

SECOND REGULAR SESSION

SENATE BILL NO. 1559

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR HENDERSON.

6555S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 105.915, RSMo, and to enact in lieu thereof one new section relating to deferred compensation.

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

Section A. Section 105.915, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 105.915,
3 to read as follows:

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

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

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 reemployment, 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; and

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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