

SENATE SUBSTITUTE  
FOR  
SENATE BILL NO. 228

AN ACT

To repeal section 104.1003, RSMo, and to enact in lieu thereof two new sections relating to state employee retirement systems.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Section 104.1003, RSMo, is repealed and two new  
2 sections enacted in lieu thereof, to be known as sections  
3 104.1003 and 104.1094, to read as follows:

4           104.1003. 1. Unless a different meaning is plainly  
5 required by the context, the following words and phrases as used  
6 in sections 104.1003 to ~~[104.1093]~~ 104.1094 shall mean:

7           (1) "Act", the year 2000 plan created by sections 104.1003  
8 to ~~[104.1093]~~ 104.1094;

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

13           (3) "Annuity", annual benefit amounts, paid in equal  
14 monthly installments, from funds provided for in, or authorized  
15 by, sections 104.1003 to ~~[104.1093]~~ 104.1094;

16           (4) "Annuity starting date" means the first day of the  
17 first month with respect to which an amount is paid as an annuity  
18 pursuant to sections 104.1003 to ~~[104.1093]~~ 104.1094;

1           (5) "Beneficiary", any persons or entities entitled to  
2 receive an annuity or other benefit pursuant to sections 104.1003  
3 to [104.1093] 104.1094 based upon the employment record of  
4 another person;

5           (6) "Board of trustees", "board", or "trustees", a  
6 governing body or bodies established for the year 2000 plan  
7 pursuant to sections 104.1003 to [104.1093] 104.1094;

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

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

19           (9) "Credited service", the total credited service to a  
20 member's credit as provided in sections 104.1003 to [104.1093]  
21 104.1094; except that in no case shall more than one day of  
22 credited service be credited to any member or vested former  
23 member for any one calendar day of eligible credit as provided by  
24 law;

25           (10) "Department", any department or agency of the  
26 executive, legislative, or judicial branch of the state of  
27 Missouri receiving state appropriations, including allocated  
28 funds from the federal government but not including any body

1 corporate or politic unless its employees are eligible for  
2 retirement coverage from a system pursuant to this chapter as  
3 otherwise provided by law;

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

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

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

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

17 (b) The term "employee" shall be modified as provided by  
18 other provisions of sections 104.1003 to ~~[104.1093]~~ 104.1094;

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

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

26 (e) The term "employee" shall include any person as defined  
27 under paragraph (b) of subdivision (21) of subsection 1 of  
28 section 104.010 who is first employed on or after July 1, 2000,

1 but prior to August 28, 2007;

2 (14) "Employer", a department;

3 (15) "Executive director", the executive director employed  
4 by a board established pursuant to the provisions of sections  
5 104.1003 to ~~[104.1093]~~ 104.1094;

6 (16) "Final average pay", the average pay of a member for  
7 the thirty-six full consecutive months of service before  
8 termination of employment when the member's pay was greatest; or  
9 if the member was on workers' compensation leave of absence or a  
10 medical leave of absence due to an employee illness, the amount  
11 of pay the member would have received but for such leave of  
12 absence as reported and verified by the employing department; or  
13 if the member was employed for less than thirty-six months, the  
14 average monthly pay of a member during the period for which the  
15 member was employed. The board of each system may promulgate  
16 rules for purposes of calculating final average pay and other  
17 retirement provisions to accommodate for any state payroll system  
18 in which pay is received on a monthly, semimonthly, biweekly, or  
19 other basis;

20 (17) "Fund", a fund of the year 2000 plan established  
21 pursuant to sections 104.1003 to ~~[104.1093]~~ 104.1094;

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

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

26 (20) "Normal retirement eligibility", a member's attainment  
27 of at least sixty-two years of age and the completion of at least  
28 five or more years of credited service or, the attainment of at

1 least forty-eight years of age with a total of years of age and  
2 years of credited service which is at least eighty or, in the  
3 case of a member of the highway patrol who shall be subject to  
4 the mandatory retirement provisions of section 104.080, the  
5 mandatory retirement age and completion of five years of credited  
6 service or, the attainment of at least forty-eight years of age  
7 with a total of years of age and years of credited service which  
8 is at least eighty;

9 (21) "Pay" shall include:

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

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

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

19 c. Pay in excess of the limitations set forth in Section  
20 401(a)(17) of the Internal Revenue Code of 1986 as amended and  
21 other applicable federal laws or regulations;

22 d. Any nonrecurring single sum payments; and

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

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

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

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

8 (22) "Retiree", a person receiving an annuity from the year  
9 2000 plan based upon the person's employment record;

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

11 (24) "System" or "retirement system", the Missouri state  
12 employees' retirement system or the Missouri department of  
13 transportation and highway patrol employees' retirement system,  
14 as the case may be;

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

17 (26) "Year 2000 plan", the benefit plan created by sections  
18 104.1003 to ~~[104.1093]~~ 104.1094.

19 2. Benefits paid under the provisions of this chapter shall  
20 not exceed the limitations of Internal Revenue Code Section 415,  
21 the provisions of which are hereby incorporated by reference.  
22 Notwithstanding any other law to the contrary, the board of  
23 trustees may establish a benefit plan under Section 415(m) of the  
24 Internal Revenue Code of 1986, as amended. Such plan shall be  
25 created solely for the purposes described in Section 415(m) (3) (A)  
26 of the Internal Revenue Code of 1986, as amended. The board of  
27 trustees may promulgate regulations necessary to implement the  
28 provisions of this subsection and to create and administer such

benefit plan.

104.1094. 1. Notwithstanding any provision of the year 2000 plan to the contrary, each person who first becomes an employee on or after January 1, 2018, shall be a member of the year 2000 plan subject to the provisions of subsections 1 to 17 of this section. The provisions of section 104.1091 shall not apply to such member.

2. A member's normal retirement eligibility shall be as follows:

(1) The member's attainment of at least age sixty-seven and the completion of at least ten years of credited service; or the member's attainment of at least age fifty-five with the sum of the member's age and credited service equaling at least ninety;

(2) For members of the general assembly, the member's attainment of at least age sixty-two and the completion of at least three full biennial assemblies; or the member's attainment of at least age fifty-five with the sum of the member's age and credited service equaling at least ninety; or

(3) For statewide elected officials, the official's attainment of at least age sixty-two and the completion of at least four years of credited service; or the official's attainment of at least age fifty-five with the sum of the official's age and credited service equaling at least ninety.

3. A vested former member's normal retirement eligibility shall be based on the attainment of at least age sixty-seven and the completion of at least ten years of credited service.

4. For purposes of calculating the life annuity provided under subsection 2 of section 104.1024 for members covered by

1 this section, such life annuity shall be an amount for life equal  
2 to one percent of the final average pay of the member multiplied  
3 by the member's years of credited service.

4 5. For purposes of calculating the normal retirement  
5 annuity provided under subsection 2 of section 104.1084 for  
6 members of the general assembly covered by this section, such  
7 normal retirement annuity shall be an amount for life equal to  
8 one forty-eighth of the monthly pay for a senator or  
9 representative on the annuity starting date multiplied by the  
10 years of credited service as a member of the general assembly.  
11 In no event shall any such member or eligible beneficiary receive  
12 annuity amounts in excess of fifty percent of pay.

13 6. For purposes of calculating the normal retirement  
14 annuity provided under subsection 5 of section 104.1084 for  
15 statewide elected officials covered by this section, such normal  
16 retirement annuity shall be an amount for life equal to one  
17 forty-eighth of the monthly pay in the highest office held by  
18 such member on the annuity starting date multiplied by the years  
19 of credited service as a statewide elected official. In no event  
20 shall any such member or eligible beneficiary receive annuity  
21 amounts in excess of twenty-five percent of pay.

22 7. For purposes of calculating the cost of living  
23 adjustment (COLA) provided under section 104.1045 for members  
24 covered by this section, such COLA shall not be more than two  
25 percent rather than the five percent limitation otherwise  
26 stipulated under section 104.1045.

27 8. A temporary annuity paid under subsection 4 of section  
28 104.1024 shall be payable if the member has attained at least age

1 fifty-five with the sum of the member's age and credited service  
2 equaling at least ninety.

3 9. A member shall be eligible for an early retirement  
4 annuity upon the attainment of at least age sixty-two and the  
5 completion of at least ten years of credited service. A vested  
6 former member shall not be eligible for early retirement.

7 10. The provisions of subsection 6 of section 104.1021,  
8 section 104.344 as applied under subsection 7 of section  
9 104.1021, and sections 104.1090 and 105.691 shall not apply to  
10 members covered by subsections 1 to 17 of this section. The  
11 minimum credited service requirements of five years contained in  
12 sections 104.1018, 104.1030, 104.1036, and 104.1051 shall be ten  
13 years for a member covered by subsections 1 to 17 of this section  
14 unless the credited service requirement applicable to such member  
15 is decreased from ten to five years pursuant to subsection 14 of  
16 this section.

17 11. A member shall be required to contribute four percent  
18 of the member's pay to the retirement system, which shall stand  
19 to the member's credit in his or her individual account with the  
20 system, together with investment credits thereon, for purposes of  
21 funding retirement benefits payable under the year 2000 plan,  
22 subject to the following provisions:

23 (1) The state of Missouri employer, under the provisions of  
24 26 U.S.C. Section 414(h) (2), shall pick up and pay the  
25 contributions that would otherwise be payable by the member under  
26 this subsection. The contributions so picked up shall be treated  
27 as employer contributions for purposes of determining the  
28 member's pay that is includable in the member's gross income for

1 federal income tax purposes;

2 (2) Member contributions picked up by the employer shall be  
3 paid from the same source of funds used for the payment of pay to  
4 a member. A deduction shall be made from each member's pay equal  
5 to the amount of the member's contributions picked up by the  
6 employer. This deduction, however, shall not reduce the member's  
7 pay for purposes of computing benefits under the retirement  
8 system under this chapter;

9 (3) Member contributions so picked up shall be credited to  
10 a separate account within the member's individual account so that  
11 the amounts contributed under this subsection may be  
12 distinguished from the amounts contributed on an after-tax basis;

13 (4) The contributions, although designated as employee  
14 contributions, shall be paid by the employer in lieu of the  
15 contributions by the member. The member shall not have the option  
16 of choosing to receive the contributed amounts directly instead  
17 of having them paid by the employer to the retirement system;

18 (5) Interest shall be credited annually on June thirtieth  
19 based on the value in the account as of July first of the  
20 immediately preceding year at a rate equal to the investment rate  
21 that is published by the United States Department of Treasury, or  
22 its successor agency, for fifty-two week treasury bills for the  
23 relevant auction that is nearest to the preceding July first or a  
24 successor treasury bill investment rate as approved by the board  
25 if the fifty-two week treasury bill is no longer issued. Interest  
26 credits shall cease upon termination of employment if the member  
27 is not a vested former member. Otherwise, interest credits shall  
28 cease upon retirement or death;

1       (6) A vested former member or a former member who is not  
2 vested may request a refund of his or her contributions and  
3 interest credited thereon. If such member is married at the time  
4 of such request, the request shall not be processed without  
5 consent from the spouse. Such member is not eligible to request  
6 a refund if such member's retirement benefit is subject to a  
7 division of benefit order under section 104.1051. Such refund  
8 shall be paid by the system after ninety days from the date of  
9 termination of employment or the request, whichever is later, and  
10 shall include all contributions made to any retirement plan  
11 administered by the system and interest credited thereon. A  
12 vested former member shall not request a refund after such member  
13 becomes eligible for normal retirement. A former member, vested  
14 or not vested, who receives a refund shall forfeit all the  
15 member's credited service and future rights to receive benefits  
16 from the system and shall not be eligible to receive any long-  
17 term disability benefits, provided that any member or vested  
18 former member receiving long-term disability benefits shall not  
19 be eligible for a refund. If such member subsequently becomes an  
20 employee and works continuously for at least one year, the  
21 credited service previously forfeited shall be restored if the  
22 member returns to the system the amount previously refunded plus  
23 interest at a rate established by the board; and

24       (7) The beneficiary of any member who made contributions  
25 shall receive a refund upon the member's death equal to the  
26 amount, if any, of such contributions and interest credited  
27 thereon less any retirement benefits received by the member  
28 unless an annuity is payable to a survivor or beneficiary as a

1 result of the member's death. In that event, the beneficiary of  
2 the survivor or beneficiary who received the annuity shall  
3 receive a refund upon the survivor's or beneficiary's death equal  
4 to the amount, if any, of the member's contributions less any  
5 annuity amounts received by the member and the survivor or  
6 beneficiary.

7 12. The employee contribution rate, the benefits provided  
8 under the year 2000 plan to members covered under subsections 1  
9 to 17 of this section, and any other provision of the year 2000  
10 plan with regard to members covered by this section may be  
11 altered, amended, increased, decreased, or repealed, but only  
12 with respect to services rendered by the member after the  
13 effective date of such alteration, amendment, increase, decrease,  
14 or repeal, or, with respect to interest credits, for periods of  
15 time after the effective date of such alteration, amendment,  
16 increase, decrease, or repeal.

17 13. For purposes of members covered under subsections 1 to  
18 17 of this section, the options under section 104.1027 shall be  
19 as follows:

20 Option 1. A retiree's life annuity shall be reduced to a  
21 certain percentage of the annuity otherwise payable. Such  
22 percent shall be eighty-eight and one-half percent adjusted as  
23 follows:

24 (1) If the retiree's age on the annuity starting date is  
25 younger than sixty-seven years, an increase of three-tenths of  
26 one percent for each year the retiree's age is younger than age  
27 sixty-seven years;

28 (2) If the beneficiary's age is younger than the retiree's

1 age on the annuity starting date, a decrease of three-tenths of  
2 one percent for each year of age difference; and

3 (3) If the retiree's age is younger than the beneficiary's  
4 age on the annuity starting date, an increase of three-tenths of  
5 one percent for each year of age difference;

6  
7 provided, after all adjustments, the option 1 percentage cannot  
8 exceed ninety-four and one-quarter percent. Upon the retiree's  
9 death, fifty percent of the retiree's reduced annuity shall be  
10 paid to such beneficiary who was the retiree's spouse on the  
11 annuity starting date or as otherwise provided under subsection 5  
12 of this section.

13 Option 2. A retiree's life annuity shall be reduced to a  
14 certain percentage of the annuity otherwise payable. Such  
15 percentage shall be eighty-one percent adjusted as follows:

16 (1) If the retiree's age on the annuity starting date is  
17 younger than sixty-seven years, an increase of four-tenths of one  
18 percent for each year the retiree's age is younger than sixty-  
19 seven years;

20 (2) If the beneficiary's age is younger than the retiree's  
21 age on the annuity starting date, a decrease of five-tenths of  
22 one percent for each year of age difference; and

23 (3) If the retiree's age is younger than the beneficiary's  
24 age on the annuity starting date, an increase of five-tenths of  
25 one percent for each year of age difference;

26  
27 provided, after all adjustments, the option 2 percentage cannot  
28 exceed eighty-seven and three-quarters percent. Upon the

1 retiree's death, one hundred percent of the retiree's reduced  
2 annuity shall be paid to such beneficiary who was the retiree's  
3 spouse on the annuity starting date or as otherwise provided  
4 under subsection 5 of this section.

5 Option 3. A retiree's life annuity shall be reduced to  
6 ninety-three percent of the annuity otherwise payable. If the  
7 retiree dies before having received one hundred twenty monthly  
8 payments, the reduced annuity shall be continued for the  
9 remainder of the one-hundred-twenty-month period to the retiree's  
10 designated beneficiary provided that if there is no beneficiary  
11 surviving the retiree, the present value of the remaining annuity  
12 payments shall be paid as provided under subsection 3 of section  
13 104.620. If the beneficiary survives the retiree but dies before  
14 receiving the remainder of such one hundred twenty monthly  
15 payments, the present value of the remaining annuity payments  
16 shall be paid as provided under subsection 3 of section 104.620.

17 Option 4. A retiree's life annuity shall be reduced to  
18 eighty-six percent of the annuity otherwise payable. If the  
19 retiree dies before having received one hundred eighty monthly  
20 payments, the reduced annuity shall be continued for the  
21 remainder of the one-hundred-eighty-month period to the retiree's  
22 designated beneficiary, provided that if there is no beneficiary  
23 surviving the retiree, the present value of the remaining annuity  
24 payments shall be paid as provided under subsection 3 of section  
25 104.620. If the beneficiary survives the retiree but dies before  
26 receiving the remainder of such one hundred eighty monthly  
27 payments, the present value of the remaining annuity payments  
28 shall be paid as provided under subsection 3 of section 104.620.

1       14. If the plan's actuary determines that the funded ratio  
2 of the most recent periodic actuarial valuation is at least  
3 ninety percent, beginning July first of the year following the  
4 issuance of such actuarial valuation, the credited service  
5 requirement for retirement eligibility in subdivision (1) of  
6 subsection 2 and subsections 3 and 9 of this section shall  
7 decrease from ten years to five years for members employed on or  
8 after the date the credited service requirement is decreased and  
9 shall remain in effect with respect to such members unless this  
10 subsection is altered, amended, or repealed to the contrary.

11       15. The provisions under subsection 6 of section 104.1024  
12 shall not apply to members covered by subsections 1 to 17 of this  
13 section. The normal and early retirement eligibility  
14 requirements under this section shall apply for purposes of  
15 administering section 104.1087.

16       16. Notwithstanding any provision of law to the contrary  
17 and in addition to the benefits provided under the year 2000 plan  
18 as modified by this section, members covered under subsections 1  
19 to 17 of this section shall participate in the deferred  
20 compensation program established under section 105.927, subject  
21 to the additional provisions of this subsection. In addition to  
22 any contribution on behalf of such participants under section  
23 105.927, the following provisions shall apply to such defined  
24 contribution plan:

25       (1) The employer contribution rate shall be equal to two  
26 and three-quarters percent of payroll;

27       (2) The participant contribution rate shall be equal to one  
28 percent of the participant's pay;

1       (3) Employers, under the provisions of 26 U.S.C. Section  
2 414(h) (2), shall pick up and pay the contributions that would  
3 otherwise be payable by a participant under this subsection. The  
4 contributions so picked up shall be treated as employer  
5 contributions for purposes of determining the participant's pay  
6 that is includable in the participant's gross income for federal  
7 income tax purposes;

8       (4) Participant contributions picked up by the employer  
9 shall be paid from the same source of funds used for the payment  
10 of pay to a participant. A deduction shall be made from each  
11 participant's pay equal to the amount of the participant's  
12 contributions picked up by the employer. This deduction,  
13 however, shall not reduce the member's pay for purposes of  
14 computing benefits under the retirement system under this  
15 chapter;

16       (5) Participant contributions so picked up shall be  
17 credited to a separate account within the participant's  
18 individual account;

19       (6) The contributions so picked up, although designated as  
20 participant contributions, shall be paid by the employer in lieu  
21 of the contributions by the participant. The participant shall  
22 not have the option of choosing to receive the contributed  
23 amounts directly instead of having them paid by the employer to  
24 the deferred compensation program; and

25       (8) Upon termination of employment, any participant with  
26 less than five years of creditable service shall forfeit the  
27 portion of his or her deferred compensation account attributable  
28 to employer contributions based on the following schedule and the

1 forfeited amounts shall be held in a suspense account and used to  
2 offset future contribution obligations of the employer:

3 (a) The participant has less than one year of service, one  
4 hundred percent;

5 (b) The participant has at least one year of service but  
6 less than two years of service, eighty percent;

7 (c) The participant has at least two years of service but  
8 less than three years of service, sixty percent;

9 (d) The participant has at least three years of service but  
10 less than four years of service, forty percent;

11 (e) The participant has at least four years of service but  
12 less than five years of service, twenty percent.

13 17. The provisions of this section shall not apply to  
14 uniformed members of the highway patrol.