

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 748

89TH GENERAL ASSEMBLY

Reported from the Committee on Elections, Pensions and Veterans' Affairs, March 25, 1998, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

S3173.02C

AN ACT

To repeal section 104.612, RSMo Supp. 1997, relating to certain state retirement systems, and to enact in lieu thereof one new section relating to the same subject.

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

Section A. Section 104.612, RSMo Supp. 1997, is repealed and one new section enacted in lieu thereof, to be known as section 104.612, to read as follows:

104.612. 1. Each special consultant, not otherwise eligible for a retirement benefit increase under section 104.415, employed or eligible for employment on or after May 12, 1981, by a board of trustees of a retirement system as provided in subsection 1 of section 104.610 shall, in addition to duties prescribed in section 104.610, and upon request of the board of trustees, give the board, orally or in writing, a short detailed statement on the problems of retirement under the current monthly benefits.

2. As compensation for the extra duty imposed by subsection 1 of this section, each special consultant shall receive, in addition to all other compensation provided by law, a percentage increase in compensation each year, computed upon the total amount which the consultant received in the previous year from state retirement benefits, compensation under the provisions of section 104.610, and compensation under the provisions of this section, of eighty percent of the increase in the consumer price index calculated in the manner specified in section 104.415. The increase in compensation for special consultants who have been retired less than one year shall be one-twelfth of the applicable cost of living increase for every month or partial month that the

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

member was retired and receiving an annuity. Any such annual increase in compensation, however, shall not exceed five percent, nor be less than four percent, and the total increase in compensation to each special consultant pursuant to the provisions of this subsection shall not exceed sixty-five percent of the total retirement benefits and compensation he or she was receiving immediately prior to October 1, 1986.

3. As compensation for the services described in subsections 1 and 2 of this section, each special consultant shall receive, in addition to all other compensation provided by those subsections, an annual percentage increase in the retirement benefit payable equal to eighty percent of the increase in the consumer price index. Such benefit increase, however, shall not exceed five percent of the retirement benefit payable prior to the increase. The annual benefit increase described in this subsection shall not be effective until the year in which the special consultant reaches the limit on total annual increases provided by subsection 2 of this section. During that year on the anniversary date of the special consultant's retirement, the special consultant shall receive the benefit increase described in subsection 2 of this section or this subsection, whichever is greater. After that year, the special consultant shall receive the annual benefit increase described in this subsection. Any special consultant who reaches the limit on total annual benefit increases provided by subsection 2 prior to October 1, 1996, shall receive the benefit increase described in this subsection on September 1, 1997. Any special consultant who reaches the limit on total annual benefit increases provided by subsection 2 on or after October 1, 1996, but before September 1, 1997, shall receive the benefit increase described in this subsection beginning on the anniversary date of the special consultant's retirement following September 1, 1997. In no event shall any retroactive annual benefit increases be paid under this subsection to any special consultant who reached the limit provided in subsection 2 of this section prior to August 28, 1997.

4. The compensation provided for in this section shall be payable in equal monthly installments and shall be consolidated with any retirement benefits and compensation due under section 104.610 which is payable to the special consultant. The compensation provided for in this section shall be paid from the retirement fund for all members who retire after August 30, 1980. The retirement fund shall be funded on a sound actuarial basis for such benefits as prescribed in sections 104.070 and 104.436. Appropriations necessary to achieve a sound actuarial basis for the retirement fund shall be made from general revenue or any other fund during the three general assembly sessions next occurring after February 14, 1980. Appropriations to maintain the retirement fund on a continuing sound actuarial basis shall be made as necessary in accordance with the provisions of sections 104.070, 104.436 and 104.438. For all members who retire prior to September 1, 1980, the compensation provided for in this section shall be funded as provided in sections 104.070 and 104.436.

5. The compensation provided for in this section shall be treated as any other state

retirement benefits, payable by the Missouri state employees' retirement system or the highway employees' and highway patrol retirement system are treated and shall not be subject to execution, garnishment, attachment, writ of sequestration, or any other process or claim whatsoever, and shall be unassignable, anything to the contrary notwithstanding.

6. The employment provided for by this section shall in no way affect any person's eligibility for retirement benefits under this chapter, or in any way have the effect of reducing retirement benefits, anything to the contrary notwithstanding.

7. (1) Any person who is receiving, on or after August 28, 1994, a survivor benefit provided by the provisions of this chapter by virtue of being a survivor of a member, a survivor of a judge as defined in section 476.515, RSMo, or a survivor of an administrative law judge or legal advisor as those terms are defined in section 287.812, RSMo, and who was employed prior to August 28, 1997, shall, upon application, be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging, and other matters relating to survivors of deceased members and upon the request of the appropriate board shall give opinions, in writing or orally, in response to such requests of the board. As compensation for the services required by this subsection, each such special consultant shall receive, in addition to all other compensation provided by law, a percentage increase in compensation each year, computed upon the amount which the special consultant received in the previous year in survivor benefits from the system, of eighty percent of the increase in the consumer price index calculated in the manner specified in section 104.415. Any such increase in compensation, however, shall not exceed five percent, nor be less than four percent;

(2) The total increases in benefits received pursuant to this subsection shall be limited by the following:

(a) In cases of death after retirement where an optional form of payment was elected by the retirant, the total increase shall not exceed sixty-five percent of the survivor benefit which would have been payable based on the option elected and the original benefit amount payable to the retirant;

(b) In cases of death before retirement, the total increase shall not exceed sixty-five percent of the original survivor benefit amount.

8. As compensation for the services described in subsection 7 of this section, each special consultant shall receive, in addition to all other compensation provided by subsection 7 of this section, an annual percentage increase in the survivor benefit payable equal to eighty percent of the increase in the consumer price index. Such benefit increase, however, shall not exceed five percent of the survivor benefit payable prior to the increase. The annual benefit increase described in this subsection shall not be effective until the year in which the special consultant reaches the limit on total annual increases provided by subsection 7 of this section. During that year on the anniversary date that the special consultant's benefit became payable, the special

consultant shall receive the benefit increase described in subsection 7 of this section or this subsection, whichever is greater. After that year, the special consultant shall receive the annual benefit increase described in this subsection. Any special consultant who reaches the limit on total annual benefit increases provided by subsection 7 of this section prior to October 1, 1996, shall receive the benefit increase described in this subsection on September 1, 1997. Any special consultant who reaches the limit on total annual benefit increases provided by subsection 7 of this section on or after October 1, 1996, but before September 1, 1997, shall receive the benefit increase described in this subsection beginning on the anniversary date that the special consultant's benefit became payable following September 1, 1997. In no event shall any retroactive annual benefit increases be paid under this subsection to any special consultant who reached the limit provided in subsection 7 of this section prior to August 28, 1997.

9. The employment provided for by this subsection shall in no way affect any person's eligibility for retirement or survivor benefits under the provisions of this chapter, or in any way have the effect of reducing any retirement or survivor benefits, anything to the contrary notwithstanding. An annual increase, if any is due, shall be payable monthly beginning on a date specified by the board. Nothing in this subsection shall be construed to prohibit a special consultant from waiving the right to receive the annual increase provided pursuant to this subsection. However, the waiver may not extend beyond the age permitted by the Tax Equity and Fiscal Responsibility Act (TEFRA). The waiver shall be final as to the annual increase waived.

10. (1) Any member who terminated employment on or after October 1, 1984, who is receiving an annuity on September 1, 1997, and who had elected one of the options providing for a continuing lifetime annuity to a surviving spouse, and who has been made, constituted and appointed by the board as a special consultant on the problems of retirement, aging, and other matters relating to retirement shall be eligible for additional compensation. As additional compensation for such services, each special consultant shall be eligible for the benefits described in this subdivision. The annuity of a special consultant who is receiving benefits under option 1 of section 104.395, shall be reduced in the same manner as an annuity under option 2 of section 104.395, as in effect immediately prior to August 28, 1997. The annuity of a special consultant who is receiving benefits under the provisions of option 2 of section 104.395, as in effect on or after August 13, 1986, but prior to August 28, 1997, shall be determined in the same manner as an annuity under option 2 of section 104.395, as in effect on September 1, 1997. The annuity of a special consultant who is receiving benefits under an annuity that provides for a continuing lifetime annuity to a surviving spouse other than as previously described in this subdivision shall be reduced in a manner approved by the board so as to be consistent with the other continuing lifetime annuities described in this subdivision. Such annuities shall be adjusted for early retirement if applicable. The member's benefit shall include any formula or minimum benefit increases or both, and cost-of-living increases the retired member would have received since the

date of retirement had the member's benefit been calculated as described in this subdivision. The member shall also receive a one-time payment in an amount equal to the difference in the amount of retirement benefits that the member received and the amount the member would have received since the date of retirement had the member's benefit been calculated as described in this subdivision.

(2) Any member who terminated employment on or after October 1, 1984, but before August 28, 1997, and who retires after August 28, 1997, may elect at retirement to become a special consultant as provided for in subdivision (1) of this subsection and elect any option provided under section 104.395, as in effect on August 28, 1997.

(3) Any member who terminated employment on or after October 1, 1984, but retired prior to August 28, 1997, who applied for increased benefits under the provisions described in subsection 3 or subsection 4 of section 104.395, and whose spouse died prior to September 1, 1997, and who has been made, constituted and appointed by the board as a special consultant on the problems of retirement, aging, and other matters relating to retirement shall be eligible for additional compensation. As additional compensation for such services, such member shall receive a one-time payment in an amount equal to the difference in the amount of retirement benefits that the member received and the amount the member would have received since the date of retirement had the member's benefit been calculated as described in subdivision (1) of this subsection.

(4) Any member who **terminated employment [retired]** on or after October 1, 1984, but **retired** before September 1, 1997, and who had elected a normal annuity at retirement, and who is receiving benefits on September 1, 1997, and who has been made, constituted and appointed by the board as a special consultant on the problems of retirement, aging, and other matters relating to retirement shall be eligible for additional compensation. As additional compensation for such services, beginning the first month following the death of the member, the [member's surviving spouse] **person** who was married to the member **of the highway employees' and highway patrol retirement system** on the date of retirement **or the person who was married to the member of the Missouri state employees' retirement system on the date of retirement** shall receive monthly an amount equal to fifty percent of the monthly annuity the retired member was receiving at the time of the member's death.

(5) If a member dies on or after September 1, 1997, but prior to receiving any one-time payment described in subdivision (1) of this subsection, payment shall be issued to the surviving spouse who was married to the member at the date of the member's death. If there is no surviving spouse, payment will be issued to the member's estate.

(6) Any member who terminated employment on or after October 1, 1984, retired, became a special consultant on the problems of retirement, aging and other matters relating to retirement, and whose annuity was not in pay status on September 1, 1997,

pursuant to the provisions of 104.380, shall be eligible for additional compensation. As additional compensation for such services, each special consultant shall be eligible for the benefits described in subdivisions (1), (3) or (4) of this subsection depending on the annuity selected by the member at the time of retirement;

(7) Any person who received benefits under subsection 6 of section 104.335 prior to August 28, 1997, may apply to the board to become a special consultant on the problems of retirement, aging and other matters relating to retirement. As compensation for such services, each special consultant shall be eligible to receive a one-time payment which shall be equal to the difference between the amount of benefits the person received and the amount of benefits the person would have received had the original benefit payment been calculated under the law as in effect on August 28, 1997;

(8) Any person who was married to a member of the Missouri state employees' retirement system at the time the member retired and in which case the member terminated employment on or after October 1, 1984, elected one of the options providing for a continuing lifetime annuity at the time of retirement, and died prior to September 1, 1997, may apply to the board to become a special consultant on the problems of retirement, aging and other matters relating to retirement. As additional compensation for such services, the survivor benefit of the special consultant shall be recalculated in the manner described in subdivision (1) of this subsection. The special consultant shall also receive a one-time payment in an amount equal to the difference between the amount of retirement and survivor benefits that the retired member and the special consultant received and the amount of retirement and survivor benefits the retired member and the special consultant would have received since the date of retirement had the retired member's and the special consultant's benefits been calculated as described in subdivision (1) of this subsection;

(9) Any person who was married to a member of the Missouri state employees' retirement system at the time the member retired and in which case the member terminated employment on or after October 1, 1984, retired after electing a normal annuity, and died prior to September 1, 1997, may apply to the board to become a special consultant on the problems of retirement, aging and other matters relating to retirement. As additional compensation for such services, the special consultant shall receive a monthly benefit in an amount equal to fifty percent of the monthly annuity the retired member was receiving at the time of the member's death, including any annual benefit increases pursuant to subsections 7 and 8 of this section that occurred between the date of the member's death and the date of application. Such benefit shall commence upon application and shall include a one-time payment, if necessary, so that the special consultant shall receive the same amount that would have been paid to the

special consultant had such benefit commenced the month following the death of the member;

(10) Any surviving spouse receiving benefits pursuant to the provisions of section 104.420 as the result of the death of a member whose employment terminated on or after October 1, 1984, may apply to the board to become a special consultant on the problems of retirement, aging and other matters relating to retirement. As compensation for such services, the benefit of each special consultant shall be reduced in the same manner as an annuity under option 1 of section 104.395 as in effect on August 28, 1997. The special consultant shall also receive a one-time payment in an amount equal to the difference between the amount of benefits that the survivor received and the amount of benefits the survivor would have received had the survivor's benefit been originally calculated as described under option 1 of section 104.395 as in effect on August 28, 1997.

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