

FIRST REGULAR SESSION

# SENATE BILL NO. 477

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAMPING.

Read 1st time February 28, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1806S.011

## AN ACT

To amend chapter 104, RSMo, by adding thereto five new sections relating to a defined contribution plan for certain state employees.

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

Section A. Chapter 104, RSMo, is amended by adding thereto five new sections, to be known as sections 104.1300, 104.1305, 104.1310, 104.1315, 104.1320, and 104.1325, to read as follows:

**104.1300. As used in sections 104.1300 to 104.1325, the following terms mean:**

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

(2) "Employee", any person who otherwise would meet the definition of "employee" under section 104.1003, who is hired for the first time as a state employee on or after January 1, 2014, or any person who otherwise would meet the definition of "judge" under section 476.515, who serves for the first time as a judge on or after January 1, 2014;

(3) "System" or "retirement system", the Missouri state employees' retirement system, the Missouri department of transportation and highway patrol employees' retirement system, or the judicial retirement system as the case may be.

**104.1305. The board of trustees of each system shall:**

(1) Establish a defined contribution plan, intended to qualify as a profit sharing plan under section 401(a) of the Internal Revenue Code, for employees who otherwise would be covered by that respective system which, among other things, provides for an individual account

6 for each participant and for benefits based solely on the amount  
7 allocated to the participant's account and for immediate vesting;

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

11 (3) Hold all assets and income of the defined contribution plan  
12 in trust for the exclusive benefit of participants and their beneficiaries;

13 (4) Select the investments of such trust, and permit the  
14 participants in the defined contribution plan to direct investment of  
15 their individual accounts among investment options, if deemed  
16 appropriate by the board;

17 (5) Require plan participants to pay for administrative costs of  
18 the defined contribution plan by charging a fee against each  
19 participant's account;

20 (6) Amend the plan from time to time as necessary or  
21 appropriate to comply with section 401(a) of the Internal Revenue Code  
22 and the purposes of this section; and

23 (7) Establish such rules and regulations as may be necessary to  
24 carry out the purposes of this section under the authority granted by  
25 section 104.1063.

104.1310. Membership of the defined contribution plan  
2 established by the board of trustees under section 104.1305 shall  
3 include the following persons:

4 (1) Each person who is an "employee" as defined in section  
5 104.1300; and

6 (2) Each person covered by the closed plan or year 2000 plan as  
7 defined under section 104.1003, who elects to be covered by the defined  
8 contribution plan in accordance with the provisions of section 104.1309.

104.1315. Subject to the applicable limits of the Internal Revenue  
2 Code, the employer shall pay the annual contribution rate for each  
3 employee participating in the defined contribution plans as determined  
4 by the general assembly under the appropriation process but in no  
5 event shall the rate be less than one percent of the annual pay for each  
6 participating employee. The term "pay" as used in this section shall be  
7 defined in the plan document, in a manner substantially similar to the  
8 definition of pay in section 104.1003.

104.1320. 1. The employer, as defined in section 104.1003, and

2 any third-party administrator shall provide such information to the  
3 systems as may be required to implement the provisions of sections  
4 104.1300 to 104.1320.

5       2. The board and employees of the system shall not be liable for  
6 the investment decisions made or not made by participating employees  
7 in the defined contribution plan established under section 104.1305 as  
8 long as the board acts with the same skill, prudence, and diligence in  
9 the selection and monitoring of providers of investment products,  
10 education, advice, or any default investment option, under the  
11 circumstances then prevailing that a prudent person acting in a similar  
12 capacity and familiar with those matters would use in the conduct of  
13 a similar enterprise with similar aims.

14       3. The system shall be immune from suit and shall not be subject  
15 to any claim or liability associated with the administration of the  
16 defined contribution plan established under section 104.1305.

104.1325. 1. Employees who are members of the judicial  
2 retirement system, the closed plan, or year 2000 plan as defined under  
3 section 104.1003 may make a one-time irrevocable election to  
4 participate in the defined contribution plan established under section  
5 104.1305 under an election process established by each  
6 system. Employees who elect to participate in the defined contribution  
7 plan shall not accrue any additional creditable or credited service in  
8 the judicial retirement system, the closed plan, or year 2000 plan after  
9 the date of such election but only with respect to services rendered by  
10 the employee before the effective date of such election. Compensation  
11 paid to the employee after the effective date of such election shall not  
12 be taken into account by the closed plan or year 2000 plan.

13       2. Employees who participate in the defined contribution plan  
14 shall not be eligible to receive benefits under the year 2000 plan or the  
15 judicial retirement plan pursuant to chapter 476, but shall be eligible  
16 to receive life insurance and long term disability benefits under those  
17 plans if such employee otherwise would be eligible to receive benefits  
18 from the retirement system.

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