

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 467

90TH GENERAL ASSEMBLY

1999

S2041.03T

AN ACT

To repeal sections 50.1030, 50.1060, 50.1070, 50.1120, 50.1150, 50.1160 and 50.1170, RSMo 1994, and sections 50.1000, 50.1020, 50.1040, 50.1090, 50.1100, 50.1110, 50.1140 and 50.1180, RSMo Supp. 1998, relating to county employees' retirement system, and to enact in lieu thereof twenty-two new sections relating to the same subject, with an effective date.

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

Section A. Sections 50.1030, 50.1060, 50.1070, 50.1120, 50.1150, 50.1160 and 50.1170, RSMo 1994, and sections 50.1000, 50.1020, 50.1040, 50.1090, 50.1100, 50.1110, 50.1140 and 50.1180, RSMo Supp. 1998, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 50.1000, 50.1020, 50.1030, 50.1040, 50.1060, 50.1070, 50.1090, 50.1100, 50.1110, 50.1120, 50.1140, 50.1150, 50.1160, 50.1170, 50.1180, 50.1210, 50.1220, 50.1230, 50.1240, 50.1250, 50.1260 and 50.1300, to read as follows:

50.1000. As used in sections 50.1000 to [50.1200] **50.1300**, the following words and terms mean:

(1) "Annuity", annual payments, made in equal monthly installments, to a retired member from funds provided for in, or authorized by, the provisions of sections 50.1000 to [50.1200] **50.1300**;

(2) "Average final compensation", the **monthly** average of the two highest years of annual compensation received by the member;

(3) "Board of directors" or "board", the board of directors established by the provisions of sections 50.1000 to [50.1200] **50.1300**;

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

(4) "Compensation", all salary and other compensation payable to a county employee for personal services rendered as a county employee, but not including travel and mileage reimbursement, **and not including compensation in excess of the limit imposed by 26 U.S.C. 401(a)(17);**

(5) "County", each county in the state, except any city not within a county and counties of the first classification with a charter form of government;

(6) "Creditable service", [the sum of both membership service and creditable prior service purchased under the provisions of section 50.1040, 50.1090, or 50.1140] **a member's period of employment as an employee, including the member's prior service, except as provided in sections 50.1090 and 50.1140;**

(7) "Effective date of the establishment of the system", August 28, 1994, the [effective date of sections 50.1000 to 50.1200] **date the retirement system was established;**

(8) "Employee", any county elective or appointive officer or employee who is hired and fired by the county and whose work and responsibilities are directed and controlled by the county and who is compensated directly from county funds whose position requires the actual performance of duties during not less than one thousand hours per year, except county prosecuting attorneys covered [under] **pursuant to** sections 56.800 to 56.840, RSMo, circuit clerks and deputy circuit clerks covered under the Missouri state retirement system and county sheriffs covered [under] **pursuant to** sections 57.949 to 57.997, RSMo, in each county of the state, except for any city not within a county and any county of the first classification having a charter form of government;

[(9) "Membership service", service as a county employee, after becoming a member, that is creditable in determining the amount of the member's benefits under the system;]

(9) **"LAGERS", the local government employees' retirement system presently codified at sections 70.600 to 70.755, RSMo;**

(10) **"Primary Social Security amount", the old age insurance benefit pursuant to Section 202 of the Social Security Act (42 U.S.C. 402) payable to a member at age sixty-two. The primary Social Security amount shall be determined pursuant to the Social Security Act as in effect at the time the employee's normal annuity pursuant to section 50.1060 is determined. Such determination shall be at the time that creditable service ends without assuming any future increases in compensation, any future increases in the taxable wage base, any changes in the formulas used pursuant to the Social Security Act, or any future increases in the Consumer Price Index. However, it shall be assumed that the employee will continue to receive compensation at the same rate as that received at the time the determination is being made, until the member reaches age sixty-two. Only compensation with respect to creditable service as a county employee shall be considered, and the first year of compensation as a county employee shall be regressed at three percent per year with respect to years prior to the**

period of creditable service;

[(10)] **(11)** "Prior service", service of a member rendered prior to August 28, 1994, the effective date of the establishment of the system[, or other eligible service which is creditable and purchased under section 50.1040, 50.1090, or 50.1140];

(12) "Required beginning date", the April first of the calendar year following the later of the calendar year in which the member reaches age seventy and one-half, or the calendar year in which the member retires;

(13) "Retirement fund" or "fund", the funds held by the county employees' retirement system;

[(11)] **(14)** "Retirement system" or "system", the county employees' retirement system authorized by the provisions of sections 50.1000 to [50.1200.] **50.1300;**

(15) "Target replacement ratio":

(a) Eighty percent, if a member's average final compensation is thirty thousand dollars or less;

(b) Seventy-seven percent, if a member's average final compensation is forty thousand dollars or less, but greater than thirty thousand dollars;

(c) Seventy-two percent, if a member's average final compensation is fifty thousand dollars or less, but greater than forty thousand dollars;

(d) Seventy percent, if a member's average final compensation is greater than fifty thousand dollars.

50.1020. 1. The board may accept gifts, donations, grants and bequests from private or public sources to the county employees' retirement system fund.

2. No state moneys shall be used to fund sections 50.1000 to [50.1200] **50.1300.**

3. In all counties, except counties of the first classification having a charter form of government and any city not within a county, the penalties provided in sections 137.280 and 137.345, RSMo, shall be deposited in the county employees' retirement fund. Any interest derived from the collection and investment of any part of the penalties shall also be credited to the county employees' retirement fund. All penalties and interest shall be transmitted to the board monthly by the county treasurer. The county assessor shall maintain a written or electronic log reflecting number of assessment notices sent, number of personal property lists that were not returned by the deadline established by law, number of penalties waived and the reason for waiving such penalty.

4. Other provisions of law to the contrary notwithstanding, pending final settlement of taxes collected by the county collector, the county collector shall deposit all money collected in interest-bearing deposits within twenty-four hours after the close of business each day collections are received, except on Fridays of each week or on days prior to a state or national holiday, in a financial institution and all interest or other gain on such deposits shall be paid to the county

treasurer and shall be credited to the political subdivision for which the funds were collected.

5. [From August 28, 1994,] Each county clerk, except in counties of the first classification having a charter form of government and any city not within a county, shall make [a monthly payroll deduction of two percent of the compensation of each county employee covered by sections 50.1000 to 50.1200, except employees also covered under the local government employees' retirement system,] **the payroll deductions mandated pursuant to subsection 2 or 3 of section 50.1040,** and the county treasurer shall transmit these moneys monthly to the board for deposit into the county employees' retirement fund.

50.1030. 1. The general administration and the responsibility for the proper operation of the fund **and the system** and the investment of the [fund] **funds of the system** are vested in a board of directors of [nine] **eleven** persons. **Nine** directors shall be elected by a secret ballot vote of the county employee members of this state. **Two directors, who have no beneficiary interest in the system, shall be appointed by the governor, with the advice and consent of the Senate.** No more than one director at any one time shall be [a representative of] **employed by** the same elected county office. Directors shall be chosen for terms of four years from the first day of January next following their election [except that the members of the first board shall be appointed by the governor by and with the advice and consent of the senate. Three members of the first board shall be appointed for four years, three members for three years, two members for two years and one member for one year]. It shall be the responsibility of the [initial] board to establish procedures for the conduct of future elections of directors and such procedures shall be approved by a majority vote by secret ballot by members of the system. The board shall have all powers and duties that are necessary and proper to enable it, its officers, employees and agents to fully and effectively carry out all the purposes of sections 50.1000 to [50.1200] **50.1300.**

2. The board of directors shall elect one of their number as chairman and one of their number as vice chairman and may employ an administrator who shall serve as secretary to the board. The board shall hold regular meetings at least once each quarter. Board meetings shall be held in Jefferson City. Other meetings may be called as necessary by the chairman. Notice of such meetings shall be given in accordance with chapter 610, RSMo.

3. The board of directors shall retain an actuary as technical advisor to the board.

4. The board of directors shall retain investment counsel to be an investment advisor to the board.

5. The state auditor shall provide for biennial audits of the Missouri county employees' retirement [fund] **system** and the operations of the board, to be paid for out of the [county employees' retirement fund] **funds of the system.**

6. The board of directors shall serve without compensation for their services, but each director shall be paid out of the [county employees' retirement fund] **funds of the system** for any actual and necessary expenses incurred in the performance of duties authorized by the board.

7. The board of directors shall be allowed administrative costs for the operation of the system to be paid out of the [county employees' retirement fund] **funds of the system.**

8. The board shall keep a record of its proceedings which shall be open to public inspection. It shall annually prepare a report showing the financial condition of the system. The report shall contain, but not be limited to, an auditor's opinion, financial statements prepared in accordance with generally accepted accounting principles, an actuary's certification along with actuarial assumptions and financial solvency tests.

9. The board shall conduct an annual review, to determine if, among other things, the following actions are actuarially feasible:

(1) An adjustment to the formula described in section 50.1060, subject to the limitations of subsection 4 of section 50.1060;

(2) An adjustment in the flat dollar pension benefit credit described in subsection 1 of section 50.1060;

(3) The cost-of-living increase as described in section 50.1070;

(4) An adjustment in the matching contribution described in section 50.1230;

(5) An adjustment in the twenty-five year service cap on creditable service; or

(6) An adjustment to the target replacement ratio.

Based upon the findings of the actuarial review, the board may recommend to the general assembly an actual change to implement none, one, or more than one of the above actions.

[50.1040. 1. On and after August 28, 1994, the effective date of the establishment of the system, as an incident to employment or continued employment, each person employed as a county employee as defined in subdivision (8) of section 50.1000 and who is hired and fired by the county and whose work and responsibilities are directed and controlled by the county and who is compensated directly from county funds shall become a member of the system. Such membership shall continue as long as the person continues to be an employee, or receives benefits under the provisions of sections 50.1000 to 50.1200, or elects to opt out of the system as provided in this section.

2. Notwithstanding any other provision of sections 50.1000 to 50.1200, any county employee may elect in writing to opt out of the retirement system and such written election shall be effective until revoked in writing, and any service during the period may be creditable only if purchased by the county employee as provided in sections 50.1000 to 50.1200.

3. On August 28, 1994, a county employee shall have one year to decide whether to become a member or to opt out of the system. Any employee opting out of the system shall wait at least three years before again becoming eligible to be a member. After a three-year period has elapsed, the employee will have an additional three months to opt

into the system. If the employee does so, and is not also a member of the local government employees' retirement system, he shall be subject to a payroll deduction of two percent of the compensation received during the time he had opted out of the system, plus interest equal to the current prime rate plus two percent, to purchase all or part of prior service as prior creditable service. If the employee is also a member of the local government employees' retirement system, he shall be subject to a payroll deduction of one percent of the compensation received during the time he had opted out of the system, plus interest equal to the current prime rate plus two percent, to purchase all or part of prior service as prior creditable service. The payroll deduction shall be made in equal monthly installments for a time agreed to by the employee and the board, but in no event longer than four years.

4. In subsequently opting to become a member, the employee may do so without purchasing prior creditable service. In such event, no deduction will be imposed, and the employee will become vested in the system after eight years of subsequent uninterrupted service.]

50.1040. 1. On and after January 1, 2000, as an incident to employment or continued employment, each person who has not previously opted out of the retirement system who is employed as a county employee as defined in section 50.1000 and who is hired and fired by the county and whose work and responsibilities are directed and controlled by the county and who is compensated directly from county funds shall become a member of the system. Such membership shall continue as long as the person continues to be an employee, or receives benefits pursuant to the provisions of sections 50.1000 to 50.1300.

2. A member who is not a member of LAGERS shall be subject to a payroll deduction equal to two percent of the member's compensation. This payroll deduction shall constitute the member's required contribution to the plan and after January 1, 2000, shall be designated as an employer "pick-up" contribution, as described in 26 U.S.C. 414(h)(2). A member may not waive this contribution, or terminate this contribution requirement by opting out of the retirement system.

3. A county employee who is a member on January 1, 2000, and a county employee who is hired after January 1, 2000, shall not be permitted to opt out of the retirement system; except that, before January 1, 2000, a county employee did have the right to opt out of the retirement system. County employees who exercised this opt-out option must wait three years from the date the opt-out decision was made before becoming a member. After this three-year period has elapsed, the employee shall have a three-month period to opt into the system. If the employee opts into the system, such employee shall be subject to a payroll deduction of two percent, or one percent if the employee is also a member of the LAGERS, of the compensation received from the date

the county employee opted out of the system, plus interest equal to the current prime rate plus two percent, to purchase all or part of this period of employment as creditable service. The payroll deduction shall be made in equal monthly installments for a time agreed to by the employee and the board, but in no event longer than four years.

4. An employee may opt into the retirement system, after having opted out, without purchasing any portion of his or her earlier service as creditable service. In such event, the deduction described in subsection 3 of this section shall not be imposed, and the employee shall become vested in the system after eight years of subsequent uninterrupted service.

5. Notwithstanding any other provisions of this section to the contrary, an employee who opted out of the retirement system before January 1, 2000, shall not be permitted to opt back into the system after January 1, 2000, unless the employee opts in, in accordance with the procedures of subsection 3 or 4 of this section, immediately following the expiration of the three-year opt-out period that includes January 1, 2000.

50.1060. **1.** The normal annuity of a retired member[, not also] **who is not** a member of [the local government employees' retirement system, who served as a county employee of a county shall be equal to one and one-half percent of the average final compensation of the retired member multiplied by the number of years of creditable service of the retired member, except that the annual annuity shall not exceed fifty percent of the member's average final compensation.] **LAGERS shall be a monthly benefit equal to the greater of:**

(1) Twenty-four dollars multiplied by years of creditable service, up to a maximum of twenty-five years; or

(2) An amount determined according to the formula: the target replacement ratio applicable to the member times the member's average final compensation minus the member's monthly primary Social Security amount and that times the member's years of creditable service, up to a maximum of twenty-five years, divided by twenty-five or $((TRR \times AFC) - PSSA) \times (CS \text{ divided by } 25)$.

2. The normal annuity of a **retired** member who is also a member of [the local government employees' retirement system] **LAGERS shall be [equal to one percent of the average final compensation of the retired member multiplied by the number of years of creditable service] sixty-six and two-thirds percent of the normal annuity determined pursuant to subsection 1 of this section.**

3. As provided in subsection 1 of section 50.1150, the normal annuity of a member shall not be less than the annuity the member had earned as of the day before January 1, 2000, under the terms of the retirement system in effect on that date.

4. The board may recommend to the general assembly adjustments to the formulas described in this section, provided:

(1) The recommended adjustment to the formula is actuarially feasible; and

(2) The adjustment does not reduce the annuity a member had earned as of the date of the adjustment; provided, however, that the provisions of section 50.1010 apply and the board is authorized to apportion benefits if funds are not available to pay accrued benefits.

50.1070. 1. Each member who retires on [or after August 28, 1994], **before or after January 1, 2000**, shall receive, beginning with the first year after retirement, an increase in the amount of benefits received by the member during the preceding year equal to the increase in the consumer price index calculated in [the manner hereinafter provided not to exceed two] **accordance with subsection 2 of this section, provided however that such automatic increase shall not exceed one** percent in any year. The total increase in the amount of benefits received pursuant to the provisions of this subsection shall not exceed fifty percent of the initial benefit which the member received upon retirement.

2. For the purposes of this section, any increase in the consumer price index shall be determined by the board in February of each year, based upon the consumer price index for the preceding calendar year over the consumer price index for the calendar year immediately prior thereto. Any increase so determined shall be applied by the board in calculating any benefit increases that become payable [under] **pursuant to** this section for the twelve-month period beginning with the [March] **July** first immediately following such determination.

3. [An annual increase shall be payable monthly beginning on a date specified by the board.] Nothing in this section shall be construed to prohibit a member from waiving his **or her** right to receive an annual increase provided pursuant to this section. The waiver shall be final as to the annual increase waived.

50.1090. [1. Except as otherwise provided in this section, a member shall only receive creditable service for service as a county employee after August 28, 1994.

2. Any county employee as defined in section 50.1000 who is employed on or after August 28, 1994, and who had prior service as a county employee which has not been forfeited may, upon retirement or termination, elect to purchase a portion of such prior service as prior creditable service. The election shall be made in writing to the board at the time the person applies for retirement or is terminated under sections 50.1000 to 50.1200. In the event the county employee dies prior to making the election, the surviving spouse may purchase the available service as if the member had terminated. The purchase shall be, for those who are not also members of the local government employees' retirement system, at the rate of one and one-half percent of the retiring or terminating member's average final compensation times the number of years purchased. The purchase for those who are also members of the local government employees' retirement system will be at the rate of one percent of the retiring member's average final compensation times the number of years purchased. The purchase of prior creditable service may be made in one lump sum payment at the time of retirement or may be deducted in equal monthly

installments from the retirement benefits paid to the retired member over a period of years to be agreed upon by the retiree and the board but not to exceed four years. If the retired member dies prior to payment of the full amount due, no further payment shall be due and the surviving spouse of the deceased shall receive the benefits required under the provisions of sections 50.1000 to 50.1200. If the member terminates and then dies prior to retirement having made the election required in subsection 1 of section 50.1140, the surviving spouse shall purchase the prior service through equal monthly installments to be deducted from the retirement benefits paid to the surviving spouse over a period of years to be agreed upon by the surviving spouse and the board but not to exceed four years. For purposes of calculation of creditable service, any election pursuant to this section will effect the purchase of prior service.]

1. Unless otherwise provided, a member shall receive creditable service for the member's entire period of service as a county employee. In addition, absences for sickness or injury of less than twelve months shall be counted as creditable service. However, a member who opted out of the retirement system but has rejoined the system shall not receive creditable service for either the period the employee opted out of the system or employment before August 28, 1994, unless the member purchases his or her creditable service in accordance with subsection 3 of section 50.1040.

[3.] **2.** Any county employee as defined in section 50.1000 who was employed on January 1, 1990, and who was not employed on August 28, 1994, and who had prior service as a county employee for at least eight years may apply to the board and shall be made and employed by the board of trustees as a special consultant on the problems of retirement for the remainder of the person's life. Upon request of the board, the consultant shall give opinions or be available to give opinions in writing or orally in response to such requests. As compensation the consultant may elect to become a member of the system and purchase a portion of such prior service as prior creditable service. The election shall be made in writing to the board at the time the person applies to be made a consultant [under] **pursuant to** the provisions of this subsection. The purchase shall be, for those who are not also members of the local government employees' retirement system, at the rate of three percent of the retiring member's average final compensation times the number of years purchased. The purchase for those who are also members of the local government employees' retirement system will be at the rate of two percent of the retiring member's average final compensation times the number of years purchased. Fifty percent of the purchase of prior creditable service shall be made prior to receiving retirement benefits and the balance may be in one lump sum payment at the time of application for appointment as a consultant or may be deducted in equal monthly installments from the retirement benefits paid to the consultant over a period of years to be agreed upon by the consultant and the board but not to exceed four years. If the consultant dies prior to payment of the full amount due, no further payment shall be due and the surviving spouse of the deceased shall receive the benefits required

[under] **pursuant to** the provisions of sections 50.1000 to [50.1200] **50.1300**.

[4.] **3.** The provisions of this section shall not be construed as authorizing or permitting the accumulation of prior creditable service to an extent that a retired member would receive or be eligible to receive benefits in excess of those permitted for qualifying public retirement plans [under] **pursuant to** federal tax law.

[5.] **4.** The county employees' retirement system shall be responsible for verifying all members' records with those of the local government employees' retirement systems and with any other applicable plans to ensure compliance with [Section 415 of the Internal Revenue Code] **26 U.S.C. Section 415**.

5. Before January 1, 2000, an employee's creditable service did not include the employee's prior service unless it was purchased in accordance with the provisions of this section in effect before January 1, 2000. Since, on or after January 1, 2000, a county employee's prior service is included in creditable service, an active employee who is a member of the retirement system may request the refund of any voluntary early buyback contribution made to purchase prior service in accordance with procedures to be established by the board. The refund shall not apply to contributions made in accordance with section 50.1040, whether made before, on or after January 1, 2000, or with this section in effect before January 1, 2000.

50.1100. Any member may retire at any time after the end of the month during which the member becomes eligible to retire pursuant to the provisions of section 50.1050, and upon the member's submission of a written application to the board setting forth at what time, not less than thirty days nor more than ninety days subsequent to the execution and filing of the application, the member desires to be retired. The payment of the annuity[, subject to the provisions of section 50.1170,] shall begin as of the first day of the calendar month coincident with or next following the date specified by the member, **but shall begin no later than the required beginning date**. Notwithstanding the member's eligibility, no member shall receive such annuity while serving as an employee of the county; except that, a member may work as an employee of the county for less than one thousand hours in a calendar year and be eligible to receive the annuity. Such part-time service shall not increase or change the member's annuity.

50.1110. 1. The normal annuity of a member shall be paid to a member during his **or her** lifetime. Upon [his] **the member's** death no further payments shall be made.

2. In lieu of the normal annuity otherwise payable to a member, the member may elect in the member's application for retirement to receive [his choice of the following options:

Option 1. The actuarial equivalent of the member's normal annuity in reduced monthly payments for life during retirement with the provision that upon the member's death, fifty percent of the reduced normal annuity shall be continued throughout the life of and paid to the member's spouse; or

Option 2. Some other option approved by the board which shall be the actuarial equivalent of the annuity to which the member is entitled under this system.] **the actuarial equivalent of the member's normal annuity in reduced monthly payment for life during retirement with the provision that upon the member's death, either one hundred percent, seventy-five percent or fifty percent of the reduced normal annuity, as elected by the member, shall be continued throughout the life of and paid to the member's beneficiary.**

3. The election may be made only in the application for retirement and such application shall be filed prior to the date on which the retirement of the member is to be effective [unless otherwise provided]. **A member shall not be permitted to change the form of benefit elected or the designated beneficiary after benefits commence to him, even if the designated beneficiary dies before the member.**

4. If a member dies after completing eight or more years of creditable service, the surviving spouse[, if married to the member for at least two years prior to the member's death,] shall be entitled to survivorship benefits under **the fifty percent annuity option [1]** as set forth in this section. If the member was age sixty-two or older at death, the surviving spouse's benefit will commence the first day of the month following the member's death. If the member was under age sixty-two at death, the surviving spouse's benefits will commence on the first day of the month following the date the member would have attained age sixty-two had the member lived. Alternatively, the surviving spouse may elect to receive the actuarial equivalent benefit payable on the first day of any month following the date of the member's death and prior to the date the member would have attained age sixty-two, reduced for early commencement.

5. Actuarial equivalence shall be determined in accordance with assumptions adopted by the board after consulting with the actuary of the retirement system.

50.1120. In the event a member has chosen an optional form of payment [under sections 50.1000 to 50.1200] **as provided in subsection 2 of section 50.1110** which provides for a continuing payment to a [surviving spouse] **beneficiary** after the death of the member in which the member received a reduced annuity during his **or her** lifetime and [his spouse] **the member's beneficiary** precedes the member in death, the member's benefit shall revert, effective the next month following the death of the member's [spouse] **beneficiary**, to an amount equal to his **or her** normal annuity at the time of retirement plus any cost-of-living or other increases that the member may have received prior to [his spouse's] **the member's beneficiary's** death.

50.1140. 1. Upon termination of employment, any member [who completes the written election in subsection 2 of section 50.1090 shall be vested and shall be entitled to a deferred annuity, payable at age sixty-two. Any member] with less than eight years of creditable service shall forfeit all rights in the fund, including the member's accrued creditable service as of the date of the member's termination of employment, but may receive any refund of contributions to which [he] **the member** is entitled [under] **pursuant to** subsection [2] **3** of this section.

2. A member who terminates employment with at least eight years of creditable service shall be entitled to an annuity from the fund, determined in accordance with the formula described in section 50.1060. The member may elect to defer the receipt of his or her annuity, until the member's attainment of age sixty-two, or the member may elect to begin receiving his or her annuity on the first day of any month following the later of the date of termination of employment or age fifty-five. If the member begins receiving an annuity before age sixty-two and termination of employment occurs on or after age fifty-five, the annuity shall be reduced by four-tenths of one percent for each month the commencement date of the annuity precedes age sixty-two, and an additional three-tenths of one percent for each month the commencement date of the annuity precedes age sixty.

3. In the event a member ceases to be a member other than by death before the date [he] **the member** becomes vested in the system, [he] **the member** shall be paid, upon his **or her** written application filed with the board, [his] **the member's** accumulated contributions standing to his **or her** credit in the members' deposit fund.

[3.] **4.** A former member who has forfeited creditable service may have the creditable service restored by again becoming an employee [and], completing a total of eight years of [continuous membership] **uninterrupted creditable** service, and [repaying the amount previously refunded] **purchasing the forfeited service at the rate of two percent, or one percent if in LAGERS, of compensation** plus interest equal to the current prime rate plus two percent from the date of payment of the refund.

[4. Absences for sickness or injury of less than twelve months shall be counted as membership service.]

50.1150. 1. No alteration, amendment or repeal of the provisions of sections 50.1000 to [50.1200] **50.1300** shall affect the then existing rights of members and beneficiaries, but shall be effective only as to rights which would otherwise accrue pursuant to sections 50.1000 to [50.1200] **50.1300** as a result of services rendered by an employee after such alteration, amendment or repeal.

2. No membership or benefits [under] **pursuant to** the provisions of sections 50.1000 to [50.1200] **50.1300** shall be denied to any employee or spouse, other than the limitations provided in sections 50.1000 to [50.1200] **50.1300**, because of age, sex, race, national origin or religious beliefs.

3. The provisions of sections 50.1000 to 50.1300 shall be administered in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994.

50.1160. The benefits provided for by sections 50.1000 to [50.1200] **50.1300** shall in no way affect any person's eligibility for retirement benefits [under the local government employees'

retirement system, sections 70.600 to 70.755, RSMo] **pursuant to LAGERS**, or any other federal, state or local government retirement or pension system, or in any way have the effect of reducing retirement benefits in such systems, or reducing compensation or mileage reimbursement of employees, anything to the contrary notwithstanding.

[50.1170. Annuity payments to retired employees under the provisions of sections 50.1000 to 50.1200 shall be available beginning January first next succeeding the expiration of two calendar years from August 28, 1994, the effective date of the establishment of the system, and employees with at least eight years of creditable service shall have vested rights and upon reaching the required age shall be entitled to retirement benefits.]

50.1170. Unless otherwise specifically provided in sections 50.1000 to 50.1300, the provisions of sections 50.1000 to 50.1200 in effect before January 1, 2000, shall apply to any county employee whose employment terminates before January 1, 2000. The provisions of sections 50.1000 to 50.1300, as amended, shall apply to any county employee whose employment terminates on or after January 1, 2000.

50.1180. Sections 50.1000 to [50.1200] **50.1300** shall not apply to counties of the first classification with a charter form of government or to a city not within a county. No employee in a county which accrues benefits [under] **pursuant to** sections 50.1000 to [50.1200] **50.1300** shall lose any of those benefits accrued because the county where the employee serves or served subsequently adopts a charter or constitutional form of government and the county shall continue to assess and collect all fees and penalties provided pursuant to law to fund the county employees' retirement fund.

50.1210. Effective with calendar years ending after January 1, 2000, the board shall make contributions to defined contribution accounts established on behalf of members of the retirement system. In addition, members of the retirement system who are not members of LAGERS shall contribute to this defined contribution program. The board's contributions shall be made from the revenues described in subsections 1 and 3 of section 50.1020, and sections 50.1190 and 50.1200, but only if it is determined that the entire amount of such revenues need not be contributed to the retirement system described in sections 50.1000 to 50.1200 in order to keep such retirement system actuarially sound. The provisions of sections 50.1220 to 50.1260 shall apply exclusively to the program described in this section.

50.1220. Each employee who is not a member of LAGERS shall make a contribution of seven-tenths of one percent of his or her compensation to a defined contribution account established on the employee's behalf. This contribution shall be made by payroll deduction.

50.1230. The board, in its sole discretion, shall determine if it will make matching contributions for a calendar year and the aggregate amount of the contribution. Each

member who makes contributions to the deferred compensation program described in section 50.1300 during the calendar year for which the contribution is made shall be eligible to receive an allocation of this contribution. Generally, the board shall allocate matching contributions pro rata, on the basis of a member's contributions to the deferred compensation program described in section 50.1300. However, the board shall follow these rules in making this allocation:

(1) Contributions allocated to a member who is not a member of LAGERS shall not exceed the lesser of (i) three percent of such nonLAGERS member's compensation for the calendar year or (ii) fifty percent of such nonLAGERS member's contributions to the deferred compensation program described in section 50.1300;

(2) Contributions allocated to a member who is a member of LAGERS shall not exceed the lesser of (i) one and one-half percent of such member's compensation for the calendar year or (ii) twenty-five percent of such member's contributions to the deferred compensation program described in section 50.1300;

(3) The board shall set a specific "matching percentage" for each calendar year. Unless otherwise provided in subdivision (1) of this section, the matching contribution allocated to a nonLAGERS member shall be such matching percentage, multiplied by the member's contributions to the deferred compensation program for the calendar year. Unless otherwise provided in subdivision (2) of this section, the matching contribution allocated to a member who is also a LAGERS member shall be one-half of the matching percentage, multiplied by the member's contributions to the deferred compensation program for the calendar year.

50.1240. The contributions allocated to a member in accordance with sections 50.1220 and 50.1230 shall be deposited in a bookkeeping account established on the member's behalf. This account shall be held as part of the funds of the Missouri county employees' retirement fund described in subdivision (13) of section 50.1000 and shall share in the gains and losses of this retirement system. A member's matching account shall be valued as of the last day of each calendar year quarter.

50.1250. 1. If a member has less than five years of creditable service upon termination of employment, the member shall forfeit the portion of his or her defined contribution account attributable to matching contributions pursuant to section 50.1230. The proceeds of such forfeiture shall be applied towards matching contributions made by the board for the calendar year in which the forfeiture occurs. If the board does not approve a matching contribution, then forfeitures shall revert to the county employees' retirement fund.

2. A member shall be eligible to receive a distribution of the member's defined contribution account as soon as administratively feasible following termination of employment, or may choose to receive the account balance at a later time, but no later

than his or her required beginning date. The member's account balance shall be paid in a single sum. The amount of the distribution shall be the amount determined as of the valuation date described in section 50.1240, if the member has at least five years of creditable service. If the member has less than five years of creditable service upon his or her termination of employment, then the amount of the distribution shall equal the portion of the member's defined contribution account attributable to the member's seed contributions pursuant to section 50.1220, if any, determined as of the valuation date.

3. If the member dies before receiving the member's account balance, the member's designated beneficiary shall receive the member's defined contribution account balance, as determined as of the immediately preceding valuation date, in a single sum. The member's beneficiary shall be his or her spouse, if married, or his or her estate, if not married, unless the member designates an alternative beneficiary in accordance with procedures established by the board.

50.1260. 1. A distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

2. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life, or life expectancy, of the distributee or the joint lives, or joint life expectancy, of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required pursuant to 26 U.S.C. 401(a)(9); and the portion of any distribution that is not includable in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

3. An eligible retirement plan is an individual retirement account, an individual retirement annuity, an annuity plan described in 26 U.S.C. 403(a), or a qualified trust described in 26 U.S.C. 401(a) that accepts the distributee's eligible rollover distribution. However, in the cases of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

4. A distributee includes a member, the member's surviving spouse and the member's former spouse who is the alternate payee pursuant to a qualified domestic relations order.

5. A direct rollover is a payment made, in accordance with the provisions of section 50.1250, to the eligible retirement plan specified by the distributee.

6. A distributee may elect a complete direct rollover with respect to all of the

distribution or a partial direct rollover with respect to a portion of the distribution with the remainder paid directly to the distributee. The amount of a partial direct rollover must be at least five hundred dollars.

7. A distributee who does not make any election shall be deemed to have rejected the direct rollover option.

8. A distribution of less than two hundred dollars that otherwise would be an eligible rollover distribution shall not be an eligible rollover distribution if it is reasonable to expect that all such distributions to the distributee from the plan during the same calendar year will not exceed two hundred dollars.

50.1300. The board is authorized to develop and adopt a deferred compensation plan that benefits county employees covered by the retirement system, and those employees who have opted out of such system, and meets the requirements of 26 U.S.C. 457. Any deferred compensation plan sponsored by a county that participates in the retirement system shall be eligible for consolidation with the plan adopted by the board within a reasonable time of this adoption.

Section B. The repeal and reenactment of sections 50.1000, 50.1020, 50.1030, 50.1040, 50.1060, 50.1070, 50.1090, 50.1100, 50.1110, 50.1120, 50.1140, 50.1150, 50.1160, 50.1170 and 50.1180, and the enactment of sections 50.1210, 50.1220, 50.1230, 50.1240, 50.1250, 50.1260 and 50.1300, shall become effective January 1, 2000.

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