defined in this subdivision who is covered only under the federal Old Age and
115 Survivors' Insurance Act, as amended. As used in this chapter, the term
116 "employee" shall include:

117 a. Persons who are currently receiving annuities or other retirement
118 benefits from some other retirement or benefit fund, so long as they are not

119 simultaneously accumulating creditable service in another retirement or benefit
120 system which will be used to determine eligibility for or the amount of a future
121 retirement benefit;

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

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

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

135 (d) The system shall consider a person who is employed in multiple
136 positions simultaneously within a single agency to be working in a single position
137 for purposes of determining whether the person is an employee as defined in this
138 subdivision;

139 [(21)] **(22)** "Employer", a department of the state;

140 [(22)] **(23)** "Executive director", the executive director employed by a
141 board established pursuant to the provisions of this chapter;

142 [(23)] **(24)** "Fiscal year", the period beginning July first in any year and
143 ending June thirtieth the following year;

144 [(24)] **(25)** "Full biennial assembly", the period of time beginning on the
145 first day the general assembly convenes for a first regular session until the last
146 day of the following year;

147 [(25)] **(26)** "Fund", the benefit fund of a system established pursuant to
148 this chapter;

149 [(26)] **(27)** "Interest", interest at such rate as shall be determined and
150 prescribed from time to time by a board;

151 [(27)] **(28)** "Member", as used in sections 104.010 to 104.272 or 104.601
152 to 104.800 shall mean an employee, retiree, or former employee entitled to a
153 deferred annuity covered by the Missouri department of transportation and
154 highway patrol employees' retirement system. "Member", as used in this section

155 and sections 104.312 to 104.800, shall mean an employee, retiree, or former
156 employee entitled to deferred annuity covered by the Missouri state employees'
157 retirement system;

158 [(28)] **(29)** "Membership service", the service after becoming a member
159 that is recognized in determining a member's eligibility for and the amount of a
160 member's benefits under a system;

161 [(29)] **(30)** "Military service", all active service performed in the United
162 States Army, Air Force, Navy, Marine Corps, Coast Guard, and members of the
163 United States Public Health Service or any women's auxiliary thereof; and service
164 in the Army National Guard and Air National Guard when engaged in active duty
165 for training, inactive duty training or full-time National Guard duty, and service
166 by any other category of persons designated by the President in time of war or
167 emergency;

168 [(30)] **(31)** "Normal annuity", the annuity provided to a member upon
169 retirement at or after the member's normal retirement age;

170 [(31)] **(32)** "Normal retirement age", an employee's attainment of
171 sixty-five years of age and the completion of four years of creditable service or the
172 attainment of age sixty-five years of age and the completion of five years of
173 creditable service by a member who has terminated employment and is entitled
174 to a deferred normal annuity or the member's attainment of age sixty and the
175 completion of fifteen years of creditable service, except that normal retirement
176 age for uniformed members of the highway patrol shall be fifty-five years of age
177 and the completion of four years of creditable service and uniformed employees
178 of the water patrol shall be fifty-five years of age and the completion of four years
179 of creditable service or the attainment of age fifty-five and the completion of five
180 years of creditable service by a member of the water patrol who has terminated
181 employment and is entitled to a deferred normal annuity and members of the
182 general assembly shall be fifty-five years of age and the completion of three full
183 biennial assemblies. Notwithstanding any other provision of law to the contrary,
184 a member of the [highways and] **Missouri department of** transportation
185 [employees'] and highway patrol **employees'** retirement system or a member of
186 the Missouri state employees' retirement system shall be entitled to retire with
187 a normal annuity and shall be entitled to elect any of the survivor benefit options
188 and shall also be entitled to any other provisions of this chapter that relate to
189 retirement with a normal annuity if the sum of the member's age and creditable
190 service equals eighty years or more and if the member is at least forty-eight years

191 of age;

192 [(32)] **(33)** "Payroll deduction", deductions made from an employee's
193 compensation;

194 [(33)] **(34)** "Prior service credit", the service of an employee rendered
195 prior to the date the employee became a member which service is recognized in
196 determining the member's eligibility for benefits from a system but not in
197 determining the amount of the member's benefit;

198 [(34)] **(35)** "Reduced annuity", an actuarial equivalent of a normal
199 annuity;

200 [(35)] **(36)** "Retiree", a member who is not an employee and who is
201 receiving an annuity from a system pursuant to this chapter;

202 [(36)] **(37)** "System" or "retirement system", the Missouri department of
203 transportation and highway patrol employees' retirement system, as created by
204 sections 104.010 to 104.270, or sections 104.601 to 104.800, or the Missouri state
205 employees' retirement system as created by sections 104.320 to 104.800;

206 [(37)] **(38)** "Uniformed members of the highway patrol", the
207 superintendent, lieutenant colonel, majors, captains, director of radio,
208 lieutenants, sergeants, corporals, and patrolmen of the Missouri state highway
209 patrol who normally appear in uniform;

210 [(38)] **(39)** "Uniformed members of the water patrol", employees of the
211 Missouri state water patrol of the department of public safety who are classified
212 as water patrol officers who have taken the oath of office prescribed by the
213 provisions of chapter 306 and who have those peace officer powers given by the
214 provisions of chapter 306;

215 [(39)] **(40)** "Vesting service", the sum of a member's prior service credit
216 and creditable service which is recognized in determining the member's eligibility
217 for benefits under the system.

218 2. Benefits paid pursuant to the provisions of this chapter shall not exceed
219 the limitations of Internal Revenue Code Section 415, the provisions of which are
220 hereby incorporated by reference. Notwithstanding any other law to the contrary,
221 the board of trustees may establish a benefit plan under Section 415(m) of the
222 Internal Revenue Code of 1986, as amended. Such plan shall be created solely
223 for the purposes described in Section 415(m)(3)(A) of the Internal Revenue Code
224 of 1986, as amended. The board of trustees may promulgate regulations
225 necessary to implement the provisions of this subsection and to create and
226 administer such benefit plan.

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

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

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

20 4. Any member who had served in the Armed Forces of the United States
21 prior to becoming a member, or who is otherwise ineligible pursuant to subsection
22 1 of this section or other provisions of this chapter, and who became a member
23 after his or her discharge under honorable conditions may elect, prior to
24 retirement, to purchase all of his or her creditable prior service equivalent to such
25 service in the Armed Forces, but not to exceed four years, if the member is not
26 receiving and is not eligible to receive retirement credits or benefits from any
27 other public or private retirement plan for the service to be purchased, and an
28 affidavit so stating shall be filed by the member with the retirement
29 system. However, if the member is eligible to receive retirement credits in a
30 United States military service retirement system, the member shall be permitted
31 to purchase creditable prior service equivalent to his or her service in the armed
32 services, but not to exceed four years, any other provision of law to the contrary
33 notwithstanding. The purchase shall be effected by the member's paying to the
34 retirement system an amount equal to what would have been contributed by the
35 state in his or her behalf had the member been a member for the period for which
36 the member is electing to purchase credit and had his or her compensation during

37 such period of membership been the same as the annual salary rate at which the
38 member was initially employed as a member, with the calculations based on the
39 contribution rate in effect on the date of his or her employment with simple
40 interest calculated from date of employment from which the member could first
41 receive creditable service to the date of election pursuant to this subsection. The
42 payment shall be made over a period of not longer than two years, measured from
43 the date of election, and with simple interest on the unpaid balance. Payments
44 made for such creditable prior service pursuant to this subsection shall be treated
45 by the retirement system as would contributions made by the state and shall not
46 be subject to any prohibition on member contributions or refund provisions in
47 effect at the time of enactment of this subsection.

48 5. Any uniformed member of the highway patrol who served as a certified
49 police officer prior to becoming a member may elect, prior to retirement, to
50 purchase all of his or her creditable prior service equivalent to such service in the
51 police force, but not to exceed four years, if he or she is not receiving and is not
52 eligible to receive credits or benefits from any other public or private retirement
53 plan for the service to be purchased, and an affidavit so stating shall be filed by
54 the member with the retirement system. The purchase shall be effected by the
55 member's paying to the retirement system an amount equal to what would have
56 been contributed by the state in his or her behalf had he or she been a member
57 of the system for the period for which the member is electing to purchase credit
58 and had his compensation during such period been the same as the annual salary
59 rate at which the member was initially employed as a member, with the
60 calculations based on the contribution rate in effect on the date of his or her
61 employment with simple interest calculated from the date of employment from
62 which the member could first receive creditable service to the date of election
63 pursuant to the provisions of this section. The payment shall be made over a
64 period of not longer than two years, measured from the date of election, and with
65 simple interest on the unpaid balance. Payments made for such creditable prior
66 service pursuant to the provisions of this section shall be treated by the
67 retirement system as would contributions made by the state and shall not be
68 subject to any prohibition on member contributions or refund provisions in effect
69 at the time of enactment of this section.

70 6. Any member of the system under section 104.030 or 104.170 who is an
71 active employee and who served as a nonfederal full-time public employee in this
72 state prior to becoming a member may elect, prior to retirement, to purchase all

73 of his or her creditable prior service equivalent to such service, but not to exceed
74 four years, if he or she is not receiving and is not eligible to receive credits or
75 benefits from any other public plan for the service to be purchased. The purchase
76 shall be effected by the member's paying to the retirement system an amount
77 equal to what would have been contributed by the state in his or her behalf had
78 he or she been a member of the system for the period for which the member is
79 electing to purchase credit and had his compensation during such period been the
80 same as the annual salary rate at which the member was initially employed as
81 a member, with the calculations based on the contribution rate in effect on the
82 date of his or her employment with simple interest calculated from the date of
83 employment from which the member could first receive creditable service to the
84 date of election pursuant to the provisions of this section. The payment shall be
85 made over a period of not longer than two years, measured from the date of
86 election, and with simple interest on the unpaid balance. Payments made for
87 such creditable prior service pursuant to the provisions of this section shall be
88 treated by the retirement system as would contributions made by the state and
89 shall not be subject to any prohibition on member contributions or refund
90 provisions in effect at the time of enactment of this section. All purchase
91 payments under this subsection must be completed prior to retirement or prior
92 to termination of employment. If a member who purchased creditable service
93 under this subsection dies prior to retirement, the surviving spouse may, upon
94 written request, receive a refund of the amount contributed for such purchase of
95 such creditable service. The surviving spouse shall not be eligible for a refund
96 under this subsection if he or she is entitled to survivorship benefits payable
97 under section 104.140. A member who is entitled to a deferred annuity under
98 section 104.035 shall be ineligible to purchase service under this subsection.

104.090. 1. The normal annuity of a member shall equal one and
2 six-tenths percent of the average compensation of the member multiplied by the
3 number of years of creditable service of such member. In addition, the normal
4 annuity of a uniformed member of the patrol shall be increased by thirty-three
5 and one-third percent.

6 2. In addition, a uniformed member of the highway patrol who is retiring
7 with a normal annuity after attaining normal retirement age shall receive an
8 additional sum of ninety dollars per month as a contribution by the system until
9 such member attains the age of sixty-five years, when such contribution shall
10 cease. To qualify for the contribution provided in this subsection by the system,

11 the retired uniformed member of the highway patrol is made, constituted,
12 appointed and employed by the board as a special consultant on the problems of
13 retirement, aging and other state matters. Such additional contribution shall be
14 reduced each month by such amount earned by the retired uniformed member of
15 the highway patrol in gainful employment. In order to qualify for the additional
16 contribution provided in this subsection, the retired uniformed member of the
17 highway patrol shall have been:

18 (1) Hired by the Missouri state highway patrol prior to January 1, 1995;
19 and

20 (2) Employed by the Missouri state highway patrol or receiving long-term
21 disability or work-related disability benefits on the day before the effective date
22 of the member's retirement.

23 3. In lieu of the annuity payable to the member pursuant to section
24 104.100, a member whose age at retirement is forty-eight or more may elect in the
25 member's application for retirement to receive [either] **one of the following**:

26 Option 1. An actuarial reduction approved by the board of the member's
27 annuity in reduced monthly payments for life during retirement with the
28 provision that upon the member's death the reduced annuity at date of death
29 shall be continued throughout the life of, and be paid to, the member's spouse; or

30 Option 2. The member's normal annuity in regular monthly payments for
31 life during retirement with the provision that upon the member's death a
32 survivor's benefit equal to one-half the member's normal annuity at date of death
33 shall be paid to the member's spouse in regular monthly payments for life; or

34 Option 3. An actuarial reduction approved by the board of **the** member's
35 normal annuity in reduced monthly payments for the member's life with the
36 provision that if the member dies prior to the member's having received one
37 hundred twenty monthly payments of the member's reduced annuity, the
38 member's reduced allowance to which the member would have been entitled had
39 the member lived shall be paid for the remainder of the one hundred
40 twenty-month period to such [person] **beneficiary** as the member shall have
41 nominated by written designation duly executed and filed with the board. If
42 there is no beneficiary surviving the retiree, the reserve for such allowance for
43 the remainder of such one hundred twenty-month period shall be paid to the
44 retiree's estate; or

45 Option 4. An actuarial reduction approved by the board of the member's
46 normal annuity in reduced monthly payments for the member's life with the

47 provision that if the member dies prior to the member having received sixty
48 monthly payments of the member's reduced annuity, the member's reduced
49 allowance to which the member would have been entitled had the member lived
50 shall be paid for the remainder of the sixty-month period to such [person]
51 **beneficiary** as the member shall have nominated by written designation duly
52 executed and filed with the board. If there is no beneficiary surviving the retiree,
53 the reserve for such allowance for the remainder of such sixty-month period shall
54 be paid to the retiree's estate.

55 4. The election may be made only in the application for retirement, and
56 such application shall be filed at least thirty days but not more than ninety days
57 prior to the date on which the retirement of the member is to be effective,
58 provided that if either the member or the spouse nominated to receive the
59 survivorship payment dies before the effective date of retirement, the election
60 shall not be effective. If after the reduced annuity commences, the spouse
61 predeceases the retired member, the reduced annuity continues to the retired
62 member during the member's lifetime.

63 5. Effective July 1, 2000, a member may make an election under option
64 1 or 2 after the date retirement benefits are initiated if the member makes the
65 election within one year from the date of marriage or July 1, 2000, whichever is
66 later, under any of the following circumstances:

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

69 (2) The member's annuity reverted to a normal annuity pursuant to
70 subsection 8 of section 104.103 and the member remarried; or

71 (3) The member elected option 1 or 2 but the member's spouse at the time
72 of retirement has died and the member has remarried.

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

78 7. For retirement applications filed on or after August 28, 2004, the
79 beneficiary for either option 1 or option 2 of subsection 3 of this section shall be
80 the member's spouse at the time of retirement. If the member's marriage ends
81 after retirement as a result of a dissolution of marriage, such dissolution shall not
82 affect the option election and the former spouse shall continue to be eligible to

83 receive survivor benefits upon death of the member.

84 8. Any application for retirement shall only become effective on the first
85 day of the month.

 104.140. 1. (1) If a member who has five or more years of creditable
2 service dies before retirement, the member's surviving spouse, to whom the
3 member was married on the date of the member's death, if any, shall receive the
4 reduced survivorship benefits provided in option 1 of subsection 3 of section
5 104.090 calculated as if the member were of normal retirement age and had
6 retired as of the date of the member's death and had elected option 1[;].

7 (2) If there is no eligible surviving spouse, or when a spouse's annuity has
8 ceased to be payable, the member's eligible surviving children under twenty-one
9 years of age shall receive monthly, in equal shares, an amount equal to eighty
10 percent of the member's accrued annuity calculated as if the member were of
11 normal retirement age and retired as of the date of death. Benefits otherwise
12 payable to a child under eighteen years of age shall be payable to the surviving
13 parent as natural guardian of such child if such parent has custody or assumes
14 custody of such minor child, or to the legal [guardian] **conservator** of such child,
15 until such child attains age eighteen, and thereafter, the benefit may be paid to
16 the child until age twenty-one; provided, the age twenty-one maximum shall be
17 extended for any child who has been found totally incapacitated by a court of
18 competent jurisdiction[;].

19 (3) No benefit is payable pursuant to this section if no eligible surviving
20 spouse or children under twenty-one years of age survive the member. Benefits
21 cease pursuant to this section when there is no eligible surviving beneficiary
22 through either death of the eligible surviving spouse or through either death or
23 the attainment of twenty-one years of age by the eligible surviving children. If
24 the member's surviving children are receiving equal shares of the benefit
25 described in subdivision (2) of this subsection, and one or more of such children
26 become ineligible by reason of death or the attainment of twenty-one years of age,
27 the benefit shall be reallocated so that the remaining eligible children receive
28 equal shares of the total benefit as described in subdivision (2) of this subsection.

29 2. Effective January 1, 1985, if an employee who has three or more, but
30 less than five years of creditable service dies before retirement, the surviving
31 spouse of the deceased employee, if married to the deceased employee on the date
32 of the employee's death, or the deceased employee's surviving eligible children
33 under the age of twenty-one, shall receive a total monthly payment equal to

34 twenty-five percent of the deceased employee's accrued monthly benefit calculated
35 as if the employee were of normal retirement age as of the date of death. If the
36 surviving spouse dies leaving any eligible children under the age of twenty-one
37 years, the payment shall continue until the children reach twenty-one years of
38 age. If there is no surviving spouse eligible for benefits under this subsection,
39 but there are any children of the deceased employee eligible for payments, the
40 payments shall continue until the children reach twenty-one years of age. Any
41 benefits payable to eligible children under twenty-one years of age shall be made
42 on a pro rata basis among the surviving children under twenty-one years of age.

43 3. For the purpose of computing the amount of a benefit payable pursuant
44 to this section, if the board finds that the death was a natural and proximate
45 result of a personal injury or disease arising out of and in the course of the
46 member's actual performance of duty as an employee, then the minimum benefit
47 to such member's surviving spouse or, if no surviving spouse benefits are payable,
48 the minimum benefit that shall be divided among and paid to such member's
49 surviving eligible children under the age of twenty-one shall be fifty percent of
50 the member's final average compensation. The service requirements of
51 subsections 1 and 2 of this section shall not apply to any benefit payable
52 pursuant to this subsection.

104.200. Should any error in any records result in any member's or
2 beneficiary's receiving more or less than he would have been entitled to receive
3 had the records been correct, the board shall correct such error, and, as far as
4 practicable, make future payments in such a manner that the actuarial
5 equivalent of the benefit to which such member or beneficiary was entitled shall
6 be paid, and to this end may recover any overpayments. **In all cases in which
7 such error has been made, no such error shall be corrected unless the
8 system discovers or is notified of such error within ten years after the
9 initial date of error.**

104.272. Other provisions of law to the contrary notwithstanding, any
2 person who is an employee of state government and a member of the
3 transportation department employees' and highway patrol retirement system is
4 entitled to credit for all of his service during employment with the department of
5 transportation or the state highway patrol if he is an employee of that same
6 agency upon retirement regardless of whether he was classified as full-time,
7 part-time or temporary, and the requirement of section 104.010 of duties during
8 not less than one thousand **forty** hours for status as an employee shall not apply

9 to persons applying for retirement credit under the provisions of this section.

104.312. 1. The provisions of subsection 2 of section 104.250, subsection
2 2 of section 104.540, subsection 2 of section 287.820, and section 476.688 to the
3 contrary notwithstanding, any pension, annuity, benefit, right, or retirement
4 allowance provided pursuant to this chapter, chapter 287, or chapter 476 is
5 marital property and after August 28, 1994, a court of competent jurisdiction may
6 divide the pension, annuity, benefits, rights, and retirement allowance provided
7 pursuant to this chapter, chapter 287, or chapter 476 between the parties to any
8 action for dissolution of marriage. A division of benefits order issued pursuant
9 to this section:

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

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

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

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

34 (5) Shall provide that any benefit formula increases, additional years of
35 service, increased average compensation or other type of increases accrued after

36 the date of the dissolution of marriage shall accrue solely to the benefit of the
37 member; except that on or after September 1, 2001, any annual benefit increase
38 shall not be considered to be an increase accrued after the date of termination of
39 marriage and shall be part of the monthly amount subject to division pursuant
40 to any order issued after September 1, 2001;

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

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

45 (8) Shall include the name, address and [Social Security number] **date**
46 **of birth** of both the member and the alternate payee, and the identity of the
47 retirement system to which it applies;

48 (9) Shall be consistent with any other division of benefits orders which are
49 applicable to the same member;

50 **(10) Shall not require the applicable retirement system to**
51 **continue payments to the alternate payee if the member's retirement**
52 **benefit is suspended or waived as provided by chapter 104 but such**
53 **payments shall resume when the retiree begins to receive retirement**
54 **benefits in the future.**

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

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

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

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

67 4. The amount paid to an alternate payee under an order issued pursuant
68 to this section shall be based on the plan the member was in on the date of the
69 dissolution of marriage; except that any annual benefit increases subject to
70 division shall be based on the actual annual benefit increases received after the
71 retirement plan election.

104.352. 1. Each employee described in paragraph (b) of subdivision
2 ~~[(20)]~~ **(21)** of section 104.010 shall be entitled to the same insurance benefits
3 provided under sections 103.003 to 103.175 to employees described in paragraph
4 (a) of subdivision ~~[(20)]~~ **(21)** of section 104.010 to cover the medical expenses of
5 such employees and their spouses and children. Such insurance benefits shall be
6 made available to employees described in paragraph (b) of subdivision ~~[(20)]~~ **(21)**
7 of section 104.010 upon their initial employment as such employees in the same
8 manner provided for employees described in paragraph (a) of subdivision ~~[(20)]~~
9 **(21)** of section 104.010, and shall be continued during any period of time, not to
10 exceed one year, in which such employees are not paid for full-time employment,
11 so long as such employees pay the same amount for such insurance benefits as
12 is required of employees described in paragraph (a) of subdivision ~~[(20)]~~ **(21)** of
13 section 104.010 who continue receiving such insurance benefits during a leave of
14 absence without pay from their employment with the state. Any employee
15 described in paragraph (b) of subdivision ~~[(20)]~~ **(21)** of section 104.010 who is
16 reemployed by the general assembly or either house thereof, or by any member
17 of the general assembly while acting in his official capacity as a member, by the
18 thirteenth legislative day of the session of the general assembly immediately
19 following the session of the general assembly in which such employee was last so
20 employed, without having elected to discontinue the insurance benefits described
21 in this subsection, shall be entitled to continue such insurance benefits without
22 having to prove insurability for himself or any of his covered dependents for
23 whom he has paid for such coverage continuously since last employed as an
24 employee described in paragraph (b) of subdivision ~~[(20)]~~ **(21)** of section
25 104.010. Any employee described in paragraph (b) of subdivision ~~[(20)]~~ **(21)** of
26 section 104.010 who is not reemployed by the general assembly or either house
27 thereof, or by any member of the general assembly while acting in his official
28 capacity as a member, by the thirteenth legislative day of the session of the
29 general assembly immediately following the session of the general assembly in
30 which such employee was last so employed, shall be deemed terminated as an
31 employee as of such thirteenth legislative day, and the insurance benefits
32 provided for such employee under this subsection and sections 103.003 to 103.175
33 shall be terminated as provided for employees described in paragraph (a) of
34 subdivision ~~[(20)]~~ **(21)** of section 104.010 whose employment is terminated. During
35 each month of service in which an employee described in paragraph (b) of
36 subdivision ~~[(20)]~~ **(21)** of section 104.010 is employed, the state shall make any

37 contribution required by sections 103.003 to 103.175 for such employee.

38 2. Any employee described in paragraph (b) of subdivision [(20)] **(21)** of
39 section 104.010 who is actively employed on or after September 28, 1992, shall be
40 deemed vested for purposes of determining eligibility for benefits under sections
41 104.320 to 104.620 after being so employed for at least sixty months.

104.354. In each fiscal year in which retirement benefits are to be paid to
2 retired employees described in paragraph (b) of subdivision [(20)] **(21)** of section
3 104.010 because of the provisions of section 104.352, funding for such benefits
4 shall be provided as set forth in section 104.436. All benefits paid because of the
5 provisions of section 104.352 shall be paid by the retirement system along with
6 all other retirement benefits due such retired employees under the retirement
7 system.

104.380. If a retired member is elected to any state office or is appointed
2 to any state office or is employed by a department in a position normally
3 requiring the performance by the person of duties during not less than one
4 thousand forty hours per year, the member shall not receive an annuity for any
5 month or part of a month for which the member serves as an officer or employee,
6 but the member shall be considered to be a new employee with no previous
7 creditable service and must accrue creditable service continuously for at least one
8 year in order to receive any additional annuity. Any retired member who again
9 becomes an employee and who accrues additional creditable service and later
10 retires shall receive an additional amount of monthly annuity calculated to
11 include only the creditable service and the average compensation earned by the
12 member since such employment or creditable service earned as a member of the
13 general assembly. Years of membership service and twelfths of a year are to be
14 used in calculating any additional annuity except for creditable service earned as
15 a member of the general assembly, and such additional annuity shall be based on
16 the type of service accrued. In either event, the original annuity and the
17 additional annuity, if any, shall be paid commencing with the end of the first
18 month after the month during which the member's term of office has been
19 completed, or the member's employment terminated. If a retired member is
20 employed by a department in a position that does not normally require the person
21 to perform duties during at least one thousand forty hours per year, the member
22 shall not be considered an employee as defined pursuant to section 104.010. A
23 retired member who becomes reemployed as an employee on or after August 28,
24 2001, in a position covered by the [highways and] **Missouri department of**

25 transportation [employees'] and highway patrol **employees'** retirement system
26 shall not be eligible to receive retirement benefits or additional creditable service
27 from the state employees' retirement system. **Annual benefit increases paid**
28 **pursuant to section 104.415 shall not accrue while a retired member is**
29 **employed as described in this section. Any future annual benefit**
30 **increases paid after the member terminates such employment will be**
31 **paid in the same month as the member's original annual benefit**
32 **increases were paid. Benefits paid under subsection 3 of section**
33 **104.374 are not applicable to any additional annuity paid under this**
34 **section.**

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

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

23 Option 2. The member's normal annuity in regular monthly payments for
24 life during the member's retirement with the provision that upon the member's
25 death a survivor's benefit equal to one-half the member's annuity at the date of
26 the member's death shall be paid to the member's spouse to whom the member

27 was married at the date of retirement and who was nominated by the member to
28 receive such payments in the member's application for retirement or as otherwise
29 provided pursuant to subsection 5 of this section, in regular monthly payments
30 for life. The surviving spouse shall designate a beneficiary to receive any final
31 monthly payment due after the death of the surviving spouse; or

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

47 Option 4. An actuarial reduction approved by the board of the member's
48 normal annuity in reduced monthly payments for the member's life with the
49 provision that if the member dies prior to the member having received sixty
50 monthly payments of the member's reduced annuity, the member's reduced
51 annuity to which the member would have been entitled had the member lived
52 shall be paid for the remainder of the sixty months' period to such **[person]**
53 **beneficiary** as the member shall have nominated by written designation duly
54 executed and filed with the board. If there be no such beneficiary surviving the
55 retirant, the reserve for such annuity for the remainder of such sixty months'
56 period shall be paid as provided under subsection 3 of section 104.620. If such
57 beneficiary dies after the member's date of death but before having received the
58 remainder of the sixty monthly payments of the retiree's reduced annuity, the
59 reserve for such annuity for the remainder of the sixty-month period shall be paid
60 as provided under subsection 3 of section 104.620.

61 2. Effective July 1, 2000, if a member is married as of the annuity starting
62 date to a person who has been the member's spouse, the member's annuity shall

63 be paid pursuant to the provisions of either option 1 or option 2 as set forth in
64 subsection 1 of this section, at the member's choice, with the spouse as the
65 member's designated beneficiary unless the spouse consents in writing to the
66 member electing another available form of payment.

67 3. For members who retire on or after August 28, 1995, in the event such
68 member elected a joint and survivor option pursuant to the provisions of this
69 section and the member's eligible spouse or eligible former spouse precedes the
70 member in death, the member's annuity shall revert effective the first of the
71 month following the death of the spouse or eligible former spouse regardless of
72 when the board receives the member's written application for the benefit provided
73 in this subsection, to an amount equal to the member's normal annuity, as
74 adjusted for early retirement if applicable; such benefit shall include any
75 increases the member would have received since the date of retirement had the
76 member elected a normal annuity. If a member dies prior to notifying the system
77 of the spouse's death, the benefit will not revert to a normal annuity and no
78 retroactive payments shall be made.

79 4. Effective on or after August 28, 1995, any retired member who had
80 elected a joint and survivor option and whose spouse or eligible former spouse
81 precedes or preceded the member in death shall upon application to the board be
82 made, constituted, appointed and employed by the board as a special consultant
83 on the problems of retirement, aging and other state matters. As a special
84 consultant pursuant to the provisions of this section, the member's reduced
85 annuity shall revert to a normal annuity as adjusted for early retirement, if
86 applicable, effective the first of the month following the death of the spouse or
87 eligible former spouse or August 28, 1995, whichever is later, if the member
88 cancels the member's original joint and survivor election; such annuity shall
89 include any increases the retired member would have received since the date of
90 retirement had the member elected a normal annuity.

91 5. Effective July 1, 2000, a member may make an election under option
92 1 or 2 after the date retirement benefits are initiated if the member makes such
93 election within one year from the date of marriage or July 1, 2000, whichever is
94 later, under any of the following circumstances:

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

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

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

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

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

104.420. 1. Unless otherwise provided by law, if a member or disabled
2 member who has a vested right to a normal annuity dies prior to retirement,
3 regardless of the age of the member at the time of death, the member's or
4 disabled member's surviving spouse, to whom the member or disabled member
5 was married on the date of the member's death, if any, shall receive the reduced
6 survivorship benefits provided in option 1 of section 104.395 calculated as if the
7 member were of normal retirement age and had retired as of the date of the
8 member's death and had elected option 1.

9 2. If there is no eligible surviving spouse, or when a spouse annuity has
10 ceased to be payable, the member's or disabled member's eligible surviving
11 children under twenty-one years of age shall receive monthly, in equal shares, an
12 amount equal to eighty percent of the member's or disabled member's accrued
13 annuity calculated as if the member or disabled member were of a normal
14 retirement age and retired as of the date of death. Benefits otherwise payable to
15 a child under eighteen years of age shall be payable to the surviving parent as
16 natural guardian of such child if such parent has custody or assumes custody of
17 such minor child, or to the legal [guardian] **conservator** of such child, until
18 such child attains age eighteen; thereafter, the benefit may be paid to the child
19 until age twenty-one; provided the age twenty-one maximum shall be extended
20 for any child who has been found totally incapacitated by a court of competent

21 jurisdiction.

22 3. No benefit is payable pursuant to this section if no eligible surviving
23 spouse or children under twenty-one years of age survive the member or disabled
24 member. Benefits cease pursuant to this section when there is no eligible
25 surviving beneficiary through either death of the eligible surviving spouse or
26 through either death or the attainment of twenty-one years of age by the eligible
27 surviving children. If the member's or disabled member's surviving children are
28 receiving equal shares of the benefit described in subsection 2 of this section, and
29 one or more of such children become ineligible by reason of death or the
30 attainment of twenty-one years of age, the benefit shall be reallocated so that the
31 remaining eligible children receive equal shares of the total benefit as described
32 in subsection 2 of this section.

33 4. For the purpose of computing the amount of an annuity payable
34 pursuant to this section, if the board finds that the death was the natural and
35 proximate result of a personal injury or disease arising out of and in the course
36 of the member's actual performance of duty as an employee, then the minimum
37 annuity to such member's surviving spouse or, if no surviving spouse benefits are
38 payable, the minimum annuity that shall be divided among and paid to such
39 member's surviving children shall be fifty percent of the member's final average
40 compensation; except that for members of the general assembly and statewide
41 elected officials with twelve or more years of service, the monthly rate of
42 compensation in effect on the date of death shall be used in lieu of final average
43 compensation. The vesting service requirement of subsection 1 of this section
44 shall not apply to any annuity payable pursuant to this subsection.

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

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

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

 104.601. Any member retiring pursuant to the provisions of this chapter
2 or any member retiring pursuant to provisions of chapter 169 who is a member
3 of the public school retirement system and who is employed by a [state agency]
4 **department** other than an institution of higher learning, after working
5 continuously until reaching retirement age, shall be credited with all his or her
6 unused sick leave as reported **by the last department that employed the**
7 **member prior to retirement** through the financial and human resources
8 system maintained by the office of administration, or if a [state agency's]
9 **department's** employees are not paid salaries or wages through such system, as
10 reported directly by the [state agency] **last department that employed the**
11 **member prior to retirement**. When calculating years of service, each member
12 shall be entitled to one-twelfth of a year of creditable service for each one
13 hundred sixty-eight hours of unused accumulated sick leave earned by the
14 member. The employing [agency] **department** shall not certify unused sick
15 leave unless such unused sick leave could have been used by the member for
16 sickness or injury. The rate of accrual of sick leave for purposes of computing
17 years of service pursuant to this section shall be no greater than ten hours per
18 month. Nothing under this section shall allow a member to vest in the retirement
19 system by using such credited sick leave to reach the time of vesting.

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

8 2. In the event any accumulated contributions standing to a member of
9 the Missouri state employees' retirement system's credit remains unclaimed by
10 such member for a period of four years or more, such accumulated contributions

11 shall automatically revert to the credit of the fund for the Missouri state
12 employees' retirement system. If an application is made, after such reversion, for
13 such accumulated contributions, the board shall pay such contributions from the
14 fund for the Missouri state employees' retirement system; except that, no interest
15 shall be paid on such funds after the date of the reversion to the fund for the
16 Missouri state employees' retirement system.

17 3. In the event any amount is due a deceased member, survivor, or
18 beneficiary who dies after September 1, 2002, **and the member's, survivor's,**
19 **or beneficiary's financial institution is unable to accept the final**
20 **payments due the member, survivor, or beneficiary,** such amount shall be
21 paid to the person or entity designated in writing as beneficiary to receive such
22 amount by such member, survivor, or beneficiary. The member, survivor, or
23 beneficiary may designate in writing a beneficiary to receive any final payment
24 due after the death of a member, survivor, or beneficiary pursuant to this
25 chapter. If no living person or entity so designated as beneficiary exists at the
26 time of death, such amount shall be paid to the surviving spouse married to the
27 deceased member, survivor, or beneficiary at the time of death. If no surviving
28 spouse exists, such amount shall be paid to the surviving children [or their
29 descendants] of such member, survivor, or beneficiary in equal parts. If no
30 surviving children [or any of their descendants] exist, such amount shall be paid
31 to the surviving parents of such member, survivor, or beneficiary in equal parts.
32 If no surviving parents exist, such amount shall be paid to the surviving
33 brothers[, sisters, or their descendants] **or sisters** of such member, survivor, or
34 beneficiary in equal parts. If no surviving brothers[, sisters, or their
35 descendants] **or sisters** exist, payment may be made as otherwise permitted by
36 law. Notwithstanding this subsection, any amount due to a deceased member as
37 payment of all or part of a lump sum pursuant to section 104.625 shall be paid
38 to the member's surviving spouse married to the member at the time of death,
39 and otherwise payment may be made as provided in this subsection. In the event
40 any amount that is due to a [member of] **person from** either system remains
41 unclaimed [by such member] for a period of four years or more, such amount shall
42 automatically revert to the credit of the fund of the member's system. If an
43 application is made after such reversion for such amount, the board shall pay
44 such amount **to the person** from the board's fund [to the member], except that
45 no interest shall be paid on such funds after the date of the reversion to the fund.

46 4. The beneficiary of any member who purchased creditable service in the

47 Missouri state employees' retirement system shall receive a refund upon the
48 member's death equal to the amount of any purchase less any retirement benefits
49 received by the member unless an annuity is payable to a survivor or beneficiary
50 as a result of the member's death. In that event, the beneficiary of the survivor
51 or beneficiary who received the annuity shall receive a refund upon the survivor's
52 or beneficiary's death equal to the amount of the member's purchase of service
53 less any annuity amounts received by the member and the survivor or beneficiary.

104.800. 1. Except as otherwise provided by law, any person having
2 earned creditable service pursuant to the provisions of the state employees'
3 retirement system or pursuant to the provisions of the state transportation
4 department employees' and highway patrol retirement system or having service
5 as a statewide state elective officer or having service as a member of the general
6 assembly or having service pursuant to the provisions of sections 287.812 to
7 287.855, or having service as a judge, as defined in section 476.515, may elect
8 prior to retirement and not after retirement, to make a one-time transfer of credit
9 for such service or such creditable service to or from any other retirement system
10 or type of service specified in this section or sections 56.800 to 56.840 for which
11 the person has accumulated service or creditable service. The amount of
12 transferred credit shall be accumulated with the amount of such creditable
13 service or such service earned by the person in the retirement system or type of
14 service to which the service is transferred for purposes of determining the
15 benefits to which the person is entitled under the retirement system or type of
16 service to which the service is transferred. The transfer of such creditable service
17 or service shall become effective [on the first day of the second month following
18 the month in which] **at the time** the person files written notification of the
19 person's election with the retirement boards affected by such service
20 transfer. When the election to transfer creditable service or service becomes
21 effective, the person shall thereby forfeit any claim to any benefit under the
22 provisions of the retirement system or type of service, as the case may be, from
23 which the service or creditable service was transferred regardless of the amount
24 of service or creditable service previously earned in such retirement system or
25 type of service. Any person who has transferred service pursuant to this
26 subsection prior to August 28, 2002, and who is an employee covered by a
27 retirement plan described in this subsection after that date, may elect to make
28 an additional transfer of service prior to retirement if additional service would
29 otherwise be available to be transferred except for the forfeiture of that service

30 after the previous transfer. In no event shall the amount of service that a person
31 shall be entitled to transfer pursuant to the provisions of this section exceed eight
32 years.

33 2. In the event of the death of a member before retirement and prior to
34 exercising transfer rights pursuant to the provisions of this section, survivorship
35 benefits shall be computed as if such person had in fact exercised or not exercised
36 the person's transfer rights to produce the most advantageous benefit possible.

37 3. Any person that has earned creditable service pursuant to the
38 provisions governing the Missouri state employees' retirement system or pursuant
39 to the provisions of chapter 287 or chapter 476, who terminated employment prior
40 to August 13, 1986, shall, upon application to the board of trustees of the
41 Missouri state employees' retirement system, be made, constituted and appointed
42 and employed by the board as a special consultant on the problems of retirement,
43 aging and other state matters for the remainder of the person's life. Upon
44 request of the board or the court from which the person retired, the consultant
45 shall give opinions or be available to give opinions in writing or orally in response
46 to such request. As compensation for such services, the consultant shall be
47 eligible, prior to retirement, to make a one-time transfer of creditable service as
48 provided in this section.

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

4 (1) "Act", the year 2000 plan created by sections 104.1003 to 104.1093;

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

8 (3) "Annuity", annual benefit amounts, paid in equal monthly
9 installments, from funds provided for in, or authorized by, sections 104.1003 to
10 104.1093;

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

14 (5) "Beneficiary", any **[person] persons** or **[entity] entities** entitled to
15 receive an annuity or other benefit pursuant to sections 104.1003 to 104.1093
16 based upon the employment record of another person;

17 (6) "Board of trustees", "board", or "trustees", a governing body or bodies

18 established for the year 2000 plan pursuant to sections 104.1003 to 104.1093;

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

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

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

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

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

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

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

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

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

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

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

57 (e) The term "employee" shall include any person as defined under
58 paragraph (b) of subdivision [(20)] **(21)** of subsection 1 of section 104.010 who is
59 first employed on or after July 1, 2000, but prior to August 28, 2007;

60 (14) "Employer", a department;

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

63 (16) "Final average pay", the average pay of a member for the thirty-six
64 full consecutive months of service before termination of employment when the
65 member's pay was greatest; or if the member was on workers' compensation leave
66 of absence or a medical leave of absence due to an employee illness, the amount
67 of pay the member would have received but for such leave of absence as reported
68 and verified by the employing department; or if the member was employed for
69 less than thirty-six months, the average monthly pay of a member during the
70 period for which the member was employed. The board of each system may
71 promulgate rules for purposes of calculating final average pay and other
72 retirement provisions to accommodate for any state payroll system in which pay
73 is received on a monthly, semimonthly, biweekly, or other basis;

74 (17) "Fund", a fund of the year 2000 plan established pursuant to sections
75 104.1003 to 104.1093;

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

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

80 (20) "Normal retirement eligibility", a member's attainment of at least
81 sixty-two years of age and the completion of at least five or more years of credited
82 service or, the attainment of at least forty-eight years of age with a total of years
83 of age and years of credited service which is at least eighty or, in the case of a
84 member of the highway patrol who shall be subject to the mandatory retirement
85 provisions of section 104.080, the mandatory retirement age and completion of
86 five years of credited service or, the attainment of at least forty-eight years of age
87 with a total of years of age and years of credited service which is at least eighty;

88 (21) "Pay" shall include:

89 (a) All salary and wages payable to an employee for personal services

90 performed for a department; but excluding:

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

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

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

100 d. Any nonrecurring single sum payments; and

101 e. Any amounts for which contributions have not been made in accordance
102 with section 104.1066;

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

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

110 (d) For purposes of members of the general assembly, pay shall be the
111 annual salary provided to each senator and representative pursuant to section
112 21.140, plus any salary adjustment pursuant to section 21.140;

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

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

116 (24) "System" or "retirement system", the Missouri state employees'
117 retirement system or the Missouri department of transportation and highway
118 patrol employees' retirement system, as the case may be;

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

121 (26) "Year 2000 plan", the benefit plan created by sections 104.1003 to
122 104.1093.

123 2. Benefits paid under the provisions of this chapter shall not exceed the
124 limitations of Internal Revenue Code Section 415, the provisions of which are
125 hereby incorporated by reference. Notwithstanding any other law to the contrary,

126 the board of trustees may establish a benefit plan under Section 415(m) of the
127 Internal Revenue Code of 1986, as amended. Such plan shall be created solely
128 for the purposes described in Section 415(m)(3)(A) of the Internal Revenue Code
129 of 1986, as amended. The board of trustees may promulgate regulations
130 necessary to implement the provisions of this subsection and to create and
131 administer such benefit plan.

104.1015. 1. Persons covered by a closed plan on July 1, 2000, shall elect
2 whether or not to change to year 2000 plan coverage. Any such person who elects
3 to be covered by the year 2000 plan shall forfeit all rights to receive benefits
4 under this chapter except as provided under the year 2000 plan and all creditable
5 service of such person under the closed plan shall be credited under the year 2000
6 plan. Any such person who elects not to be covered by the year 2000 plan shall
7 waive all rights to receive benefits under the year 2000 plan. In no event shall
8 any retroactive annuity be paid to such persons pursuant to sections 104.1003 to
9 104.1093 except as described in subsection 2 of this section. **Any person who**
10 **elects year 2000 plan coverage under subsection 3, 4, or 5 of this section**
11 **shall be in the closed plan until the person's annuity starting date.**

12 2. Each retiree of the closed plan on July 1, 2000, shall be furnished by
13 the appropriate system a written comparison of the retiree's closed plan coverage
14 and the retiree's potential year 2000 plan coverage. A retiree shall elect whether
15 or not to change to year 2000 plan coverage by making a written election, on a
16 form furnished by the appropriate board, and providing that form to the system
17 by no later than twelve months after July 1, 2000, and any retiree who fails to
18 make such election within such time period shall be deemed to have elected to
19 remain covered under the closed plan; provided the election must be after the
20 retiree has received from the appropriate system such written comparison. The
21 retirement option elected under the year 2000 plan shall be the same as the
22 retirement option elected under the closed plan, except any retiree who is
23 receiving one of the options providing for a continuing lifetime annuity to a
24 surviving spouse under the closed plan may elect to receive an annuity under
25 option 1 or 2 of section 104.1027, or a life annuity under subsection 2 of section
26 104.1024, provided the person who was married to the member at the time of
27 retirement, if any, consents in writing to such election made pursuant to section
28 104.1024, or to any election described in this section if the person was married
29 to a member of the Missouri state employees' retirement system. The effective
30 date of payment of an annuity under the year 2000 plan as provided in this

31 subsection shall begin on July 1, 2000. No adjustment shall be made to
32 retirement benefits paid to the retiree prior to July 1, 2000. In order to calculate
33 a new monthly annuity for retirees electing coverage under the year 2000 plan
34 pursuant to this subsection, the following calculations shall be made:

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

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

49 (3) If a temporary annuity is payable pursuant to subsection 4 of section
50 104.1024 the additional temporary annuity shall be calculated by multiplying the
51 retiree's credited service by the retiree's final average pay by eight-tenths of one
52 percent;

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

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

62 3. Each person who is an employee and covered by the closed plan and not
63 a retiree of the closed plan on July 1, 2000, shall elect whether or not to change
64 to year 2000 plan coverage prior to the last business day of the month before the
65 person's annuity starting date, and if such election has not been made within
66 such time, annuity payments due beginning on and after the month of the

67 annuity starting date shall be made the month following the receipt by the
68 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, such election
70 must be after the person has received from the year 2000 plan a written
71 comparison of the person's closed plan coverage and the person's potential year
72 2000 plan coverage and the election must be made in writing on a form furnished
73 by the appropriate board. If such person dies after the annuity starting date but
74 before making such election and providing such other information, no benefits
75 shall be paid except as required pursuant to section 104.420 or subsection 2 of
76 section 104.372 for members of the general assembly.

77 4. Each person who is not an employee and not a retiree and is eligible
78 for a deferred annuity from the closed plan on July 1, 2000, shall elect whether
79 or not to change to the year 2000 plan coverage prior to the last business day of
80 the month before the person's annuity starting date, and if such election has not
81 been made within such time, annuity payments due beginning on and after the
82 month of the annuity starting date shall be made the month following the receipt
83 by the appropriate system of such election and any other information required by
84 the year 2000 plan created by sections 104.1003 to 104.1093; provided, the
85 election must be after the person has received from the year 2000 plan a written
86 comparison of the person's closed plan coverage and the person's potential year
87 2000 plan coverage and the election must be made in writing on a form furnished
88 by the appropriate board. If such person dies after the annuity starting date but
89 before making such election and providing such other information, no benefits
90 shall be paid except as required pursuant to section 104.420 or subsection 2 of
91 section 104.372 for members of the general assembly.

92 5. Each person who is not an employee and not a retiree and is eligible
93 for a deferred annuity from the closed plan and returns to covered employment
94 on or after July 1, 2000, shall be covered under the closed plan; provided, such
95 person shall elect whether or not to change to the year 2000 plan coverage prior
96 to the last business day of the month before the person's annuity starting date,
97 and if such election has not been made within such time, annuity payments due
98 beginning on and after the month of the annuity starting date shall be made the
99 month following the receipt by the appropriate system of such election and any
100 other information required by the year 2000 plan created by sections 104.1003 to
101 104.1093 and the election must be after the person has received from the year
102 2000 plan a written comparison of the person's closed plan coverage and the

103 person's potential year 2000 plan coverage and the election must be made in
104 writing on a form furnished by the appropriate board. If such person dies after
105 the annuity starting date but before making such election and providing such
106 other information, no benefits shall be paid except as required under section
107 104.420 or subsection 2 of section 104.372 for members of the general assembly.

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

114 7. Each person who was employed as a member of the general assembly
115 through December 31, 2000, covered under the closed plan, and has served at
116 least two full biennial assemblies as defined in subdivision [(24)] **(25)** of
117 subsection 1 of section 104.010 but who is not eligible for a deferred annuity
118 under the closed plan shall be eligible to receive benefits under the new plan
119 pursuant to subdivision (5) of subsection 2 of this section upon meeting the age
120 requirements under the new plan.

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

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

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

3 2. If a member terminates employment and is eligible to receive an
4 annuity pursuant to the year 2000 plan, or becomes a vested former member at
5 the time of termination, the member's or former member's unused sick leave as
6 reported through the financial and human resources system maintained by the
7 office of administration **by the last department that employed the member**
8 **prior to retirement**, or if a department's employees are not paid salaries or
9 wages through such system, as reported directly by the department **that last**
10 **employed the member prior to retirement**, for which the member has not
11 been paid will be converted to credited service at the time of application for
12 retirement benefits. The member shall receive one-twelfth of a year of credited

13 service for each one hundred and sixty-eight hours of such unused sick
14 leave. The employing department shall not certify unused sick leave unless such
15 unused sick leave could have been used by the member for sickness or
16 injury. The rate of accrual of sick leave for purposes of computing years of
17 service pursuant to this section shall be no greater than ten hours per
18 month. Such credited service shall not be used in determining the member's
19 eligibility for retirement or final average pay. Such credited service shall be
20 added to the credited service in the last position of employment held as a member
21 of the system.

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

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

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

34 6. Any member who had active military service in the United States
35 Army, Air Force, Navy, Marine Corps, Army or Air National Guard, Coast Guard,
36 or any reserve component thereof prior to last becoming a member, or who is
37 otherwise ineligible to receive credited service pursuant to subsection 1 or 5 of
38 this section, and who became a member after the person's discharge from military
39 service under honorable conditions may elect, prior to retirement, to purchase
40 credited service for all such military service, but not to exceed four years,
41 provided the person is not receiving and is not eligible to receive retirement
42 credits or benefits from any other public or private retirement plan, other than
43 a United States military service retirement system, for the military service to be
44 purchased along with the submission of appropriate documentation verifying the
45 member's dates of active service. The purchase shall be effected by the member
46 paying to the system an amount equal to the state's contributions that would
47 have been made to the system on the member's behalf had the member been a
48 member for the period for which the member is electing to purchase credit and

49 had the member's pay during such period of membership been the same as the
50 annual pay rate as of the date the member was initially employed as a member,
51 with the calculations based on the contribution rate in effect on the date of such
52 member's employment with simple interest calculated from the date of
53 employment to the date of election pursuant to this subsection. The payment
54 shall be made over a period of not longer than two years, measured from the date
55 of election, and with simple interest on the unpaid balance. If a member who
56 purchased credited service pursuant to this subsection dies prior to retirement,
57 the surviving spouse may, upon written request, receive a refund of the amount
58 contributed for such purchase of such credited service, provided the surviving
59 spouse is not entitled to survivorship benefits payable pursuant to the provisions
60 of section 104.1030.

61 7. Any member of the Missouri state employees' retirement system shall
62 receive credited service for the creditable prior service that such employee would
63 have been entitled to under the closed plan pursuant to section 104.339,
64 subsections 2, and 6 to 9 of section 104.340, subsection 12 of section 104.342,
65 section 104.344, subsection 4 of section 104.345, subsection 4 of section 104.372,
66 section 178.640, and section 211.393, provided such service has not been credited
67 under the closed plan.

68 8. Any member who has service in both systems and dies or terminates
69 employment shall have the member's service in the other system transferred to
70 the last system that covered such member and any annuity payable to such
71 member shall be paid by that system. Any such member may elect to transfer
72 service between systems prior to termination of employment, provided, any
73 annuity payable to such member shall be paid by the last system that covered
74 such member prior to the receipt of such annuity.

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

79 10. Any additional credited service as described in subsections 5 to 7 of
80 this section shall be added to the credited service in the first position of
81 employment held as a member of the system. Any additional creditable service
82 received pursuant to section 105.691 shall be added to the credited service in the
83 position of employment held at the time the member completes the purchase or
84 transfer pursuant to such section.

85 11. A member may not purchase any credited service described in this
86 section unless the member has met the five-year minimum service requirement
87 as provided in subdivisions (11) and (20) of subsection 1 of section 104.1003, the
88 three full biennial assemblies minimum service requirement as provided in
89 section 104.1084, or the four-year minimum service requirement as provided in
90 section 104.1084.

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

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

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

7 (1) Retired on the date of death with a normal retirement annuity based
8 upon credited service and final average pay to the date of death, and without
9 reduction if the member's age was younger than normal retirement eligibility;

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

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

12 3. If a spouse annuity is not payable pursuant to the provisions of
13 subsection 2 of this section, or when a spouse annuity has ceased to be payable,
14 eighty percent of an annuity computed in the same manner as if the member had
15 retired on the date of death with a normal retirement annuity based upon
16 credited service and final average pay to the date of death and without reduction
17 if the member's age at death was younger than normal retirement eligibility shall
18 be divided equally among the dependent children of the deceased member. A
19 child shall be a dependent child until death or attainment of age twenty-one,
20 whichever occurs first; provided the age twenty-one maximum shall be extended
21 for any child who has been found totally incapacitated by a court of competent
22 jurisdiction. **Benefits otherwise payable to a child under eighteen years**
23 **of age shall be payable to the surviving parent as natural guardian of**
24 **such child if such parent has custody or assumes custody of such minor**
25 **child or to the legal conservator of such child until such child attains**
26 **age eighteen.** Upon a child ceasing to be a dependent child, that child's portion

27 of the dependent annuity shall cease to be paid, and the amounts payable to any
28 remaining dependent children shall be proportionately increased.

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

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

104.1039. If a retiree is employed as an employee by a department, the
2 retiree shall not receive an annuity payment for any calendar month in which the
3 retiree is so employed. While reemployed the retiree shall be considered to be a
4 new employee with no previous credited service and must accrue credited service
5 continuously for at least one year in order to receive any additional
6 annuity. Such retiree shall receive an additional annuity in addition to the
7 original annuity, calculated based only on the credited service and the pay earned
8 by such retiree during reemployment and paid in accordance with the annuity
9 option originally elected; provided such retiree who ceases to receive an annuity
10 pursuant to this section shall not receive such additional annuity if such retiree
11 is employed by a department in a position that is covered by a state-sponsored
12 defined benefit retirement plan not created pursuant to this chapter. The
13 original annuity and any additional annuity shall be paid commencing as of the
14 end of the first month after the month during which the retiree's reemployment
15 terminates. **Cost-of-living adjustments paid pursuant to section 104.1045**
16 **shall not accrue while a retiree is employed as described in this**
17 **section. Any future cost-of-living adjustments paid after the retiree**
18 **terminates such employment will be paid in the same month as the**
19 **retiree's original annual benefit increases were paid.**

104.1051. 1. Any annuity provided pursuant to the year 2000 plan is
2 marital property and a court of competent jurisdiction may divide such annuity

3 between the parties to any action for dissolution of marriage if at the time of the
4 dissolution the member has at least five years of credited service pursuant to
5 sections 104.1003 to 104.1093. A division of benefits order issued pursuant to
6 this section:

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

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

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

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

24 (5) Shall provide that any annuity increases, additional years of credited
25 service, increased final average pay, increased pay pursuant to subsections 2 and
26 5 of section 104.1084, or other type of increases accrued after the date of the
27 dissolution of marriage and any temporary annuity received pursuant to
28 subsection 4 of section 104.1024 shall accrue solely to the benefit of the member;
29 except that on or after September 1, 2001, any cost-of-living adjustment (COLA)
30 due after the annuity starting date shall not be considered to be an increase
31 accrued after the date of termination of marriage and shall be part of the monthly
32 amount subject to division pursuant to any order issued after September 1, 2001;

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

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

37 (8) Shall include the name, address, **and** date of birth[, and Social
38 Security number] of both the member and the former spouse, and the identity of

39 the retirement system to which it applies;

40 (9) Shall be consistent with any other division of benefits orders which are
41 applicable to the same member;

42 **(10) Shall not require the applicable retirement system to**
43 **continue payments to the alternate payee if the member's retirement**
44 **benefit is suspended or waived as provided by chapter 104 but such**
45 **payments shall resume when the retiree begins to receive retirement**
46 **benefits in the future.**

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

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

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

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

58 4. Any member of the closed plan who elected the year 2000 plan
59 pursuant to section 104.1015 and then becomes divorced and subject to a division
60 of benefits order shall have the division of benefits order calculated pursuant to
61 the provisions of the year 2000 plan.

104.1054. 1. The benefits provided to each member and each member's
2 spouse, beneficiary, or former spouse under the year 2000 plan are hereby made
3 obligations of the state of Missouri and are an incident of every member's
4 continued employment with the state. No alteration, amendment, or repeal of the
5 year 2000 plan shall affect the then-existing rights of members, or their spouses,
6 beneficiaries or former spouses, but shall be effective only as to rights which
7 would otherwise accrue hereunder as a result of services rendered by a member
8 after such alteration, amendment, or repeal.

9 2. Except as otherwise provided in section 104.1051, any annuity, benefit,
10 funds, property, or rights created by, or accruing or paid to, any person covered
11 under the year 2000 plan shall not be subject to execution, garnishment,
12 attachment, writ of sequestration, or any other process or claim whatsoever, and
13 shall be unassignable, except with regard to the collection of child support and

14 maintenance, and except that a beneficiary may assign life insurance
15 proceeds. Any retiree may request the executive director, in writing, to withhold
16 and pay on his behalf to the proper person, from each of his monthly annuity
17 payments, if the payment is large enough, the contribution due from the retiree
18 to any group providing state-sponsored life or medical insurance and to the
19 Missouri state employees charitable campaign.

20 3. The executive director shall, when requested in writing by a retiree,
21 withhold and pay over the funds authorized in subsection 2 of this section until
22 such time as the request to do so is revoked by the death or written revocation
23 of the retiree.

24 4. In the event any amount is due a deceased member, survivor, or
25 beneficiary who dies after September 1, 2002, **and the member's, survivor's,**
26 **or beneficiary's financial institution is unable to accept the final**
27 **payments due the member, survivor, or beneficiary,** such amount shall be
28 paid to the person or entity designated in writing as beneficiary to receive such
29 amount by such member, survivor, or beneficiary. The member, survivor, or
30 beneficiary may designate in writing a beneficiary to receive any final payment
31 due after the death of a member, survivor, or beneficiary pursuant to this
32 chapter. If no living person or entity so designated as beneficiary exists at the
33 time of death, such amount shall be paid to the surviving spouse married to the
34 deceased member, survivor, or beneficiary at the time of death. If no surviving
35 spouse exists, such amount shall be paid to the surviving children [or their
36 descendants] of such member, survivor, or beneficiary in equal parts. If no
37 surviving children [or any of their descendants] exist, such amount shall be paid
38 to the surviving parents of such member, survivor, or beneficiary in equal parts.
39 If no surviving parents exist, such amount shall be paid to the surviving
40 brothers[, sisters, or their descendants] **or sisters** of such member, survivor, or
41 beneficiary in equal parts. If no surviving brothers[, sisters, or their
42 descendants] **or sisters** exist, payment may be made as otherwise permitted by
43 law. Notwithstanding this subsection, any amount due to a deceased member as
44 payment of all or part of a lump sum pursuant to subsection 6 of section 104.1024
45 shall be paid to the member's surviving spouse married to the member at the
46 time of death, and otherwise payment may be made as provided in this
47 subsection. In the event any amount that is due to a person from either system
48 remains unclaimed [by such member] for a period of four years or more, such
49 amount shall automatically revert to the credit of the fund of the member's

50 system. If an application is made for such amount after such reversion, the board
51 shall pay such amount to the person from the board's fund, except that no
52 interest shall be paid on such amounts after the date of the reversion to the fund.

53 5. All annuities payable pursuant to the year 2000 plan shall be
54 determined based upon the law in effect on the last date of termination of
55 employment.

56 6. The beneficiary of any member who purchased creditable service in the
57 Missouri state employees' retirement system shall receive a refund upon the
58 member's death equal to the amount of any purchase less any retirement benefits
59 received by the member unless an annuity is payable to a survivor or beneficiary
60 as a result of the member's death. In such event, the beneficiary of the survivor
61 or beneficiary who received the annuity shall receive a refund upon the survivor's
62 or beneficiary's death equal to the amount of the member's purchase of services
63 less any annuity amounts received by the member and the survivor or beneficiary.

104.1060. 1. Should any error result in any person receiving more or less
2 than the person would have been entitled to receive had the error not occurred,
3 the board shall correct such error, and, as far as practicable, make future
4 payments in such a manner that the actuarial equivalent of the annuity to which
5 such person was entitled shall be paid, and to this end may recover any
6 overpayments. In all cases in which [an] **such** error has been made, no such
7 error shall be corrected unless the system discovers or is notified of such error
8 within ten years after the **initial** date of error.

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

12 3. A board shall not pay an annuity to any survivor or beneficiary who is
13 charged with the intentional killing of a member, retiree or survivor without legal
14 excuse or justification. A survivor or beneficiary who is convicted of such charge
15 shall no longer be entitled to receive an annuity. If the survivor or beneficiary
16 is not convicted of such charge, the board shall resume annuity payments and
17 shall pay the survivor or beneficiary any annuity payments that were suspended
18 pending resolution of such charge.

476.515. 1. As used in sections 476.515 to 476.565, unless the context
2 clearly indicates otherwise, the following terms mean:

3 (1) "Beneficiary", a surviving spouse married to the deceased judge
4 continuously for a period of at least two years immediately preceding the judge's

5 death or if there is no surviving spouse eligible to receive benefits pursuant to
6 sections 476.515 to 476.565, the term "beneficiary" shall mean any [minor] child
7 **under the age of twenty-one** of the deceased judge, who shall share in the
8 benefits on an equal basis with all other beneficiaries;

9 (2) "Benefit", a series of equal monthly payments payable during the life
10 of a judge retiring pursuant to the provisions of sections 476.515 to 476.565 or
11 payable to a beneficiary as provided in sections 476.515 to 476.565; all benefits
12 paid pursuant to sections 476.515 to 476.565 in excess of any contributions made
13 to the system by a judge shall be considered to be a part of the compensation
14 provided a judge for the judge's services;

15 (3) "Commissioner of administration", the commissioner of administration
16 of the state of Missouri;

17 (4) "Judge", any person who has served or is serving as a judge or
18 commissioner of the supreme court or of the court of appeals; or as a judge of any
19 circuit court, probate court, magistrate court, court of common pleas or court of
20 criminal corrections of this state; as a justice of the peace; or as commissioner or
21 deputy commissioner of the circuit court appointed after February 29, 1972;

22 (5) "Salary", the total compensation paid for personal services as a judge
23 by the state or any of its political subdivisions.

24 2. A surviving spouse whose benefits were terminated because of
25 remarriage prior to October 1, 1984, shall, upon written application to the board
26 within six months after October 1, 1984, have the surviving spouse's rights as a
27 beneficiary restored. Benefits shall resume as of October 1, 1984.

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