

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILLS NOS. 308 & 314
90TH GENERAL ASSEMBLY

Reported from the Committee on Pensions and General Laws, February 11, 1999, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bills Nos. 308 and 314, adopted February 23, 1999.

Taken up for Perfection February 23, 1999. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

S1074.06P

AN ACT

To repeal sections 104.352, 104.354, 104.370 and 104.610, RSMo 1994, and sections 104.010, 104.395, 104.401, 104.410, 104.420, 104.612 and 104.620, RSMo Supp. 1998, relating to certain state retirement systems, and to enact in lieu thereof forty-two 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104.610, RSMo 1994, and sections 104.010, 104.395, 104.401, 104.410, 104.420, 104.612 and 104.620, RSMo Supp. 1998, are repealed and forty-two new sections enacted in lieu thereof, to be known as sections 104.010, 104.352, 104.354, 104.370, 104.395, 104.401, 104.410, 104.420, 104.610, 104.612, 104.620, 104.1003, 104.1006, 104.1009, 104.1012, 104.1015, 104.1018, 104.1021, 104.1024, 104.1027, 104.1030, 104.1033, 104.1036, 104.1039, 104.1042, 104.1045, 104.1048, 104.1051, 104.1054, 104.1057, 104.1060, 104.1063, 104.1066, 104.1069, 104.1072, 104.1075, 104.1078, 104.1081, 104.1084, 104.1087, 104.1090 and 104.1093, 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

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

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 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 or any other one-time payments made as a result of such payroll system;

(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) 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.

104.352. 1. Any employee or former employee described in paragraph (b) of subdivision [(18)] (19) 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)] (19) 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)] (19) 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)] (19) 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)] (19) 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)] (19) 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)] (19) 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)] (19) of section 104.010. Any employee described in paragraph (b) of subdivision [(18)] (19) 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)] (19) 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.

4. Notwithstanding the provisions of subsections 1 to 3 of this section and subdivision (19) of subsection 1 of section 104.010, any retiree who is or has been employed by the general assembly, or by any member of the general assembly while acting in his official capacity as a member, shall not be considered to be an employee unless the retiree elects, in advance of rendering such service, to have such service considered to be creditable service in the system. Any retiree who receives creditable service pursuant to this subsection shall not receive an annuity for any month or part of a month for which the member serves as an employee.

104.354. In each fiscal year in which retirement benefits are to be paid to retired employees described in paragraph (b) of subdivision [(18)] (19) 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.

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 **a municipal public safety employee or** 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 **a municipal public safety employee or** 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] **and prior to the last business day of the month before the annuity starting date under section 104.401, a member shall elect whether or not to have such member's normal annuity reduced as provided by the options set forth in this section; provided that if such election has not been made within such time, annuity payments due beginning on and after such annuity starting date shall be made the month following the receipt by the system of such election, and**

further provided, that if such person dies after such annuity starting date but before making such election, no benefits shall be paid except as required under section 104.420:

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.] 3. 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.

4. 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

2 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.

104.401. 1. Any member may retire with the annuity provided for in section 104.335, 104.370, 104.371, 104.374 or 104.400 upon the member's written application to the board designating the [time the member desires the service retirement annuity to commence] **annuity starting date which shall be the first day of the month with respect to which an amount is paid as an annuity**; except that at the time [specified for the commencement of benefits] **of the annuity starting date**, the member must have attained the normal retirement age or meet the eligibility requirements of subsection 2 of section 104.400 and must have sufficient years of creditable service. [The application for benefits may be filed up to ninety days prior to the designated annuity commencement date.] **The annuity starting date shall be not less than thirty days nor more than ninety days subsequent to the execution and filing of such application.** The annuity shall commence [as of the latter of the first day of the calendar month coincident with or next following the date specified by the member or the first day of the calendar month next following the month in which the application for benefits is executed and filed] **in the month of the annuity starting date specified by the member in such application.** The payment of the monthly service retirement annuity shall be made by the last day of each month, providing all documentation required **pursuant to section 104.395** for the calculation and payment of the benefits is received by the board [prior to the first day of the particular month, otherwise the monthly payment may be delayed]. The member shall designate a beneficiary to receive any final monthly payment due after the death of the member if no survivor annuity is payable.

2. Nothing in sections 104.010 and 104.320 to 104.800 shall be construed as prohibiting a member from waiving the member's right to receive the member's monthly annuity for a period of time that the member chooses. 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 benefits waived.

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 purposes of calculating retirement benefits 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 regular monthly compensation received at the 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.

104.420. 1. Unless otherwise provided by law, if a member or disabled member has five

or more years of vesting service and dies prior to retirement, regardless of the age of the member at the time of death, the member's or disabled member's surviving spouse, to whom the member or disabled member was married for at least the two consecutive years immediately prior to the date of the member's death, if any, shall receive the reduced survivorship benefits provided in option 1 of section 104.395 calculated as if the member were of normal retirement age and had retired as of the date of the member's death and had elected option 1.

2. If there is no eligible surviving spouse, the member's or disabled member's eligible surviving children under twenty-one years of age shall receive monthly, in equal shares, an amount equal to one-half of the member's or disabled member's accrued annuity calculated as if the member or disabled member were of a normal retirement age and retired as of the date of death. Benefits otherwise payable to a child under eighteen years of age shall be payable to the surviving parent as natural guardian of such child if such parent has custody or assumes custody of such minor child, or to the legal guardian of such child, until such child attains age eighteen; thereafter, the benefit may be paid to the child until age twenty-one.

3. No benefit is payable pursuant to this section if no eligible surviving spouse or children under twenty-one years of age survives the member or disabled member. Benefits cease pursuant to this section when there is no eligible surviving beneficiary through either death of the eligible surviving spouse or through either death or the attainment of twenty-one years of age by the eligible surviving children. If the member's or disabled member's surviving children are receiving equal shares of the benefit described in subsection 2 of this section, and one or more of such children become ineligible by reason of death or the attainment of twenty-one years of age, the benefit shall be reallocated so that the remaining eligible children receive equal shares of the total benefit as described in subsection 2 of this section.

4. For the purpose of computing the amount of an annuity payable pursuant to this section, if the board finds that the death was the natural and proximate result of a personal injury or disease arising out of and in the course of the member's actual performance of duty as an employee, then the minimum annuity to such member's surviving spouse or, if no surviving spouse benefits are payable, the minimum annuity that shall be divided among and paid to such members surviving children shall be fifty percent of the member's final average compensation. The vesting service requirement of subsection 1 of this section shall not apply to any annuity payable pursuant to this subsection.

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 a retirement annuity under the year 2000 plan as provided under this chapter.

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'] **transportation department** 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 transportation department 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.

104.1003. Unless a different meaning is plainly required by the context, the following words and phrases as used in sections 104.1003 to 104.1093 shall mean:

- (1) "Act", the "Year 2000 Plan" created by sections 104.1003 to 104.1093;**
- (2) "Actuary", an actuary who is experienced in retirement plan financing and who is either a member of the American Academy of Actuaries or an enrolled actuary under the Employee Retirement Income Security Act of 1974;**
- (3) "Annuity", annual benefit amounts, paid in equal monthly installments, from funds provided for in, or authorized by, sections 104.1003 to 104.1093;**
- (4) "Annuity starting date", means the first day of the first month with respect to which an amount is paid as an annuity pursuant to sections 104.1003 to 104.1093;**
- (5) "Beneficiary", any person or entity entitled to receive an annuity or other benefit pursuant to sections 104.1003 to 104.1093 based upon the employment record of another person;**
- (6) "Board of trustees", "board", or "trustees", a governing body or bodies established for the year 2000 plan pursuant to sections 104.1003 to 104.1093;**
- (7) "Closed plan", a benefit plan created pursuant to this chapter and administered by a system prior to the effective date of the year 2000 plan. No person first employed on or after the effective date of the year 2000 plan shall become a member of the closed plan, but the closed plan shall continue to function for the benefit of persons covered by and remaining in the closed plan and their beneficiaries;**
- (8) "Consumer price index", the consumer price index for all urban consumers for the United States, or its successor index, as approved by the board, as such index is defined and officially reported by the United States Department of Labor, or its successor agency;**
- (9) "Credited service", the total credited service to a member's credit as provided in sections 104.1003 to 104.1093;**
- (10) "Department", any department or agency of the executive, legislative, or judicial branch of the state of Missouri receiving state appropriations, including allocated funds from the federal government but not including any body corporate or politic unless its employees are eligible for retirement coverage from a system under this chapter as otherwise provided by law;**
- (11) "Early retirement eligibility", a member's attainment of fifty-seven years of age and the completion of five or more years of credited service;**
- (12) "Effective date", July 1, 2000;**
- (13) "Employee", shall be any person who is employed by a department and is paid a salary or wage by a department in a position normally requiring the performance of duties of not less than one thousand hours per year, provided:**
 - (a) The term "employee" shall not include any patient or inmate of any state,**

charitable, penal or correctional institution, nor any person who is employed by a department in a position that is covered by a state sponsored defined benefit retirement plan not created by this chapter;

(b) The term "employee" shall be modified as provided by other provisions of sections 104.1003 to 104.1093;

(14) "Employer", a department;

(15) "Executive director", the executive director employed by a board established under the provisions of sections 104.1003 to 104.1093;

(16) "Final average pay", the average pay of a member for the thirty-six full consecutive months of service before termination of employment when the member's pay was greatest; or if the member was on workers' compensation leave of absence or a medical leave of absence due to an employee illness, the amount of pay the member would have received but for said leave of absence as reported and verified by the employing department; or if the member was employed for less than thirty-six months, the average monthly pay of a member during the period for which the member was employed;

(17) "Fund", a fund of the year 2000 plan established pursuant to sections 104.1003 to 104.1093;

(18) "Investment return", "interest", rates as shall be determined and prescribed from time to time by a board;

(19) "Member", a person who is included in the membership of the system, as set forth in section 104.1009;

(20) "Normal retirement eligibility", a member's attainment of at least sixty-two years of age and the completion of five years of credited service or, the attainment of at least fifty years of age with a total of years of age and years of credited service which is at least eighty or, in the case of a member of the highway patrol who shall be subject to the mandatory retirement provisions of section 104.080, the mandatory retirement age and completion of five years of credited service or, the attainment of at least fifty years of age with a total of years of age and years of credited service which is at least eighty;

(21) "Pay" shall include:

(a) All salary and wages payable to an employee for personal services performed for a department; but excluding:

a. Any amounts paid after an employee's employment is terminated, unless the payment is made as 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. Any amounts paid upon termination of employment for unused annual leave

or unused sick leave; and

c. Pay in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code of 1986 as amended and other applicable federal laws or regulations;

(b) All salary and wages which would have been payable 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) All salary and wages which would have been payable to an employee on a medical leave due to employee illness, as reported and verified by the employing department;

(d) For purposes of members of the general assembly, pay shall be the annual salary provided to each senator and representative pursuant to section 21.140, RSMo, plus any salary adjustment pursuant to section 21.140, RSMo;

(22) "Retiree", a person receiving an annuity from the year 2000 plan based upon the person's employment record;

(23) "State", the state of Missouri;

(24) "System" or "retirement system", the Missouri state employees' retirement system or the transportation department and highway patrol retirement system, as the case may be;

(25) "Vested former member", a person entitled to receive a deferred annuity pursuant to section 104.1036;

(26) "Year 2000 plan", the benefit plan created by sections 104.1003 to 104.1093.

104.1006. For the purpose of providing retirement income and other benefits to employees of the state, there is hereby created and established a benefit plan which shall be a body corporate and an instrumentality of the state, which shall be under the management of boards of trustees herein described, and which shall be known as the "Year 2000 Plan". In the systems shall be vested the powers and duties specified in sections 104.1003 to 104.1093 and such other powers as may be necessary or proper to enable it, its officers, employees, and agents to carry out fully and effectively all the purposes of sections 104.1003 to 104.1093. The provisions of sections 104.150 to 104.190 and 104.210 to 104.240 shall continue to be applicable to the transportation department and highway patrol retirement system under the year 2000 plan. The provisions of sections 104.440 to 104.480 and 104.500 to 104.510 and 104.520 to 104.530 shall continue to be applicable to the Missouri state employees' retirement system under the year 2000 plan. Both systems shall be subject to sections 105.660 to 105.691, RSMo.

104.1009. 1. The membership of the year 2000 plan shall include the following persons:

(1) Each person who first becomes an employee on or after the effective date of

the year 2000 plan and continues to be an employee;

(2) Each person covered by the closed plan on the effective date of the year 2000 plan who elects to be covered by the year 2000 plan in accordance with the provisions of section 104.1015.

2. In any case of question as to the membership status of any person, the appropriate board shall decide the question. If a person is not included in membership at time of employment and is later determined to be a member, the board is authorized to collect any contribution shortfall by requesting a special appropriation from the office of administration. Upon receipt of such request, the office of administration shall immediately pay to the system the amount needed to cover such shortfall.

104.1012. 1. Any new state employee who would have become a member of the closed plan administered by the transportation department and highway patrol retirement system except for the creation of the year 2000 plan and persons covered by the closed plan administered by the highway and transportation employees' and highway patrol retirement system who elect year 2000 plan coverage as provided in section 104.1015 shall have their year 2000 plan coverage managed by that board.

2. Any new state employee who would have become a member of the closed plan administered by the Missouri state employees' retirement system except for the creation of the year 2000 plan or persons covered by the closed plan administered by the Missouri state employees' retirement system who elect year 2000 plan coverage as provided in section 104.1015 shall have their year 2000 plan coverage managed by that board.

104.1015. 1. Persons covered by a closed plan on the effective date shall elect whether or not to change to year 2000 plan coverage. Any such person who elects to be covered by the year 2000 plan shall forfeit all rights to receive future benefits under this chapter except as provided under the year 2000 plan and all creditable service of such person under the closed plan shall be credited under the year 2000 plan. Any such person who elects not to be covered by the year 2000 plan shall waive all rights to receive benefits under the year 2000 plan. In no event shall any retroactive annuity be paid to such persons pursuant to sections 104.1003 to 104.1093 except as described in subsection 2 of this section.

2. Each retiree of the closed plan on the effective date shall be furnished by the appropriate system a written comparison of the retiree's closed plan coverage and the retiree's potential year 2000 plan coverage. A retiree shall elect whether or not to change to year 2000 plan coverage by making a written election, on a form furnished by the appropriate board, and providing that form to the system by no later than twelve months after the effective date and any retiree who fails to make such election within such time period shall be deemed to have elected to remain covered under the

closed plan; provided the election must be after the retiree has received from the appropriate system such written comparison. The retirement option elected under the year 2000 plan shall be the same as the retirement option elected under the closed plan unless such retirement option is not available under the year 2000 plan. The effective date of payment of an annuity under the year 2000 plan as provided in this subsection shall begin on the effective date of said plan. No adjustment shall be made to retirement benefits paid to the retiree prior to the effective date of this act. In order to calculate a new monthly annuity for retirees electing coverage under the year 2000 plan pursuant to this subsection, the following calculations shall be made:

(1) The retiree's gross monthly retirement annuity in effect immediately prior to the effective date shall be multiplied by the percentage increase in the life annuity formula between the closed plan and the year 2000 plan. This amount shall be added to the retirees' gross monthly retirement annuity in effect immediately prior to the effective date to arrive at the retirees' new monthly retirement annuity in the year 2000 plan on the effective date. The age of eligibility and reduction factors applicable to the retiree's original annuity under the closed plan shall remain the same in the annuity payable under the year 2000 plan.

(2) If an optional form of payment was chosen by the retiree and is available under the year 2000 plan, the new monthly retirement annuity calculated pursuant to subdivision (1) of this subsection shall be recalculated using the reduction factors pursuant to section 104.1027. If the optional form of payment was chosen by the retiree and is not available under the year 2000 plan, the retiree's annuity shall be recalculated pursuant to subdivision (1) of this subsection, provided that, if the retiree has chosen or is receiving an unreduced annuity prior to the effective date with a 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, then such retiree's annuity shall be recalculated using the reduction factors pursuant to option 1 in subsection 1 of section 104.1027.

(3) If a temporary annuity is payable pursuant to subsection 4 of section 104.1024 the additional temporary annuity shall be calculated by multiplying the retiree's credited service by the retiree's final average pay by eight-tenths of one percent.

(4) Cost-of-living adjustments paid pursuant to section 104.1045 will commence on the anniversary of the retiree's annuity starting date coincident with or next following the effective date.

3. Each person who is an employee and covered by the closed plan and not a retiree of the closed plan on the effective date of the year 2000 plan shall elect whether or not to change to year 2000 plan coverage prior to the last business day of the month

before the person's annuity starting date, and if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by this act; provided, such election must be after the person has received from the year 2000 plan a written comparison of the person's closed plan coverage and the person's potential year 2000 plan coverage and the election must be made in writing on a form furnished by the appropriate board. If such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required under section 104.420.

4. Each person who is not an employee and not a retiree and is eligible for a deferred annuity from the closed plan on the effective date of the year 2000 plan shall elect whether or not to change to the year 2000 plan coverage prior to the last business day of the month before the person's annuity starting date, and if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by this act; provided, the election must be after the person has received from the year 2000 plan a written comparison of the person's closed plan coverage and the person's potential year 2000 plan coverage and the election must be made in writing on a form furnished by the year 2000 plan. If such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required under section 104.420.

5. Each person who is not an employee and not a retiree and is eligible for a deferred annuity from the closed plan and returns to covered employment on or after the effective date shall be covered under the closed plan; provided, such person shall elect whether or not to change to the year 2000 plan coverage prior to the last business day of the month before the person's annuity starting date, and if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by this act and the election must be after the person has received from the year 2000 plan a written comparison of the person's closed plan coverage and the person's potential year 2000 plan coverage and the election must be made in writing on a form furnished by the year 2000 plan. If such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required under section 104.420.

6. Each person who is not an employee and not a retiree and not eligible for a

deferred annuity from the closed plan but has forfeited creditable service with the closed plan and becomes an employee after the effective date shall be changed to year 2000 plan coverage upon such return and receive credited service for all such forfeited creditable service under the closed plan.

7. The retirees and persons described in subsections 2 and 4 of this subsection shall be eligible for benefits under those subsections pursuant to subsection 8 of section 104.610.

104.1018. 1. When a member is no longer employed in a position covered by the system, membership in the system shall thereupon cease. If a member has five or more years of credited service upon such member's termination of membership, such member shall be a vested former member entitled to a deferred annuity under section 104.1036. If a member has fewer than five years of credited service upon termination of membership, such former member's credited service shall be forfeited, provided that if such former member becomes reemployed in a position covered by the system, such former member shall again become a member of the system and the forfeited credited service shall be restored.

2. Upon a member becoming a retiree, membership shall cease and, except as otherwise provided in section 104.1039, the person shall not again become a member of the system.

3. If a vested former member becomes reemployed in a position covered by the system before such vested former member's annuity starting date, membership shall be restored with the previous credited service and increased by such reemployment.

104.1021. 1. The appropriate board shall determine how much credited service shall be given each member consistent with this section.

2. If a member terminates employment and is eligible to receive an annuity under the year 2000 plan, the member's unused sick leave as certified by the member's employing department for which the member has not been paid will be converted to credited service. The member shall receive one-twelfth of a year of credited service for each one hundred and sixty-eight hours of such unused sick leave. Such credited service shall not be used in determining the member's eligibility for retirement or final average pay. Such credited service shall be added to the credited service in the last position of employment held as a member of the system.

3. If a member is employed in a covered position and simultaneously employed in one or more other covered or noncovered positions, credited service shall be determined as if all such employment were in one position, and covered pay shall be the total of pay for all such positions.

4. In calculating any annuity, credited service means a period expressed as whole years and any fraction of a year measured in twelfths that begins on the date an

employee commences employment in a covered position and ends on the date such employee's membership terminates pursuant to section 104.1018 plus any additional period for which the employee is credited with service under this section.

5. A member shall be credited for all military service after membership commences as required by state and federal law.

6. Any member who had active military service in the United States Army, Air Force, Navy, Marine Corps, Army or Air National Guard, Coast Guard, or any reserve component thereof prior to becoming a member, or who is otherwise ineligible to receive credited service pursuant to subsection 1 or 5 of this section, and who became a member after the person's discharge from military service under honorable conditions may elect, prior to retirement, to purchase credited service for all such military service, but not to exceed four years, provided the person is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan, other than a United States military service retirement system, for the military service to be purchased, and an affidavit so stating is filed by the member with the year 2000 plan along with the submission of appropriate documentation verifying the member's dates of active service. The purchase shall be affected by the member paying to the system an amount equal to the state's contributions that would have been made to the system on the member's behalf had the member been a member for the period for which the member is electing to purchase credit and had the member's pay during such period of membership been the same as the annual pay rate as of the date the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of such member's employment with simple interest calculated from the date of employment to the date of election under this subsection. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. If a member who purchased credited service pursuant to this subsection dies prior to retirement, the surviving spouse may, upon written request, receive a refund of the amount contributed for such purchase of such credited service, provided the surviving spouse is not entitled to survivorship benefits payable under the provisions of section 104.1030, RSMo.

7. Any member of the Missouri state employees' retirement system shall receive credited service for the creditable prior service that such employee would have been entitled to under the closed plan pursuant to section 104.339, subsections 2, and 6 to 9 of section 104.340, subsection 12 of section 104.342, subsection 4 of section 104.345, subsection 4 of section 104.372, section 178.640, RSMo, and section 211.393, RSMo, provided such service has not been credited under the closed plan.

8. Any member who has service in both systems and dies or terminates

employment shall have the member's service in the other system transferred to the last system that covered such member and any annuity payable to such member shall be paid by that system. Any such member may elect to transfer service between systems prior to termination of employment, provided, any annuity payable to such member shall be paid by the last system that covered such member prior to the receipt of such annuity.

9. In no event shall any person or member receive credited service under the year 2000 plan if that same service is credited for retirement benefits under any defined benefit retirement system not created under this chapter.

10. Any additional credited service as described in subsections 5 to 7 of this section or any additional creditable service as described in section 105.691, RSMo, shall be added to the credited service in the first position of employment held as a member of the system.

104.1024. 1. Any member who terminates employment may retire on or after attaining normal retirement eligibility by making application in written form and manner approved by the appropriate board. The written application shall set forth the annuity starting date which shall be not less than thirty days nor more than ninety days subsequent to the execution and filing of the member's application for retirement.

2. A member's annuity shall be paid in the form of a life annuity, except as provided in section 104.1027 and shall be an amount for life equal to one and seven-tenths percent of the final average pay of the member multiplied by the member's years of credited service.

3. The life annuity defined in subsection 2 of this section shall not be less than a monthly amount equal to fifteen dollars multiplied by the member's years of credited service.

4. If as of the annuity starting date of a member who has attained normal retirement eligibility the sum of the member's years of age and years of credited service equals eighty or more years and if the member's age is at least fifty years but less than sixty-two years, then in addition to the life annuity described in subsection 2 of this section, the member shall receive a temporary annuity equal to eight-tenths of one percent of the member's final average pay multiplied by the member's years of credited service. The temporary annuity and any cost-of-living adjustments attributable to the temporary annuity pursuant to section 104.1045 shall terminate at the end of the calendar month in which the earlier of the following events occurs: the member's death or the member's attainment of the earliest age of eligibility for reduced social security retirement benefits.

5. The annuity described in subsection 2 of this section for any person who has credited service not covered by the federal Social Security Act, as provided in sections

105.300 to 105.445 shall be calculated as follows: the life annuity shall be an amount equal to two and five-tenths percent of the final average pay of the member multiplied by the number of years of service not covered by the federal Social Security Act in addition to one and seven-tenths percent of the final average pay of the member multiplied by the member's years of credited service covered by the federal Social Security Act.

104.1027. 1. Prior to the last business day of the month before the annuity starting date, a member or a vested former member shall elect whether or not to have such member's or such vested former member's life annuity reduced, but not any temporary annuity which may be payable, and designate a beneficiary, as provided by the options set forth in this section; provided that if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by this act, and further provided, that if such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required under section 104.1030:

OPTION 1. A retiree's life annuity shall be reduced to a certain percent of the annuity otherwise payable. Such percent shall be ninety percent adjusted as follows: if the retiree's age on the annuity starting date is younger than sixty-two years, an increase of three-tenths of one percent for each year the retiree's age is younger than age sixty-two years, to a maximum increase of three and six-tenths percent; 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-five percent. Upon the retiree's death, fifty percent of the retiree's reduced annuity shall be paid to the person who was the retiree's spouse on the annuity starting date provided the retiree was married to said spouse for at least one year immediately preceding the annuity starting date.

OPTION 2. A retiree's life annuity shall be reduced to a certain percent of the annuity otherwise payable. Such percent shall be eighty-three percent adjusted as follows: if the retiree's age on the annuity starting date is younger than sixty-two years, an increase of four-tenths of one percent for each year the retiree's age is younger than sixty-two years, to a maximum increase of four and eight-tenths percent; 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 ninety percent. Upon the retiree's death one hundred percent of the retiree's reduced annuity shall be paid to the person who was the retiree's spouse on the annuity starting date provided the retiree was married to said spouse for at least one year immediately preceding the annuity starting date.

OPTION 3. A retiree's life annuity shall be reduced to ninety-five 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 to the retiree's estate. 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 to the beneficiary's estate.

OPTION 4. A retiree's life annuity shall be reduced to ninety percent of the annuity otherwise payable. If the retiree dies before having received one hundred eighty monthly payments, the reduced annuity shall be continued for the remainder of the one hundred eighty-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 to the retiree's estate. If the beneficiary survives the retiree but dies before receiving the remainder of such one hundred eighty monthly payments, the present value of the remaining annuity payments shall be paid to the beneficiary's estate.

2. If a member is married as of the annuity starting date to a person who has been the member's spouse for at least one year immediately preceding said annuity starting date, the member's annuity shall be paid under the provisions of either option 1 or option 2 as set forth in subsection 1 of this section, at the member's choice, with the spouse as the member's designated beneficiary unless the spouse consents in writing to the member electing another available form of payment. If a member has been married less than one year at the annuity starting date and does not elect an option, the annuity shall be paid as a life annuity.

3. If a member has elected at the annuity starting date option 1 or 2 under this section and if the member's spouse dies after the annuity starting date but before the member dies, then the member may cancel the member's election and return to the life annuity form of payment and annuity amount, effective the first of the month following the date of the beneficiary's death.

4. If a member designates a spouse as a beneficiary under this section and subsequently that marriage ends as a result of a dissolution of marriage, said dissolution shall not affect the option election under this section and the former spouse shall continue to be eligible to receive survivor benefits upon the death of the member.

5. A member may make an election under option 1 or 2 after the annuity starting date as described in this section 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 life annuity and was not eligible to elect options 1 or 2 on the annuity starting date;

(2) The member's annuity reverted to a normal or early retirement annuity under subsection 3 of this section, and the member remarried; or

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

104.1030. 1. If a member with five or more years of credited service or vested former member dies before such member's or such vested former member's annuity starting date, the applicable annuity provided in this section shall be paid.

2. The member's surviving spouse who was married to the member at the date of death shall receive an annuity computed as if such member had:

(1) Retired on the date of death with a normal retirement annuity based upon credited service and final average pay to the date of death, and without reduction if the member's age was younger than normal retirement eligibility;

(2) Elected option 2 provided for in section 104.1027; and

(3) Designated such spouse as beneficiary under such option.

3. If a spouse annuity is not payable under the provisions of subsection 2 of this section, or when a spouse annuity has ceased to be payable, eighty percent of an annuity computed in the same manner as if the member had retired on the date of death with a normal retirement annuity based upon credited service and final average pay to the date of death and without reduction if the member's age at death was younger than normal retirement eligibility shall be divided equally among the dependent children of the deceased member. A child shall be a dependent child until death or attainment of age twenty-one, whichever occurs first; provided the age twenty-one maximum shall be extended for any child who has been found totally incapacitated by a court of competent jurisdiction. Upon a child ceasing to be a dependent child, that child's portion of the dependent annuity shall cease to be paid, and the amounts payable to any remaining dependent children shall be proportionately increased.

4. For the purpose of computing the amount of an annuity payable under this

section, if the board finds that the death was the natural and proximate result of a personal injury or disease arising out of and in the course of his actual performance of duty as an employee, then the minimum annuity to such member's spouse or, if no spouse benefits are payable, the minimum annuity that shall be divided among and paid to such member's dependent children shall be fifty percent of final average pay. The credited service requirement of subsection 1 of this section shall not apply to any annuity payable under this subsection.

104.1033. 1. Any member who has not attained normal retirement eligibility but who has at least five years of credited service may retire with an early retirement annuity on or after attainment of age fifty-seven and by making application in written form and manner approved by the board.

2. The early retirement annuity shall be a certain percent of an annuity provided for in subsection 2 of section 104.1024. The percent shall be one hundred percent reduced by one-half of one percent multiplied by the number of months by which age at early retirement is younger than normal retirement eligibility.

3. Subject to the provisions of subsection 2 of section 104.1027, the early retirement annuity shall be paid for the life of the retiree unless an optional form of payment is elected as provided for in section 104.1027.

104.1036. 1. A member with five or more years of credited service who ceases to be a member, except by reason of death or retirement, shall be a vested former member entitled to a deferred annuity provided for in this section.

2. A vested former member shall be eligible to elect an annuity starting date at any time after attaining age fifty-seven by submitting a written application therefor not earlier than ninety days before attainment of fifty-seven years of age. The vested former member shall have the right to elect an option provided for in section 104.1027, subject to the provisions of subsection 2 of section 104.1027. No deferred annuity shall be paid if the vested former member becomes employed in a position covered by the year 2000 plan and does not terminate employment prior to the annuity starting date.

3. If the deferred annuity commences on or after age sixty-two, the annuity amount shall be calculated in the same manner as the annuity specified in subsection 2 of section 104.1024. If the deferred annuity commences before the vested former member's normal retirement eligibility, the annuity amount shall be calculated in the same manner as the annuity specified in subsection 2 of section 104.1033.

4. If the vested former member dies before the annuity starting date, the surviving spouse and dependent children shall be covered by the provisions of section 104.1030.

104.1039. If a retiree is employed as an employee by a department, the retiree shall not receive an annuity payment for any calendar month in which the retiree is so

employed. While reemployed the retiree shall be considered to be a new employee with no previous credited service upon subsequent retirement. Such retiree shall receive an additional annuity in addition to the original annuity, calculated based only on the credited service and the pay earned by such retiree during reemployment and paid in accordance with the annuity option originally elected; provided such retiree who ceases to receive an annuity under this section shall not receive such additional annuity if such retiree is employed by a department in a position that is covered by a state sponsored defined benefit retirement plan not created by this chapter. The original annuity and any additional annuity shall be paid commencing as of the end of the first month after the month during which the retiree's reemployment terminates.

104.1042. 1. Any member who is in the Missouri state employees' retirement system under this chapter and who becomes disabled and qualifies for long-term disability benefits on or after the effective date, or who becomes disabled and qualifies for long-term disability benefits under a program provided by the member's employing department on or after the effective date, shall continue to accrue credited service and such member's rate of pay for purposes of calculating an annuity pursuant to this chapter shall be the member's regular monthly pay received at the 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.

2. A member described in subsection 1 of this section who continues to be disabled until normal retirement eligibility may elect an annuity starting date upon termination of disability payments and shall receive a normal retirement annuity provided for in section 104.1024; provided, if federal social security disability benefits were paid during the disability period, then no temporary annuity otherwise payable shall be paid.

3. If the member's disability terminates, disability accruals described in subsection 1 of this section shall terminate.

4. Upon termination of disability payments and not returning to a position in which the member is an employee, the member's rights to plan benefits shall be determined as if the member had terminated employment at time of termination of disability payments.

5. Any member who was disabled under the closed plan prior to the effective date and who returns to a position in which the member is an employee after the

effective date shall be covered under the closed plan and shall be eligible to elect coverage under the new plan as provided by subsection 5 of section 104.1015.

104.1045. 1. Each person receiving an annuity shall be entitled to a cost of living adjustment (COLA) when there are increases in the consumer price index. The COLA shall be made annually beginning twelve months after the annuity starting date and shall be equal to eighty percent of the increase in the consumer price index, but not more than five percent of the annuity amount payable immediately before the payment of the COLA.

2. For the purposes of this section, an increase in the consumer price index shall be determined in January of each year, based upon the percentage increase of (a) the consumer price index for the preceding calendar year determined by dividing the sum of the monthly consumer price index values by twelve, over (b) the corresponding index for the next earlier calendar year. Any COLA so determined cannot be less than zero and shall be applied in calculating any COLA that becomes payable under this section during the calendar year in which January falls. Any surviving spouse, beneficiary, or former spouse receiving all or part of an annuity shall be eligible for such COLAs as provided herein.

104.1048. A person receiving an annuity may waive monthly annuity payments or a cost-of-living adjustment (COLA) for periods of time, provided no waiver may be contrary to applicable federal law. A waiver shall be final as to any payment or COLA waived.

104.1051. 1. Any annuity provided pursuant to the year 2000 plan is marital property and a court of competent jurisdiction may divide such annuity between the parties to any action for dissolution of marriage if at the time of the dissolution the member has at least five years of credited service pursuant to sections 104.1003 to 104.1093. A division of benefits order issued pursuant to this section:

(1) Shall not require the applicable retirement system to provide any form or type of annuity not selected by the member;

(2) Shall not require the applicable retirement system to commence payments until the member's annuity starting date;

(3) Shall identify a percentage of the monthly amount to be paid to the former spouse, which shall not exceed fifty percent of the amount of the member's annuity accrued during the period of the marriage of the member and former spouse which amount shall be adjusted proportionately upon the annuity starting date if the member's annuity is reduced due to the receipt of an early retirement annuity;

(4) Shall not require the payment of an annuity amount to the member and former spouse which in total exceeds the amount which the member would have received without regard to the order;

(5) Shall provide that any annuity increases, temporary annuity received under subsection 4 of section 104.1024, additional years of credited service, increased final average pay or other type of increases accrued after the date of the dissolution of marriage shall accrue solely to the benefit of the member, except that any cost-of-living adjustment (COLA) due after the annuity starting date shall be applied to the amounts received by both the member and the former spouse after the date of dissolution;

(6) Shall terminate upon the death of either the member or the former spouse, whichever occurs first;

(7) Shall not create an interest which is assignable or subject to any legal process;

(8) Shall include the name, address, date of birth, and social security number of both the member and the former spouse, and the identity of the retirement system to which it applies;

(9) Shall be consistent with any other division of benefits orders which are applicable to the same member.

2. A system shall provide the court having jurisdiction of a dissolution of a marriage proceeding or the parties to the proceeding with information necessary to issue a division of benefits order concerning a member of the system, upon written request from either the court, the member, or the member's spouse, citing this section and identifying the case number and parties.

3. A system shall have the discretionary authority to reject a division of benefits order for the following reasons:

(1) The order does not clearly state the rights of the member and the former spouse;

(2) The order is inconsistent with any law governing the retirement system.

104.1054. 1. The benefits provided to each member and each member's spouse, beneficiary, or former spouse under the year 2000 plan are hereby made obligations of the state of Missouri and are an incident of every member's contract of employment with the state. No alteration, amendment, or repeal of the year 2000 plan shall affect the then existing rights of members, or their spouses, beneficiaries or former spouses, but shall be effective only as to rights which would otherwise accrue hereunder as a result of services rendered by a member after such alteration, amendment, or repeal.

2. Except as otherwise provided in section 104.1051, any annuity, benefit, funds, property, or rights created by, or accruing or paid to, any person covered under the year 2000 plan shall not be subject to execution, garnishment, attachment, writ of sequestration, or any other process or claim whatsoever, and shall be unassignable, except with regard to the collection of child support and maintenance. Any retiree may request the executive director, in writing, to withhold and pay on his behalf to the

proper person, from each of his monthly annuity payments, if the payment is large enough, the contribution due from the retiree to any group providing state sponsored life or medical insurance.

3. The executive director shall, when requested in writing by a retiree, withhold and pay over the funds authorized in subsection 2 of this section until such time as the request to do so is revoked by the death or written revocation of the retiree.

4. In the event any amount that is due to a person from 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 for such amount after such reversion, the board shall pay such amount to the person from the board's fund, except that no interest shall be paid on such amounts after the date of the reversion to the fund.

5. All annuities payable under the year 2000 plan shall be determined based upon the law in effect on the last date of termination of employment.

104.1057. The year 2000 plan is a qualified plan under the provisions of applicable federal law. The benefits and conditions of the year 2000 plan shall always be adjusted to ensure that the tax-exempt status is maintained.

104.1060. 1. Should any error result in any person receiving more or less than the person would have been entitled to receive had the error not occurred, the board shall correct such error, and, as far as practicable, make future payments in such a manner that the actuarial equivalent of the annuity to which such person was entitled shall be paid, and to this end may recover any overpayments. In all cases in which an error has been made, no such error shall be corrected unless the system discovers or is notified of such error within ten years after the date of error.

2. A person who knowingly makes a false statement, or falsifies or permits to be falsified a record of the system, in an attempt to defraud the system shall be subject to fine or imprisonment under the Missouri revised statutes.

3. A board shall not pay an annuity to any survivor or beneficiary who is charged with the intentional killing of a member, retiree or survivor without legal excuse or justification. A survivor or beneficiary who is convicted of such charge shall no longer be entitled to receive an annuity. If the survivor or beneficiary is not convicted of such charge, the board shall resume annuity payments and shall pay the survivor or beneficiary any annuity payments that were suspended pending resolution of such charge.

104.1063. Each system is authorized to promulgate rules to properly administer the system and govern its own proceedings and to hold hearings as required by law. The term "agency" and the term "state agency" as defined by section 536.010, RSMo, shall not include a system under this chapter with regard to the promulgation of rules

or hearings required by law provided such system has established written procedures to assure that constitutionally required due process safeguards exist and apply to the promulgation of a rule or regulation that would otherwise constitute a "rule" as defined in section 536.010, RSMo, and to a proceeding that would otherwise constitute a "contested case" as defined in section 536.010, RSMo. Each system may delegate a hearing officer to hear all matters wherein a hearing is required by law.

104.1066. 1. The year 2000 plan intends to follow a financing pattern which computes and requires contribution amounts which, expressed as percents of active member payroll, will remain approximately level from year to year and from one generation of citizens to the next generation. Such contribution determinations require regular actuarial valuations, which shall be made by the board's actuary, using assumptions and methods adopted by the board after consulting with its actuary. The entry age-normal cost valuation method shall be used in determining normal cost, and contributions for unfunded accrued liabilities shall be determined using level percent-of-payroll amortization. For purposes of this subsection the actuary shall determine a single contribution rate applicable to both closed plan and year 2000 plan participants and, in determining such rate, make estimates of the probabilities of closed plan participants transferring to the year 2000 plan.

2. At least ninety days before each regular session of the general assembly, the board of the Missouri state employees' retirement system shall certify to the division of budget the contribution rate necessary to cover the liabilities of the year 2000 plan administered by such system, including costs of administration, expected to accrue during the next appropriation period. The commissioner of administration shall request appropriations based upon the contribution rate so certified. From appropriations so made, the commissioner of administration shall certify contribution amounts to the state treasurer who in turn shall immediately pay the monthly contributions to the year 2000 plan.

3. The employers of members covered by the Missouri state employees' retirement system who are not paid out of funds that have been deposited in the state treasury shall remit monthly to the year 2000 plan an amount equal to the amount which the state would have paid if those members had been paid entirely from state funds. Such employers shall maintain payroll records for a minimum of five years and shall produce all such records as requested by the system. The system is authorized to request from the state office of administration an appropriation out of the annual budget of any such employer in the event such records indicate that such employer has not contributed the amounts required by this section. The office of administration shall make such appropriation which shall be equal to the amount necessary to replace any shortfall in contributions as determined by the system. From appropriations so

made, the commissioner of administration shall certify contribution amounts to the state treasurer who in turn shall immediately pay such contributions to the year 2000 plan.

4. At least ninety days before each regular session of the general assembly, the board of the transportation department and highway patrol retirement system shall certify to the department of transportation and the department of public safety the contribution rate necessary to cover the liabilities of the year 2000 plan administered by such system, including costs of administration, expected to accrue during the next biennial or other appropriation period. Each department shall include in its budget and in its request for appropriations for personal service the sum so certified to it by such board, and shall present the same to the general assembly for allowance. The sums so certified and appropriated, when available, shall be immediately paid to the system and deposited in the highway and transportation employees' and highway patrol retirement and benefit fund.

5. These amounts are funds of the year 2000 plan and shall not be commingled with any funds in the state treasury.

104.1069. 1. All assets of the year 2000 plan shall be dedicated to and held in trust for the persons covered by the year 2000 plan and for the purposes herein set out and no other. Each board shall have full power, in the name and on behalf of the year 2000 plan, to manage the assets of the year 2000 plan as described in sections 104.150 and 104.440.

2. The board shall invest the funds of the system as permitted by sections 105.687 to 105.690, RSMo. Trustees of a board may delegate to employees of the system, or to an agent, functions that a prudent trustee acting in a like capacity and familiar with those matters could properly delegate.

3. Each board may deliberate about, or make tentative or final decisions on, investments or other financial matters in executive session if disclosure of the deliberations or decisions would jeopardize the ability to implement a decision or to achieve investment objectives. A record of each system that discloses deliberations about, or a tentative or final decision on, investments or other financial matters is not a public record under chapter 610, RSMo, to the extent and so long as its disclosure would jeopardize the ability to implement a decision or to achieve investment objectives.

104.1072. 1. Each board shall provide or contract, or both, for life insurance benefits for employees covered under the year 2000 plan as follows:

(1) Employees shall be provided fifteen thousand dollars of life insurance. Coverage shall be effective on the first day of the calendar month coinciding with or next following the employee's date of membership;

(2) Upon a member terminating employment and becoming a retiree the month following termination of employment, five thousand dollars of life insurance shall be provided.

2. (1) In addition to the life insurance authorized by the provisions of subsection 1 of this section, any person for whom life insurance is provided or contracted for pursuant to such subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, additional life insurance at a cost to be stipulated in a contract with a private insurance company or as may be required by a system if the board of trustees determines that the system should provide such insurance itself. The maximum amount of additional life insurance which may be so purchased is that amount which equals six times the amount of the person's annual rate of pay, subject to any maximum established by a board, except that if such maximum amount is not evenly divisible by one thousand dollars, then the maximum amount of additional insurance which may be purchased is the next higher amount evenly divisible by one thousand dollars.

(2) Any person defined in subdivision (1) of this subsection may retain an amount not to exceed sixty thousand dollars of life insurance following the date of his or her retirement if such person becomes a retiree the month following termination of employment and makes written application for such life insurance at the same time such person's application is made to the board for retirement benefits. Such life insurance shall only be provided if such person pays the entire cost of the insurance, as determined by the board, by allowing voluntary deductions from the member's annuity.

(3) In addition to the life insurance authorized in subdivision (1) of this subsection, any person for whom life insurance is provided or contracted for pursuant to this subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, life insurance covering the person's children or the person's spouse or both at coverage amounts to be determined by the board at a cost to be stipulated in a contract with a private insurer or as may be required by the system if the board of trustees determines that the system should provide such insurance itself.

3. The state highway and transportation commission may provide for insurance benefits to cover medical expenses for members of the transportation department and highway patrol retirement system. The state highway and transportation commission may provide medical benefits for dependents of members and for retired members. Contributions by the state highway and transportation commission to provide the insurance benefits shall be on the same basis as provided for other state employees under the provisions of section 104.515, RSMo. Except as otherwise provided

by law, the cost of benefits for dependents of members and for retired members and their dependents shall be paid by the members. The state highway and transportation commission may contract for all, or any part of, the insurance benefits provided for in this section. If the state highway and transportation commission contracts for insurance benefits, or for administration of the insurance plan, such contracts shall be entered into on the basis of competitive bids.

104.1075. Each board shall provide or contract, or both, for disability income benefits for employees pursuant to sections 104.1003 to 104.1093, and other persons specified by applicable state law, as follows:

(1) Definitions of disability and other rules and procedures necessary for the operation and administration of the disability benefit shall be established by each board;

(2) An employee may elect to waive the receipt of the disability benefit provided for under this section at any time.

104.1078. 1. Separate accounts for medical, life insurance and disability benefits provided under sections 104.1072 and 104.1075 shall be established as part of the fund. The funds, property and return on investments of the separate accounts shall not be commingled with any other funds, property and investment return of a system. All benefits and premiums are paid solely from the separate accounts for medical, life insurance and disability benefits provided in this section.

2. The state shall contribute an amount as appropriated by law and approved by the governor per month per employee for medical benefits, life insurance, and long term disability benefits for each active employee who is a member of a system and members not on payroll status who are receiving workers' compensation benefits.

3. Each board shall determine the premium amounts required for participating persons. The premium amounts shall be the amount which, together with the state's contribution, is required to fund the benefits provided, taking into account necessary actuarial reserves. Separate premiums shall be established for employees' benefits and a separate premium or schedule of premiums shall be established for children under twenty-three years of age and for spouses of participating employees. The employee's premiums for spouse and children benefits shall be established to cover that portion of the cost of such benefits which is not paid for by contributions by the state. All such premium amounts shall be paid to a board of trustees at the time that each employee's wages or salary would normally be paid. The premium amounts so remitted will be placed in the separate account for medical, life insurance and disability benefits. In lieu of the availability of premium deductions, each board may establish alternative methods for the collection of premium amounts.

104.1081. 1. Each board shall establish and implement programs as provided in

the year 2000 plan. Each board shall establish rules of eligibility for participation in the programs and shall avoid duplication of benefits provided to employees, their spouses and children under any other program of benefits provided through, or as a result of, employment with a department, any other employer, or any plan established by the federal government. No member shall receive benefits until such program shall become operative and until any premium amounts required by each board have been paid. To the extent any benefits provided under this program are insured, the selection of any insurance company or service organization shall be on the basis of competitive bidding.

2. The provisions of section 104.1072 shall not apply to members who are employed by any department which has in effect a program of life insurance which is wholly or partially paid by the employing department.

104.1084. 1. For members of the general assembly, the provisions of this section shall supplement or replace the indicated other provisions of the year 2000 plan. "Normal retirement eligibility" means attainment of age sixty-two and the completion of four years of credited service as a member of the general assembly, or the attainment of at least age fifty with a total of years of age and years of such credited service which is at least eighty. A member shall receive two years of credited service for every full biennial assembly served. A full biennial assembly shall be equal to 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. If a member serves less than a full biennial assembly, the member shall receive credited service for the pro rata portion of the full biennial assembly served.

2. For the purposes of section 104.1024, the normal retirement annuity of a member of the general assembly shall be an amount for life equal to one twenty-fourth of the monthly pay for a member of the general assembly on the annuity starting date multiplied by the years of credited service as a member of the general assembly not to exceed sixteen years.

3. For the purposes of section 104.1033, "early retirement eligibility" means attainment of age fifty-seven and the completion of four years of credited service as a member of the general assembly.

4. To be covered by the provisions of section 104.1030, or section 104.1036, a member of the general assembly must have at least four years of credited service as a member of the general assembly.

5. For members who are statewide elected officials, the provisions of this section shall supplement or replace the indicated other provisions of the year 2000 plan. "Normal retirement eligibility" means attainment of age sixty-two and the completion of four years of credited service, or the attainment of age fifty with a total

years of age and years of such credited service which is at least eighty.

6. For the purposes of section 104.1024, the normal retirement annuity of a member who is a statewide elected official shall be an amount for life equal to one twenty-fourth of the monthly pay in the highest office held by such member on the annuity starting date multiplied by the years of credited service as a statewide elected official not to exceed sixteen years.

7. For the purposes of section 104.1033, "early retirement eligibility" for a member who is a statewide elected official means attainment of age fifty-seven years and the completion of four years of credited service.

8. To be covered by the provisions of sections 104.1030 and 104.1036, a member who is a statewide elected official must have at least four years of credited service.

9. The provisions of section 104.1045 shall not apply to persons covered by the general assembly and statewide elected official provisions of this section. Persons covered by the general assembly provisions and receiving a year 2000 plan annuity shall be entitled to a cost-of-living adjustment (COLA) when there are increases in pay for members of the general assembly. Persons covered by the statewide elected official provisions and receiving a year 2000 plan annuity shall be entitled to COLAs when there are increases in the pay for statewide elected officials in the highest office held by such person. No COLA shall be less than zero.

104.1087. 1. If a member has credited service with more than one selected plan at time of separation of covered employment from all selected plans, then the annuity payable from each selected plan shall be based upon the annuity program, pay record and service record with that selected plan; provided, however, that the total of credited service with all selected plans shall be used for the sole purpose of determining whether or not the member has met the credited service requirement contained in subdivision (11) or (20) of subsection 1 of section 104.1003 for each selected plan.

2. The selected plans cited in this section are:

- (1) Year 2000 plan - basic provisions;
- (2) Year 2000 plan - general assembly provisions;
- (3) Year 2000 plan - statewide elected official provisions.

104.1090. Any member with ten or more years of credited service in the year 2000 plan for covered employment shall receive additional credited service for previous public employment within the state covered by another retirement plan as defined in section 105.691, RSMo, if all of the following conditions are met: any such previous service that had been credited under a defined benefit retirement system shall be forfeited and an amount equal to the actuarial accrued liability for the forfeited creditable service, determined as if the person were going to continue to be an active member, shall be transferred to the year 2000 plan; no such credited service remains

credited in another defined benefit retirement system; and the member applies for the additional credited service in manner and form established by the appropriate board. Such additional credited service shall be added to the credited service in the first position of employment held as a member of the system.

104.1093. Notwithstanding any provision of law to the contrary, any employee, beneficiary, or retiree pursuant to sections 104.1003 to 104.1093 may designate an agent who shall have the same authority as an agent under a durable power of attorney under sections 404.700 to 404.737, RSMo, with regard to the application for and receipt of an annuity or any other benefits. The authority of such agent may be revoked at any time by such employee or retiree. The authority of such agent shall not terminate if such employee or retiree becomes disabled or incapacitated.

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