

SECOND REGULAR SESSION

SENATE BILL NO. 1054

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BLACK.

5602S.011

KRISTINA MARTIN, Secretary

AN ACT

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

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2 repealed and two new sections enacted in lieu thereof, to be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.

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

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

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

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

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

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

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

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

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

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

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

240 Option 4.

241 A retiree's life annuity shall be reduced to
242 eighty-six percent of the annuity otherwise
243 payable. If the retiree dies before having
244 received one hundred eighty monthly payments,
245 the reduced annuity shall be continued for the
246 remainder of the one hundred eighty-month period
247 to the retiree's designated beneficiary provided
248 that if there is no beneficiary surviving the
249 retiree, the present value of the remaining
250 annuity payments shall be paid as provided under
251 subsection 3 of section 104.620. If the
252 beneficiary survives the retiree but dies before
253 receiving the remainder of such one hundred
254 eighty monthly payments, the present value of
255 the remaining annuity payments shall be paid as
256 provided under subsection 3 of section 104.620.

257 11. The provisions of subsection 6 of section 104.1024
258 shall not apply to members covered by this section.

259 12. Effective January 1, 2018, a member who is not a
260 statewide elected official or a member of the general
261 assembly shall be eligible for retirement under this
262 subsection subject to the following conditions:

263 (1) A member's normal retirement eligibility shall be
264 based on the attainment of at least age sixty-seven and the
265 completion of at least five years of credited service; or
266 the member's attainment of at least age fifty-five with the
267 sum of the member's age and credited service equaling at
268 least ninety; or in the case of a member who is serving as a
269 uniformed member of the highway patrol and subject to the
270 mandatory retirement provisions of section 104.081, such
271 member's attainment of at least age sixty or the attainment

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

(2) 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 five years of credited service; except that, a vested former member who terminates employment after the attainment of normal retirement eligibility as described in subdivision (1) of this subsection shall be covered under such subdivision;

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

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

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

(6) The survivor annuity payable under section 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

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

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

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

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

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

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

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

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

[3.] 6. Notwithstanding any other provision of sections 105.900 to 105.927, funds held for the state by the board in accordance with written deferred compensation agreements between the state and participating employees may be invested in such investments as are deemed appropriate by the board. All administrative costs of the program described in this section, including staffing and overhead 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

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

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

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