

FIRST REGULAR SESSION

SENATE BILL NO. 314

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS SCOTT AND STAPLES.

Read 1st time January 20, 1999, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S1075.03I

AN ACT

To repeal sections 104.352, 104.354, 104.370 and 104.610, RSMo 1994, and sections 104.010, 104.395, 104.410, 104.612 and 104.620, RSMo Supp. 1998, relating to certain state retirement systems, and to enact in lieu thereof seven new sections relating to the same subject.

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

Section A. Sections 104.352, 104.354, 104.370 and 104.610, RSMo 1994, and sections 104.010, 104.395, 104.410, 104.612 and 104.620, RSMo Supp. 1998, are repealed and seven new sections enacted in lieu thereof, to be known as sections 104.010, 104.370, 104.395, 104.410, 104.610, 104.612 and 104.620, to read as follows:

104.010. 1. The following words and phrases as used in this chapter, unless a different meaning is plainly required by the context, shall mean:

(1) "Accumulated contributions", the sum of all deductions for retirement benefit purposes from a member's compensation which shall be credited to the member's individual account and interest allowed thereon;

(2) "Active armed warfare", any declared war, or the Korean or Vietnamese conflict;

(3) "Actuarial equivalent", a benefit which, when computed upon the basis of actuarial tables and interest, is equal in value to a certain amount or other benefit;

(4) "Actuarial tables", the actuarial tables approved and in use by a board at any given time;

(5) "Actuary", the actuary who is a member of the American Academy of Actuaries or who is an enrolled actuary under the Employee Retirement Income Security Act of 1974 and who is

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

employed by a board at any given time;

(6) "Annuity", annual payments, made in equal monthly installments, to a retired member from funds provided for in, or authorized by, this chapter;

(7) "Average compensation", the average compensation of a member for the thirty-six consecutive months of service prior to retirement when the member's compensation was greatest; or if the member is on workers' compensation leave of absence **or a medical leave of absence due to an employee illness**, the amount of compensation the member would have received may be used, as reported and verified by the employing department; or if the member had less than thirty-six months of service, the average annual compensation paid to the member during the period up to thirty-six months for which the member received creditable service when the member's compensation was the greatest; or if the member is on military leave, the amount of compensation the member would have received may be used as reported and verified by the employing department or, if such amount is not determinable, the amount of the employee's average rate of compensation during the twelve-month period immediately preceding such period of leave, or if shorter, the period of employment immediately preceding such period of leave;

(8) "Beneficiary", any person entitled to or nominated by a member or retiree who may be legally entitled to receive benefits pursuant to this chapter;

(9) "Biennial assembly", the completion of no less than two years of creditable service or creditable prior service by a member of the general assembly;

(10) "Board of trustees", "board", or "trustees", a board of trustees as established for the applicable system pursuant to this chapter;

(11) "Compensation":

(a) All salary and wages payable out of any state, federal, trust, or other funds to an employee for personal services performed for a department; but including only amounts for which contributions have been made in accordance with section 104.436, or section 104.070, whichever is applicable, and excluding any nonrecurring single sum payments or amounts paid after the member's [retirement] **termination of employment unless such amounts paid after such termination are a final installment of salary or wages at the same rate as in effect immediately prior to termination of employment in accordance with a state payroll system adopted on or after January 1, 2000;**

(b) All salary and wages which would have been payable out of any state, federal, trust or other funds to an employee on workers' compensation leave of absence during the period the employee is receiving a weekly workers' compensation benefit, as reported and verified by the employing department;

(c) Effective December 31, 1995, compensation in excess of the limitations set forth in Internal Revenue Code section 401(a)(17) shall be disregarded. The limitation on compensation for "eligible employees" shall not be less than the amount which was allowed to be taken into

account under the system as in effect on July 1, 1993. For this purpose, an "eligible employee" is an individual who was a member of the system before the first plan year beginning after December 31, 1995;

(12) "Consumer price index", the consumer price index for all urban consumers for the United States, or its successor index, as approved by a board, as such index is defined and officially reported by the United States Department of Labor, or its successor agency;

(13) "Creditable prior service", the service of an employee which was either rendered prior to the establishment of a system, or prior to the date the employee last became a member of a system, and which is recognized in determining the member's eligibility and for the amount of the member's benefits under a system;

(14) "Creditable service", the sum of membership service and creditable prior service, to the extent such service is standing to a member's credit as provided in this chapter;

(15) "Deferred normal annuity", the annuity payable to any former employee who terminated employment as an employee or otherwise withdrew from service with a vested right to a normal annuity, payable at a future date;

(16) "Department", any department, institution, board, commission, officer, court, or any agency of the state government receiving state appropriations, including allocated funds from the federal government, and having power to certify payrolls authorizing payments of salary or wages against appropriations made by the federal government or the state legislature from any state fund, or against trusts or allocated funds held by the state treasurer;

(17) "Disability benefits", benefits paid to any employee while totally disabled as provided in this chapter;

(18) "Early retirement age", a member's attainment of fifty-five years of age and the completion of ten or more years of creditable service, except for uniformed members of the water patrol;

(19) "Employee":

(a) Any elective or appointive officer or person employed by the state who is employed, promoted or transferred by a department into a new or existing position and earns a salary or wage in a position normally requiring the performance by the person of duties during not less than one thousand hours per year, including each member of the general assembly but not including any patient or inmate of any state, charitable, penal or correctional institution. However, persons who are members of the public school retirement system and who are employed by a state agency other than an institution of higher learning shall be deemed "employees" for purposes of participating in all insurance programs administered by a board established pursuant to section 104.450. This definition shall not exclude any employee as defined in this subdivision who is covered only under the federal Old Age and Survivors' Insurance Act, as amended. As used in this chapter, the term "employee" shall include:

a. Persons who are currently receiving annuities or other retirement benefits from some other retirement or benefit fund, so long as they are not simultaneously accumulating creditable service in another retirement or benefit system which will be used to determine eligibility for or the amount of a future retirement benefit;

b. Persons who have elected to become or who have been made members of a system pursuant to section 104.342;

(b) [Any person who has performed services in the employ of the general assembly or either house thereof, or any employee of any member of the general assembly while acting in the person's official capacity as a member, and whose position does not normally require the person to perform duties during at least one thousand hours per year, with a month of service being any monthly pay period in which the employee was paid for full-time employment for that monthly period;

(c) "Employee" does not include special consultants employed pursuant to section 104.610;

[(d)] (c) As used in this chapter, the hours governing the definition of employee shall be applied only from August 13, 1988, forward;

(20) "Employer", a department of the state;

(21) "Executive director", the executive director employed by a board established pursuant to the provisions of this chapter;

(22) "Fiscal year", the period beginning July first in any year and ending June thirtieth the following year;

(23) "Full biennial assembly", the period of time beginning on the first day the general assembly convenes for a first regular session until the last day of the following year;

(24) "Fund", the benefit fund of a system established pursuant to this chapter;

(25) "Interest", interest at such rate as shall be determined and prescribed from time to time by a board;

(26) "Member", as used in sections 104.010 to 104.270 or 104.600 to 104.800 shall mean a member of the transportation department and highway patrol retirement system without regard to whether or not the member has been retired. "Member", as used in sections 104.010 and 104.320 to 104.800, shall mean a member of the Missouri state employees' retirement system without regard to whether or not the member has been retired;

(27) "Membership service", the service after becoming a member that is recognized in determining a member's eligibility for and the amount of a member's benefits under a system;

(28) "Military service", all active service performed in the United States Army, Air Force, Navy, Marine Corps, Coast Guard, and members of the United States Public Health Service or any women's auxiliary thereof; and service in the Army National Guard and Air National Guard when engaged in active duty for training, inactive duty training or full-time National Guard duty, and service by any other category of persons designated by the President in time of war or emergency;

(29) "Normal annuity", the annuity provided to a member upon retirement at or after the member's normal retirement age;

(30) "Normal retirement age", an employee's attainment of sixty-five years of age and the completion of four years of creditable service or the attainment of age sixty-five years of age and the completion of five years of creditable service by a member who has terminated employment and is entitled to a deferred normal annuity or the member's attainment of age sixty and the completion of fifteen years of creditable service, except that normal retirement age for uniformed members of the highway patrol shall be fifty-five years of age and the completion of four years of creditable service and uniformed employees of the water patrol shall be fifty-five years of age and the completion of four years of creditable service or the attainment of age fifty-five and the completion of five years of creditable service by a member of the water patrol who has terminated employment and is entitled to a deferred normal annuity and members of the general assembly shall be fifty-five years of age and the completion of three full biennial assemblies. Notwithstanding any other provision of law to the contrary, a member of the Missouri transportation department and highway patrol retirement system or a member of the Missouri state employees' retirement system shall be entitled to retire with a normal annuity and shall be entitled to elect any of the survivor benefit options and shall also be entitled to any other provisions of this chapter that relate to retirement with a normal annuity if the sum of the member's age and creditable service equals eighty years or more and if the member is at least fifty years of age;

(31) "Payroll deduction", deductions made from an employee's compensation;

(32) "Prior service credit", the service of an employee rendered prior to the date the employee became a member which service is recognized in determining the member's eligibility for benefits from a system but not in determining the amount of the member's benefit;

(33) "Reduced annuity", an actuarial equivalent of a normal annuity;

(34) "Retiree", a member who is not an employee and who is receiving an annuity from a system pursuant to this chapter;

(35) "System" or "retirement system", the transportation department employees' and highway patrol retirement system, as created by sections 104.010 to 104.270, or sections 104.600 to 104.800, or the Missouri state employees' retirement system as created by sections 104.320 to 104.800;

(36) "Uniformed members of the highway patrol", the superintendent, lieutenant colonel, majors, captains, director of radio, lieutenants, sergeants, corporals, and patrolmen of the Missouri state highway patrol who normally appear in uniform;

(37) "Uniformed members of the water patrol", employees of the Missouri state water patrol of the department of public safety who are classified as water patrol officers who have taken the oath of office prescribed by the provisions of chapter 306, RSMo, and who have those peace

officer powers given by the provisions of chapter 306, RSMo;

(38) "Vesting service", the sum of a member's prior service credit and creditable service which is recognized in determining the member's eligibility for benefits under the system.

2. Benefits paid pursuant to the provisions of this chapter shall not exceed the limitations of Internal Revenue Code section 415, the provisions of which are hereby incorporated by reference.

104.370. 1. Any member of the general assembly who has served at least three full biennial assemblies as a member of the general assembly and who meets the conditions for retirement at or after the member's normal retirement age shall be entitled to a normal annuity in a monthly amount equal to **[one] two** hundred **[fifty]** dollars multiplied by the number of biennial assemblies in which such member has served. For the purpose of calculating benefits due under this subsection:

(1) Service in any portion of a biennial assembly after service in at least three biennial assemblies shall be credited as service in a full biennial assembly; and

(2) Any person who is elected as a member of the general assembly at a special election and who serves the remainder of that term to which he was elected at such special election shall receive credit for a full biennial assembly for such service.

2. If a member of either retirement system established by this chapter, who has served at least three full biennial assemblies as a member of the general assembly, is elected to a state office, appointed to a state office, or employed by the state before, after, or before and after his service as a member of the general assembly, the member may, at the end of such employment, receive upon retirement, at or after the member's normal retirement age, the amount which shall be due the member for creditable service as a member of the general assembly. If he has not fully vested as a result of his employment as other than a member of the general assembly, he shall be credited with additional service as a legislator just as though all of the service combined had in fact been rendered as a member of the general assembly and receive a normal annuity. If the member retires before normal retirement age, the member shall receive the actuarial reduction approved by the board. Nothing in this section shall allow any member to simultaneously accumulate service in more than one state retirement system as a member of the general assembly and an employee or state officer.

3. A member who has fully vested as a state officer or employee and has service as a member of the general assembly of less than three full biennial assemblies, upon retirement, at or after the member's normal retirement age, shall be credited with additional service as a state officer or employee for the time he served as a member of the general assembly. If the member retires before normal retirement age, he shall receive the actuarial reduction approved by the board.

4. Any member of the general assembly who has served at least three full biennial

assemblies and whose service as such terminates on or after October 1, 1984, and who served as an employee, as that term is defined in section 104.010, prior to the respective dates on which the retirement systems to which such sections apply originally became effective, but was not such an employee on such dates, shall be entitled to the creditable prior service that such employee would have been entitled to in either or both systems had such employee become a member on the date of inception of either or both systems. The maximum number of years of creditable prior service to which a member may become entitled pursuant to this section is less than ten years. The benefits attributable to such service shall be calculated as if all service was rendered as a member of the general assembly.

5. Any former member of the general assembly who is receiving benefits under the provisions of this section shall, upon written request to the board, be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement and other related matters and shall upon request of the board give opinions in writing or orally in response to such requests. As compensation for such services, the retired member shall have his retirement benefits recalculated the first of the month next following his application under this subsection to reflect that any portion of a year of creditable service shall be counted as one full biennial session.

6. Any retired member who is receiving benefits from the system and is elected to the general assembly but does not serve at least three biennial sessions shall receive creditable service for the time he served in the general assembly and upon leaving the general assembly shall have an additional benefit calculated using such service.

7. Benefits paid for service credited to legislative service shall be funded as provided in section 104.436.

8. Any former member of the general assembly not retired on August 28, 1994, who is fifty-five years of age or more and who has creditable service in the general assembly of at least three full biennial assemblies and has not used such services as creditable services in any other retirement system shall be made and employed by the board as a special consultant on the problems related to retirement and shall, when requested by the board, give opinions either written or orally on such problems. As compensation for such duties the former member of the general assembly shall be entitled to retire with a normal annuity effective the first of the month following receipt by the board of a written application.

9. Notwithstanding any other law to the contrary, any active member of the Missouri state employees' retirement system who is vested, on August 28, 1994, under the provisions of subsection 1 of this section, and who has served as an elected county official and who, by virtue of such service was a member of a retirement system other than the Missouri state employees' retirement system but was not vested in such other retirement system, or was not a member of any retirement system, shall receive creditable prior service in the Missouri state employees'

retirement system for such previous service as an elected county official.

104.395. 1. In lieu of the normal annuity otherwise payable to a member under section 104.335, 104.374 or 104.400, the member whose age at retirement is fifty years or more may elect in the member's application for retirement to receive either:

Option 1. An actuarial reduction approved by the board of the member's annuity in reduced monthly payments for life during retirement with the provision that upon the member's death the reduced annuity at the date of the member's death shall be continued throughout the life of, and be paid to, the member's spouse to whom the member was married at the date of retirement and who was nominated by the member to receive such payments in the member's application for retirement. Such annuity shall be reduced in the same manner as an annuity under option 2 as in effect immediately prior to August 28, 1997. The surviving spouse shall designate a beneficiary to receive any final monthly payment due after the death of the surviving spouse; or

Option 2. The member's normal annuity in regular monthly payments for life during the member's retirement with the provision that upon the member's death a survivor's benefit equal to one-half the member's annuity at the date of the member's death shall be paid to the member's spouse to whom the member was married at the date of retirement and who was nominated by the member to receive such payments in the member's application for retirement, in regular monthly payments for life. The surviving spouse shall designate a beneficiary to receive any final monthly payment due after the death of the surviving spouse; or

Option 3. An actuarial reduction approved by the board of the member's normal annuity in reduced monthly payments for the member's life with the provision that if the member dies prior to the member having received one hundred twenty monthly payments of the member's reduced annuity, the member's reduced annuity to which the member would have been entitled had the member lived shall be paid for the remainder of the one hundred twenty months' period to such person as the member shall have nominated by written designation duly executed and filed with the board. If there is no such beneficiary surviving the retirant, the reserve for such annuity for the remainder of such one hundred twenty months' period shall be paid to the retirant's estate. If such beneficiary dies after the member's date of death but before having received the remainder of the one hundred twenty monthly payments of the retiree's reduced annuity, the reserve for such annuity for the remainder of such one hundred twenty-month period shall be paid to the beneficiary's estate; or

Option 4. An actuarial reduction approved by the board of the member's normal annuity in reduced monthly payments for the member's life with the provision that if the member dies prior to the member having received sixty monthly payments of the member's reduced annuity, the member's reduced annuity to which the member would have been entitled had the member lived shall be paid for the remainder of the sixty months' period to such person as the member

shall have nominated by written designation duly executed and filed with the board. If there be no such beneficiary surviving the retirant, the reserve for such annuity for the remainder of such sixty months' period shall be paid to the retirant's estate. If such beneficiary dies after the member's date of death but before having received the remainder of the sixty monthly payments of the retiree's reduced annuity, the reserve for such annuity for the remainder of the sixty-month period shall be paid to the beneficiary's estate.

2. The election may be made only in the application for retirement, and such application must be filed prior to the date on which the retirement of the member is to be effective, provided that if either the member or the spouse nominated to receive the survivorship payment dies before the effective date of retirement, the election shall not be effective. Any application for retirement shall include a statement from the member indicating that the member's spouse at the time the application was completed was aware of the application and the plan of retirement elected in the application.

3. For members who retire on or after August 28, 1995, in the event such member elected a joint and survivor option under the provisions of this section and the member's eligible spouse precedes the member in death, the member's annuity shall revert effective the first of the month following the death of the spouse regardless of when the board receives the member's written application for the benefit provided in this subsection, to an amount equal to the member's normal annuity, as adjusted for early retirement if applicable; such benefit shall include any increases the member would have received since the date of retirement had the member elected a normal annuity. In no event shall retroactive benefits be paid.

4. Effective on or after August 28, 1995, any retired member who had elected a joint and survivor option and whose spouse precedes or preceded the member in death, shall upon application to the board be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging, and other state matters. As a special consultant under the provisions of this section, the member's reduced annuity shall revert to a normal annuity as adjusted for early retirement, if applicable, effective the first of the month following the death of the spouse or August 28, 1995, whichever is later, regardless of when the board receives the member's written application; such annuity shall include any increases the retired member would have received since the date of retirement had the member elected a normal annuity. In no event shall retroactive benefits be paid.

5. A member may make an election under option 1 or 2 after the date retirement benefits are initiated if the member has been married for at least one year prior to such election and makes such election within six months of becoming eligible to make such election under any of the following circumstances:

(1) The member elected to receive a normal annuity and was not eligible to elect options 1 or 2 on the date retirement benefits were initiated;

(2) The member's annuity reverted to a normal annuity pursuant to subsection 3 or 4 of this section and the member remarried; or

(3) The member's former spouse who was designated as a beneficiary pursuant to this section died and the member remarried.

104.410. 1. Any uniformed member of the water patrol who shall be affirmatively found by the board to be wholly and permanently incapable of holding any position of gainful employment as a result of injuries or illness incurred in the performance of the member's duties shall be entitled to receive disability benefits in an amount equal to one-half of the compensation that the employee was receiving at the time of the occurrence of the injury entitling the employee to such disability benefits. Any disability benefit payable pursuant to this subsection shall be decreased by any amount paid to such uniformed member of the water patrol by reason of the workers' compensation laws of this state. After termination of payment under workers' compensation, however, any such reduction and disability benefits shall be restored.

2. The board of trustees may require a medical examination of any uniformed member of the water patrol who is receiving disability benefits pursuant to this section at any time by a designated physician, and disability benefits shall be discontinued if the board finds that such member is able to perform the duties of the member's former position, or if such member refuses to submit to such an examination.

3. The disability benefits described in this section shall not be paid to any uniformed member of the water patrol who has retained or regained more than fifty percent of the member's earning capacity. If any uniformed member of the water patrol who has been receiving disability benefits again becomes an employee, the member's disability benefits shall be discontinued, the member's prior period of creditable service shall be restored, and any subsequent determination of benefits due the member or the member's survivors shall be based on the sum of the member's creditable service accrued to the date the member's disability benefits commenced and the period of creditable service after the member's return to employment.

4. Any uniformed member of the water patrol receiving benefits pursuant to the provisions of this section for five or more years immediately prior to attainment of age fifty-five shall be considered a normal retirant at age fifty-five, and may elect, within thirty days preceding the attainment of age fifty-five, option 1 of section 104.395, but only for the member's spouse who was the member's spouse for two or more years prior to the member's attainment of age fifty-five.

5. Any member who is receiving disability benefits as of December 31, 1985, or any member who is disabled on December 31, 1985, and would have been entitled to receive disability benefits pursuant to this section as the provisions of this section existed immediately prior to September 28, 1985, shall be eligible to receive or shall continue to receive benefits in accordance with such prior provisions of this section until the member again becomes an employee; however, all employees of the department of conservation who are disabled shall receive benefits pursuant

only to this section or section 104.518, whichever is applicable, and shall not be eligible for benefits under any other plan or program purchased or provided after September 28, 1985.

6. Any member who qualifies for disability benefits pursuant to subsection 1 of this section or pursuant to the provisions of section 104.518, or under a long-term disability program provided by the member's employing department as a consequence of employment by the department, shall continue to accrue creditable service based on the member's rate of pay immediately prior to the date the member became disabled in accordance with sections 104.370, 104.371, 104.374 and 104.615, until the date the member's retirement benefit goes into pay status, the disability benefits cease being paid to the member, or the member is no longer disabled, whichever comes first. Persons covered by the provisions of sections 476.515 to 476.565, RSMo, or sections 287.812 to 287.855, RSMo, who qualify for disability benefits pursuant to the provisions of section 104.518, at the date the person becomes disabled, shall continue to accrue creditable service based on the person's rate of pay immediately prior to the date the person becomes disabled until the date the person's retirement benefit goes into pay status, the disability benefits cease being paid to the person or the person is no longer disabled, whichever comes first. Members or persons continuing to accrue creditable service pursuant to this subsection shall be entitled to continue their life insurance coverage subject to the provisions of the life insurance plan administered by the board pursuant to section 104.517. **The rate of pay for a member or person described in this subsection who becomes disabled on or after July 1, 2000, shall be the member's or person's rate of pay at time of disablement, increased thereafter for any increases in the consumer price index. Such increases in the member's monthly pay shall be made annually beginning twelve months after disablement and shall be equal to eighty percent of the increase in the consumer price index during the calendar year prior to the adjustment, but not more than five percent of the member's monthly pay immediately before the increase. Such accruals shall continue until the earliest of: receipt of an early retirement annuity, attainment of normal retirement eligibility or termination of disability benefits.**

7. A member or person who continues to be disabled as provided in subsection 6 of this section until the member's normal retirement age shall be eligible to retire on the first day of the month next following the member's or person's final payment pursuant to section 104.518 or, if applicable, subsection 1 of this section. A member or person who retires pursuant to this subsection shall receive the greater of the normal annuity or the minimum annuity, if applicable, determined pursuant to sections 104.370, 104.371, 104.374 and 104.615, and section 287.820, RSMo, and section 476.530, RSMo, as if the member or person had continued in the active employ of the employer until the member's or person's retirement benefit goes into pay status, the disability benefits cease being paid to the member or person, or the member or person is no longer disabled, whichever comes first and the member's or person's compensation for such period had

been the member's or person's rate of pay immediately preceding the date the member or person became disabled.

8. If a member who has been disabled becomes an employee again and if the member was disabled during the entire period of the member's absence, then the member shall resume active participation as of the date of reemployment. Such a member shall receive creditable service for the entire period the member was disabled as provided in subsection 6 of this section.

9. If a member ceases to be disabled and if the member does not return to work as provided in subsection 8 of this section, the member's rights to further benefits shall be determined in accordance with sections 104.335, 104.380, 104.400, 104.420[, 104.430] and 104.615 as though the member had withdrawn from service as of the date the member ceased to be disabled, as determined by the system.

104.610. 1. Any person, who is receiving or hereafter may receive state retirement benefits from the Missouri state employees' retirement system other than a person with twelve or more years of service in statewide state elective office receiving benefits under the provisions of section 104.371, a legislators' retirement system, or the transportation department employees' and highway patrol retirement system, upon application to the board of trustees of the system from which he or she is receiving retirement benefits, shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging, and other state matters, for the remainder of the person's life, and upon request of the board, or other state agencies where such person was employed prior to retirement, give opinions, and be available to give opinions in writing, or orally, in response to such requests, as may be required, and for such services shall be compensated monthly, in an amount, which, when added to any monthly state retirement benefits received on his retirement, shall be equal to the state retirement benefits the person would be receiving currently if he had benefited from changes in the law [effecting] **affecting** increases in the rate in the formula for calculating benefits in his respective retirement system, for his type of employment or for those persons having accrued thirty-five or more years of creditable service, changes in the law pertaining to the age and service requirements for a normal annuity in his respective retirement system, made subsequent to the date of his retirement; except that in calculating such benefits the meaning of "average compensation" shall be that ascribed to it by the law in effect on the date on which the benefits under this section are calculated.

2. In lieu of any other benefits under the provisions of this section, any member of the Missouri state employees' retirement system who has or may hereafter retire under the provisions of section 104.371, pertaining to those members who have held statewide state elective office for at least twelve years, may apply under this section to be employed as a special consultant and for such services shall be compensated monthly, in an amount, which, when added to any monthly state retirement benefits received initially on his retirement, shall be equal to the state retirement

benefits the person would be receiving if he had benefited from changes in the law affecting increases in compensation for statewide state elective offices, pursuant to house substitute for senate bill no. 528, second regular session of the eighty-second general assembly, any other provisions of the law to the contrary notwithstanding.

3. This compensation shall be consolidated with any other retirement benefits payable to the person, and shall be funded as provided in section 104.436.

4. This compensation shall be treated as any other state retirement benefits payable by the Missouri state employees' retirement system or the transportation department 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.

5. 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.

6. In order to determine the total monthly state retirement compensation due each retiree who is eligible for the additional amount provided for in subsection 1 of this section, the following formula shall be used:

(1) The retiree's base monthly retirement compensation shall be determined by dividing the sum of the retiree's annual normal annuity as of the effective date of any increase in the rate in the formula for calculating benefits in his respective retirement system plus any annual increases granted such retiree as a result of his being a consultant, by twelve;

(2) The amount determined under subdivision (1) of this subsection shall be increased by an amount equal to the base monthly retirement compensation calculated under subdivision (1) of this subsection multiplied by the percentage increase in the rate in the formula;

(3) The sum obtained from completing the calculations contained in subdivisions (1) and (2) of this subsection shall be the retiree's new total monthly state retirement compensation. Any retiree who is eligible for the benefit provided in subsection 1 of this section whose benefit under subsection 1 of this section was not calculated in accordance with the procedure provided in this subsection shall have his total monthly retirement compensation for all months beginning on or after September 28, 1985, recalculated in accordance with this subsection.

7. The provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or otherwise invalid, the remaining provisions of this section are valid unless the court finds that such valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

8. Any person who terminates employment or retires prior to July 1, 2000, shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters, for the remainder of the

person's life, and upon request of the board, or other state agencies where such person was employed prior to retirement, give opinions, and be available to give opinions in writing, or orally, in response to such requests, as may be required, and for such services shall be eligible to elect to receive retirement benefits as provided under the Year 2000 Plan if that plan is enacted.

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 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 [retired] **terminated employment** 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 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 or applies to become such a consultant, and whose annuity was not in pay status on September 1, 1997, pursuant to the provisions of section 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. Any one-time payment that may be due shall be paid upon application for such benefit. Any adjustment to a future annuity shall be made upon application for retirement or survivor benefits.

(7) Any person who received benefits pursuant to 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 upon making application for such benefits 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 actuarial assumptions 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 such 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 such 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.

104.620. 1. Any member who has not received a lump sum payment equal to the sum total of the contributions that the member paid into the retirement system, plus interest credited to his or her account, shall be entitled to such a lump sum payment. Lump sum payments made pursuant to this section shall not be reduced by any retirement benefits which a member is

entitled to receive, but shall be paid in full out of appropriate funds pursuant to appropriations for this purpose.

2. In the event any accumulated contributions standing to a member of the Missouri state employees' retirement system's credit remains unclaimed by such member for a period of four years or more, such accumulated contributions shall automatically revert to the credit of the fund for the Missouri state employees' retirement system. If an application is made, after such reversion, for such accumulated contributions, the board shall pay such contributions from the fund for the Missouri state employees' retirement system; except that, no interest shall be paid on such funds after the date of the reversion to the fund for the Missouri state employees' retirement system.

3. In the event any amount that is due to a member of either system remains unclaimed by such member for a period of four years or more, such amount shall automatically revert to the credit of the fund of the member's system. If an application is made after such reversion for such amount, the board shall pay such amount from the board's fund to the member, except that no interest shall be paid on such funds after the date of the reversion to the fund.

[104.352. 1. Any employee or former employee described in paragraph (b) of subdivision (18) of section 104.010 is entitled to credit for all prior service and membership service as if he had been a member of the system on the date of its inception. Any such employee shall be considered a member of the system from the date of his or her employment and shall receive credit for each month of service for which he is employed with service being computed as if part-time employment with the general assembly were full-time employment for the period the member was so employed.

2. Each employee described in paragraph (b) of subdivision (18) of section 104.010 shall be entitled to the same insurance benefits provided under sections 103.003 to 103.175, RSMo to employees described in paragraph (a) of subdivision (18) of section 104.010 to cover the medical expenses of such employees and their spouses and children. Such insurance benefits shall be made available to employees described in paragraph (b) of subdivision (18) of section 104.010 upon their initial employment as such employees in the same manner provided for employees described in paragraph (a) of subdivision (18) of section 104.010, and shall be continued during any period of time, not to exceed one year, in which such employees are not paid for full-time employment, so long as such employees pay the same amount for such insurance benefits as is required of employees described in paragraph (a) of subdivision (18) of section 104.010 who continue receiving such insurance benefits during a leave of absence without pay from their employment with the state. Any employee described in paragraph (b) of subdivision (18) of section 104.010 who is reemployed by the general assembly or either house thereof, or by any member of the

general assembly while acting in his official capacity as a member, by the thirteenth legislative day of the session of the general assembly immediately following the session of the general assembly in which such employee was last so employed, without having elected to discontinue the insurance benefits described in this subsection, shall be entitled to continue such insurance benefits without having to prove insurability for himself or any of his covered dependents for whom he has paid for such coverage continuously since last employed as an employee described in paragraph (b) of subdivision (18) of section 104.010. Any employee described in paragraph (b) of subdivision (18) of section 104.010 who is not reemployed by the general assembly or either house thereof, or by any member of the general assembly while acting in his official capacity as a member, by the thirteenth legislative day of the session of the general assembly immediately following the session of the general assembly in which such employee was last so employed, shall be deemed terminated as an employee as of such thirteenth legislative day, and the insurance benefits provided for such employee under this subsection and sections 103.003 to 103.175, RSMo, shall be terminated as provided for employees described in paragraph (a) of subdivision (18) of section 104.010 whose employment is terminated. During each month of service in which an employee described in paragraph (b) of subdivision (18) of section 104.010 is employed, the state shall make any contribution required by sections 103.003 to 103.175, RSMo, for such employee.

3. Any employee described in paragraph (b) of subdivision (18) of section 104.010 who is actively employed on or after September 28, 1992, shall be deemed vested for purposes of determining eligibility for benefits under sections 104.320 to 104.620 after being so employed for at least sixty months.]

[104.354. In each fiscal year in which retirement benefits are to be paid to retired employees described in paragraph (b) of subdivision (18) of section 104.010 because of the provisions of section 104.352, funding for such benefits shall be provided as set forth in section 104.436. All benefits paid because of the provisions of section 104.352 shall be paid by the retirement system along with all other retirement benefits due such retired employees under the retirement system.]

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