

SECOND REGULAR SESSION

# SENATE BILL NO. 1054

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY SENATOR BLACK.

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KRISTINA MARTIN, Secretary

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### AN ACT

To repeal sections 104.1091 and 105.915, RSMo, and to enact in lieu thereof two new sections relating to retirement.

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

Section A. Sections 104.1091 and 105.915, RSMo, are  
2 repealed and two new sections enacted in lieu thereof, to be  
3 known as sections 104.1091 and 105.915, to read as follows:

104.1091. 1. Notwithstanding any provision of the  
2 year 2000 plan to the contrary, each person who first  
3 becomes an employee on or after January 1, 2011, shall be a  
4 member of the year 2000 plan subject to the provisions of  
5 this section.

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

8 (1) The member's attainment of at least age sixty-  
9 seven and the completion of at least ten years of credited  
10 service; or the member's attainment of at least age fifty-  
11 five with the sum of the member's age and credited service  
12 equaling at least ninety; or, in the case of a member who is  
13 serving as a uniformed member of the highway patrol and  
14 subject to the mandatory retirement provisions of section  
15 104.081, such member's attainment of at least age sixty or  
16 the attainment of at least age fifty-five with ten years of  
17 credited service;

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

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

32           4. A temporary annuity paid pursuant to subsection 4  
33 of section 104.1024 shall be payable if the member has  
34 attained at least age fifty-five with the sum of the  
35 member's age and credited service equaling at least ninety;  
36 or in the case of a member who is serving as a uniformed  
37 member of the highway patrol and subject to the mandatory  
38 retirement provisions of section 104.081, the temporary  
39 annuity shall be payable if the member has attained at least  
40 age sixty, or at least age fifty-five with ten years of  
41 credited service.

42           5. A member, other than a member who is serving as a  
43 uniformed member of the highway patrol and subject to the  
44 mandatory retirement provisions of section 104.081, shall be  
45 eligible for an early retirement annuity upon the attainment  
46 of at least age sixty-two and the completion of at least ten  
47 years of credited service. A vested former member who  
48 terminated employment prior to the attainment of early

49 retirement eligibility shall not be eligible for early  
50 retirement.

51 6. The provisions of subsection 6 of section 104.1021  
52 and section 104.344 as applied pursuant to subsection 7 of  
53 section 104.1021 and section 104.1090 shall not apply to  
54 members covered by this section.

55 7. The minimum credited service requirements of five  
56 years contained in sections 104.1018, 104.1030, 104.1036,  
57 and 104.1051 shall be ten years for members covered by this  
58 section. The normal and early retirement eligibility  
59 requirements in this section shall apply for purposes of  
60 administering section 104.1087.

61 8. A member shall be required to contribute four  
62 percent of the member's pay to the retirement system, which  
63 shall stand to the member's credit in his or her individual  
64 account with the system, together with investment credits  
65 thereon, for purposes of funding retirement benefits payable  
66 under the year 2000 plan, subject to the following  
67 provisions:

68 (1) The state of Missouri employer, pursuant to the  
69 provisions of 26 U.S.C. Section 414(h)(2), shall pick up and  
70 pay the contributions that would otherwise be payable by the  
71 member under this section. The contributions so picked up  
72 shall be treated as employer contributions for purposes of  
73 determining the member's pay that is includable in the  
74 member's gross income for federal income tax purposes;

75 (2) Member contributions picked up by the employer  
76 shall be paid from the same source of funds used for the  
77 payment of pay to a member. A deduction shall be made from  
78 each member's pay equal to the amount of the member's  
79 contributions picked up by the employer. This deduction,  
80 however, shall not reduce the member's pay for purposes of

81 computing benefits under the retirement system pursuant to  
82 this chapter;

83 (3) Member contributions so picked up shall be  
84 credited to a separate account within the member's  
85 individual account so that the amounts contributed pursuant  
86 to this section may be distinguished from the amounts  
87 contributed on an after-tax basis;

88 (4) The contributions, although designated as employee  
89 contributions, shall be paid by the employer in lieu of the  
90 contributions by the member. The member shall not have the  
91 option of choosing to receive the contributed amounts  
92 directly instead of having them paid by the employer to the  
93 retirement system;

94 (5) Interest shall be credited annually on June  
95 thirtieth based on the value in the account as of July first  
96 of the immediately preceding year at a rate of four  
97 percent. Effective June 30, 2014, and each June thirtieth  
98 thereafter, the interest crediting rate shall be equal to  
99 the investment rate that is published by the United States  
100 Department of the Treasury, or its successor agency, for  
101 fifty-two week treasury bills for the relevant auction that  
102 is nearest to the preceding July first, or a successor  
103 treasury bill investment rate as approved by the board if  
104 the fifty-two week treasury bill is no longer issued.  
105 Interest credits shall cease upon termination of employment  
106 if the member is not a vested former member. Otherwise,  
107 interest credits shall cease upon retirement or death;

108 (6) (a) A vested former member or a former member who  
109 is not vested may request a refund of his or her  
110 contributions and interest credited thereon. If such member  
111 is married at the time of such request, such request shall  
112 not be processed without consent from the spouse. Such

113 member is not eligible to request a refund if such member's  
114 retirement benefit is subject to a division of benefit order  
115 pursuant to section 104.1051. [Such refund]

116 (b) For a former member who is not vested, the system  
117 shall refund the former member's contributions and interest  
118 credited thereon if the total amount thereof is one thousand  
119 dollars or less, or such other amount as may be permitted  
120 under applicable federal law, provided that:

121 a. The system's procedures in effect from time to time  
122 to locate such member shall be considered reasonable and  
123 necessary diligence consistent with good business practice,  
124 such that if after the application of such procedures such  
125 refund is returned to the system, the refund shall be  
126 presumed to be abandoned property under sections 447.500 to  
127 447.585 notwithstanding any provisions of those sections  
128 which require a specific abandonment or dormancy period; and

129 b. Subsection 2 of section 104.620 shall not apply to  
130 such refunds.

131 (c) Contribution refunds shall be paid by the system  
132 within an administratively reasonable period, but no sooner  
133 than ninety days from the date of termination of  
134 employment. The amount refunded shall include all employee  
135 contributions made to any retirement plan administered by  
136 the system and interest credited thereon.

137 (d) A vested former member may not request a refund  
138 after such member becomes eligible for normal retirement.

139 (e) A vested former member or a former member who is  
140 not vested who receives a refund shall forfeit all the  
141 member's credited service and future rights to receive  
142 benefits from the system and shall not be eligible to  
143 receive any disability benefits; provided that any member or  
144 vested former member receiving disability benefits shall not

145 be eligible for a refund. If such member subsequently  
146 becomes an employee and works continuously for at least one  
147 year, the credited service previously forfeited shall be  
148 restored if the member returns to the system the amount  
149 previously refunded plus interest at a rate established by  
150 the board;

151 (7) The beneficiary of any member who made  
152 contributions shall receive a refund upon the member's death  
153 equal to the amount, if any, of such contributions and  
154 interest credited thereon less any retirement benefits  
155 received by the member unless an annuity is payable to a  
156 survivor or beneficiary as a result of the member's death.  
157 In that event, the beneficiary of the survivor or  
158 beneficiary who received the annuity shall receive a refund  
159 upon the survivor's or beneficiary's death equal to the  
160 amount, if any, of the member's contributions less any  
161 annuity amounts received by the member and the survivor or  
162 beneficiary.

163 9. The employee contribution rate, the benefits  
164 provided under the year 2000 plan to members covered under  
165 this section, and any other provision of the year 2000 plan  
166 with regard to members covered under this section may be  
167 altered, amended, increased, decreased, or repealed, but  
168 only with respect to services rendered by the member after  
169 the effective date of such alteration, amendment, increase,  
170 decrease, or repeal, or, with respect to interest credits,  
171 for periods of time after the effective date of such  
172 alteration, amendment, increase, decrease, or repeal.

173 10. For purposes of members covered by this section,  
174 the options under section 104.1027 shall be as follows:

175 Option 1.

A retiree's life annuity shall be reduced to a certain percent of the annuity otherwise payable. Such percent shall be eighty-eight and one half percent adjusted as follows: if the retiree's age on the annuity starting date is younger than sixty-seven years, an increase of three-tenths of one percent for each year the retiree's age is younger than age sixty-seven years; and if the beneficiary's age is younger than the retiree's age on the annuity starting date, a decrease of three-tenths of one percent for each year of age difference; and if the retiree's age is younger than the beneficiary's age on the annuity starting date, an increase of three-tenths of one percent for each year of age difference; provided, after all adjustments the option 1 percent cannot exceed ninety-four and one quarter percent. Upon the retiree's death, fifty percent of the retiree's reduced annuity shall be paid to such beneficiary who was the retiree's spouse on the annuity starting date or as otherwise provided by subsection 5 of this section.

Option 2.

200        A retiree's life annuity shall be reduced to a  
201        certain percent of the annuity otherwise  
202        payable. Such percent shall be eighty-one  
203        percent adjusted as follows: if the retiree's  
204        age on the annuity starting date is younger than  
205        sixty-seven years, an increase of four-tenths of  
206        one percent for each year the retiree's age is  
207        younger than sixty-seven years; and if the

beneficiary's age is younger than the retiree's age on the annuity starting date, a decrease of five-tenths of one percent for each year of age difference; and if the retiree's age is younger than the beneficiary's age on the annuity starting date, an increase of five-tenths of one percent for each year of age difference; provided, after all adjustments the option 2 percent cannot exceed eighty-seven and three quarter percent. Upon the retiree's death one hundred percent of the retiree's reduced annuity shall be paid to such beneficiary who was the retiree's spouse on the annuity starting date or as otherwise provided by subsection 5 of this section.

Option 3.

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



272 of at least age fifty-five with five years of credited  
273 service;

274 (2) A vested former member's normal retirement  
275 eligibility shall be based on the attainment of at least age  
276 sixty-seven and the completion of at least five years of  
277 credited service; except that, a vested former member who  
278 terminates employment after the attainment of normal  
279 retirement eligibility as described in subdivision (1) of  
280 this subsection shall be covered under such subdivision;

281 (3) A temporary annuity paid under subsection 4 of  
282 section 104.1024 shall be payable if the member has attained  
283 at least age fifty-five with the sum of the member's age and  
284 credited service equaling at least ninety; or in the case of  
285 a member who is serving as a uniformed member of the highway  
286 patrol and subject to the mandatory retirement provisions of  
287 section 104.081, the temporary annuity shall be payable if  
288 the member has attained at least age sixty, or at least age  
289 fifty-five with five years of credited service;

290 (4) A member, other than a member who is serving as a  
291 uniformed member of the highway patrol and subject to the  
292 mandatory retirement provisions of section 104.081, shall be  
293 eligible for an early retirement annuity upon the attainment  
294 of at least age sixty-two and the completion of at least  
295 five years of credited service. A vested former member who  
296 terminated employment prior to the attainment of early  
297 retirement eligibility shall not be eligible for early  
298 retirement;

299 (5) The normal and early retirement eligibility  
300 requirements in this subsection shall apply for purposes of  
301 administering section 104.1087;

302 (6) The survivor annuity payable under section  
303 104.1030 for vested former members who terminated employment

304 prior to the attainment of early retirement eligibility and  
305 who are covered by this section shall not be payable until  
306 the deceased member would have reached his or her normal  
307 retirement eligibility under this subsection;

308 (7) The annual cost-of-living adjustment payable under  
309 section 104.1045 shall not commence until the second  
310 anniversary of the annuity starting date for vested former  
311 members who terminated employment prior to the attainment of  
312 early retirement eligibility and who are covered by this  
313 subsection;

314 (8) The unused sick leave credit granted under  
315 subsection 2 of section 104.1021 shall not apply to members  
316 covered by this subsection unless the member terminates  
317 employment after reaching normal retirement eligibility or  
318 becoming eligible for an early retirement annuity under this  
319 subsection; and

320 (9) The minimum credited service requirements of five  
321 years contained in sections 104.1018, 104.1030, 104.1036,  
322 and 104.1051 shall be five years for members covered by this  
323 subsection.

105.915. 1. The board of trustees of the Missouri  
2 state employees' retirement system shall administer the  
3 deferred compensation fund for the employees of the state of  
4 Missouri that was previously administered by the deferred  
5 compensation commission, as established in section 105.910,  
6 prior to August 28, 2007. The board shall be vested with  
7 the same powers that it has under chapter 104 to enable it  
8 and its officers, employees, and agents to administer the  
9 fund under sections 105.900 to 105.927.

10 2. Except as provided in this subsection,  
11 participation in such plan shall be by a specific written  
12 agreement between state employees and the state, which shall

13 provide for the deferral of such amounts of compensation as  
14 requested by the employee subject to any limitations imposed  
15 under federal law. Participating employees must authorize  
16 that such deferrals be made from their wages for the purpose  
17 of participation in such program. An election to defer  
18 compensation shall be made before the beginning of the  
19 [month in] **payroll period for** which the compensation is  
20 paid. Contributions shall be made for payroll periods  
21 [occurring on or after the first day of the month] **beginning**  
22 after the election is made.

23       3. Each employee eligible to participate in the plan  
24 hired **or rehired** on or after July 1, 2012, shall be enrolled  
25 in the plan automatically and his or her employer shall, in  
26 accordance with the plan document, withhold and contribute  
27 to the plan an amount equal to one percent of eligible  
28 compensation received on and after the date of hire, unless  
29 the employee elects not to participate in the plan within  
30 the first thirty days of employment, and in that event, any  
31 amounts contributed and earnings thereon will be refunded by  
32 the plan to the employee pursuant to the procedure contained  
33 in the plan documents. Employees who are employed by a  
34 state college or university shall not be automatically  
35 enrolled but may elect to participate in the plan and make  
36 contributions in accordance with the terms of the plan.

37       4. **Effective July 1, 2027:**

38           (1) **The plan document shall provide for automatic**  
39 **increases in the deferral amount contributed by a**  
40 **participating employee commencing with the first payroll**  
41 **period following the employee's one year anniversary date of**  
42 **employment or re-employment, whichever is later. The**  
43 **deferral amount shall increase annually by one-half of one**  
44 **percent until the amount reaches ten percent of the**

45 **employee's eligible compensation or the limitation imposed**  
46 **under federal law, whichever is less.**

47 **(2) Each employee eligible to participate in the plan**  
48 **who was last hired or rehired on or after July 1, 2012, and**  
49 **before July 1, 2027, who was automatically enrolled in the**  
50 **plan pursuant to subsection 3 of this section, and whose**  
51 **contribution is equal to one percent of eligible**  
52 **compensation on the effective date, shall be enrolled in**  
53 **such automatic increases.**

54 **(3) Each employee eligible to participate in the plan**  
55 **who was last hired or rehired on or after July 1, 2027,**  
56 **shall be enrolled in such automatic increases.**

57 **5. Employees who are enrolled automatically **or whose****  
58 ****deferral amounts are automatically increased** may elect to**  
59 **change the contribution rate in accordance with the terms of**  
60 **the plan. Employees who elect not to participate in the**  
61 **plan may at a later date elect to participate in the plan**  
62 **and make contributions in accordance with the terms of the**  
63 **plan. All assets and income of such fund shall be held in**  
64 **trust by the board for the exclusive benefit of participants**  
65 **and their beneficiaries. Assets of such trust, and the**  
66 **trust established pursuant to section 105.927, may be pooled**  
67 **solely for investment management purposes with assets of the**  
68 **trust established under section 104.320.**

69 **[3.] 6. Notwithstanding any other provision of**  
70 **sections 105.900 to 105.927, funds held for the state by the**  
71 **board in accordance with written deferred compensation**  
72 **agreements between the state and participating employees may**  
73 **be invested in such investments as are deemed appropriate by**  
74 **the board. All administrative costs of the program**  
75 **described in this section, including staffing and overhead**  
76 **expenses, may be paid out of assets of the fund, which may**

77 reduce the amount due participants in the fund. Such  
78 investments shall not be construed to be a prohibited use of  
79 the general assets of the state.

80 [4.] 7. Investments offered under the deferred  
81 compensation fund for the employees of the state of Missouri  
82 shall be made available at the discretion of the board.

83 [5.] 8. The board and employees of the Missouri state  
84 employees' retirement system shall be immune from suit and  
85 shall not be subject to any claim or liability associated  
86 with any administrative actions or decisions made by the  
87 commission with regard to the deferred compensation program  
88 prior to the transfer made to the board under section  
89 105.910.

90 [6.] 9. The board and employees of the system shall  
91 not be liable for the investment decisions made or not made  
92 by participating employees as long as the board acts with  
93 the same skill, prudence, and diligence in the selection and  
94 monitoring of providers of investment products, education,  
95 advice, or any default investment option, under the  
96 circumstances then prevailing that a prudent person acting  
97 in a similar capacity and familiar with those matters would  
98 use in the conduct of a similar enterprise with similar aims.

99 [7.] 10. The system shall be immune from suit and  
100 shall not be subject to any claim or liability associated  
101 with the administration of the deferred compensation fund by  
102 the board and employees of the system.

103 [8.] 11. Beginning on or after September 1, 2011, if a  
104 participant under the deferred compensation plan or the plan  
105 established under section 105.927 is married on the date of  
106 his or her death, the participant's surviving spouse shall  
107 be automatically designated as the primary beneficiary under  
108 both plans, unless the surviving spouse consented in

109 writing, witnessed by a notary public, to allow the  
110 participant to designate a nonspouse beneficiary. As used  
111 in this subsection, "surviving spouse" means the spouse as  
112 defined pursuant to section 104.012 to whom the participant  
113 is lawfully married on the date of death of the participant,  
114 provided that a former spouse shall be treated as the  
115 surviving spouse of the participant to the extent provided  
116 under a judgment, decree, or order that relates to child  
117 support, alimony payments, or marital property rights made  
118 under Missouri domestic relations law that creates or  
119 recognizes the existence of such former spouse's right to  
120 receive all or a portion expressed as a stated dollar amount  
121 or specific percentage stated in integers of the benefits  
122 payable from such plan upon the death of the participant.  
123 This subsection shall not apply to beneficiary designations  
124 made prior to September 1, 2011.

125 [9.] 12. The board may adopt and amend plan documents  
126 to change the terms and conditions of the deferred  
127 compensation plan and the plan established under section  
128 105.927 that are consistent with federal law.

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