

FIRST REGULAR SESSION

HOUSE BILL NO. 602

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES KELLY (27) AND LAWSON (Co-sponsors).

Read 1st time January 31, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1204L.021

AN ACT

To repeal sections 70.605 and 70.610, RSMo 2000, relating to firefighter retirement plans, and to enact in lieu thereof three new sections relating to the same subject, with an emergency clause.

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

Section A. Sections 70.605 and 70.610, RSMo 2000, are repealed and three new sections enacted in lieu thereof, to be known as sections 70.605, 70.610 and 105.695, to read as follows:

70.605. 1. For the purpose of providing for the retirement or pensioning of the officers and employees and the widows and children of deceased officers and employees of any political subdivision of the state, there is hereby created and established a retirement system which shall be a body corporate, which shall be under the management of a board of trustees herein described, and shall be known as the "Missouri Local Government Employees' Retirement System". Such system may sue and be sued, transact business, invest funds, and hold cash, securities, and other property. The system shall begin operations on the first day of the calendar month next following sixty days after the date the board of trustees has received certification from ten political subdivisions that they have elected to become employers.

2. The general administration and the responsibility for the proper operation of the system is vested in a board of trustees of seven persons: three persons to be elected as trustees by the members of the system; three persons to be elected trustees by the governing bodies of employers; **one member of the house of representatives to be appointed by the speaker of the house of representatives; one member of the senate to be appoint by the president pro tempore of the senate;** and one person, to be appointed by the governor, who is not a member, retirant, or beneficiary of the system and who is not a member of the governing body of any political subdivision. **In addition, if participating members of the retirement and relief**

18 **system authorized pursuant to sections 87.005 to 87.105, RSMo, for any home rule city with**
19 **a population over seventy thousand but not over seventy-five thousand, located in a county**
20 **of the first classification without a charter form of government and with a population over**
21 **eighty-one thousand but not over one hundred thousand, remain in the system after the**
22 **end of the election period specified in section 70.610, the remaining participating members**
23 **of that retirement and relief system shall appoint an active firefighter from that city to the**
24 **board of trustees specified in this subsection.**

25 3. Trustees shall be chosen for terms of four years from the first day of January next
26 following their election or appointment, except that of the first board shall all be appointed by
27 the governor by and with the consent of the senate, as follows:

28 (1) Three persons who are officers or officials of political subdivisions, one for a term
29 of three years, one for a term of two years, and one for a term of one year; and

30 (2) Three persons who are employees of political subdivisions and who would, if the
31 subdivision by which they are employed becomes an employer, be eligible as members, one for
32 a term of three years, one for a term of two years, and one for a term of one year; and

33 (3) That person appointed by the governor under the provisions of subsection 2 of this
34 section.

35

36 All the members of the first board shall take office as soon as appointed by the governor, but
37 their terms shall be computed from the first day of January next following their appointment, and
38 only one member may be from any political subdivision or be a policeman or fireman.

39 4. Successor trustees elected or appointed as member trustees shall be members of the
40 retirement system; provided, that not more than one member trustee shall be employed by any
41 one employer, and not more than one member trustee shall be a policeman, and not more than
42 one member trustee shall be a fireman.

43 5. Successor trustees elected as employer trustees shall be elected or appointed officials
44 of employers and shall not be members of the retirement system; provided, that not more than
45 one employer trustee shall be from any one employer.

46 6. An annual meeting of the retirement system shall be called by the board in the last
47 calendar quarter of each year in Jefferson City, or at such place as the board shall determine, for
48 the purpose of electing trustees and to transact such other business as may be required for the
49 proper operation of the system. Notice of such meeting shall be sent by registered mail to the
50 clerk or secretary of each employer not less than thirty days prior to the date of such meeting.
51 The governing body of each employer shall certify to the board the name of one delegate who
52 shall be an officer of the employer, and the members of the employer shall certify to the board
53 a member of the employer to represent such employer at such meeting. The delegate certified

54 as member delegate shall be elected by secret ballot by the members of such employer, and the
55 clerk or secretary of each employer shall be charged with the duty of conducting such election
56 in a manner which will permit each member to vote in such election. Under such rules and
57 regulations as the board shall adopt, approved by the delegates, the member delegates shall elect
58 a member trustee for each such position on the board to be filled, and the officer delegates shall
59 elect an employer trustee for each such position on the board to be filled.

60 7. In the event any member trustee ceases to be a member of the retirement system, or
61 any employer trustee ceases to be an appointed or elected official of an employer, or becomes
62 a member of the retirement system, or if the trustee appointed by the governor becomes a
63 member of the retirement system or an elected or appointed official of a political subdivision,
64 or if any trustee fails to attend three consecutive meetings of the board, unless in each case
65 excused for cause by the remaining trustees attending such meeting or meetings, he shall be
66 considered as having resigned from the board and the board shall, by resolution, declare his
67 office of trustee vacated. If a vacancy occurs in the office of trustee, the vacancy shall be filled
68 for the unexpired term in the same manner as the office was previously filled; provided,
69 however, that the remaining trustees may fill employer and member trustee vacancies on the
70 board until the next annual meeting.

71 8. Each trustee shall be commissioned by the governor, and before entering upon the
72 duties of his office, shall take and subscribe to an oath or affirmation to support the Constitution
73 of the United States, and of the state of Missouri, and to demean himself faithfully in his office.
74 Such oath as subscribed to shall be filed in the office of the secretary of state of this state.

75 9. Each trustee shall be entitled to one vote in the board of trustees. Four votes shall be
76 necessary for a decision by the trustees at any meeting of the board of trustees. Four trustees, of
77 whom at least two shall be member trustees and at least two shall be employer trustees, shall
78 constitute a quorum at any meeting of the board. Unless otherwise expressly provided herein,
79 a meeting need not be called or held to make any decision on a matter before the board. Each
80 member must be sent by the executive secretary, a copy of the matter to be decided with full
81 information from the files of the board. The concurring decisions of four trustees may decide
82 the issue by signing a document declaring their decision and sending the written instrument to
83 the executive secretary, provided that no other trustee shall send a dissenting decision to the
84 executive secretary within fifteen days after the document and information was mailed to him.
85 If any trustee is not in agreement with the four trustees, the matter is to be passed on at a regular
86 board meeting or a special meeting called for that purpose. The board shall hold regular
87 meetings at least once each quarter, the dates of these meetings to be designated in the rules and
88 regulations adopted by the board. Other meetings as deemed necessary may be called by the
89 chairman or by any four trustees acting jointly.

10 10. The board of trustees shall elect one of their number as chairman, and one of their
11 number as vice chairman, and shall employ an executive secretary, not one of their number, who
12 shall be the executive officer of the board. Other employees of the board shall be chosen only
13 upon the recommendation of the executive secretary.

14 11. The board shall appoint an actuary or a firm of actuaries as technical advisor to the
15 board on matters regarding the operation of the system on an actuarial basis. The actuary or
16 actuaries shall perform such duties as are required of him or them under sections 70.600 to
17 70.755, and as are from time to time required by the board.

18 12. The board may appoint an attorney-at-law or firm of attorneys-at-law to be the legal
19 advisor of the board and to represent the board in all legal proceedings.

100 13. The board may appoint an investment counselor to be the investment advisor of the
101 board.

102 14. The board shall from time to time, after receiving the advice of its actuary, adopt
103 such mortality and other tables of experience, and a rate or rates of regular interest, as shall be
104 necessary for the actuarial requirements of the system, and shall require its executive secretary
105 to keep in convenient form such data as shall be necessary for actuarial investigations of the
106 experience of the system, and such data as shall be necessary for the annual actuarial valuations
107 of the system.

108 15. The board shall keep a record of its proceedings, which shall be open to public
109 inspection. It shall prepare annually and render to each employer a report showing the financial
110 condition of the system as of the preceding June thirtieth. The report shall contain, but shall not
111 be limited to, a financial balance sheet; a statement of income and disbursements; a detailed
112 statement of investments acquired and disposed of during the year, together with a detailed
113 statement of the annual rates of investment income from all assets and from each type of
114 investment; an actuarial balance sheet prepared by means of the last valuation of the system, and
115 such other data as the board shall deem necessary or desirable for a proper understanding of the
116 condition of the system.

117 16. The board of trustees shall, after reasonable notice to all interested parties, conduct
118 administrative hearings to hear and decide questions arising from the administration of sections
119 70.600 to 70.755; except, that such hearings may be conducted by a hearing officer who shall be
120 appointed by the board. The hearing officer shall preside at the hearing and hear all evidence and
121 rule on the admissibility of evidence. The hearing officer shall make recommended findings of
122 fact and may make recommended conclusions of law to the board. All final orders or
123 determinations or other final actions by the board shall be approved in writing by at least four
124 members of the board. Any board member approving in writing any final order, determination
125 or other final action, who did not attend the hearing, shall do so only after certifying that he or

126 she reviewed all exhibits and read the entire transcript of the hearing. Within thirty days after
127 a decision or order or final action of the board, any member, retirant, beneficiary or political
128 subdivision adversely affected by that determination or order or final action may take an appeal
129 under the provisions of chapter 536, RSMo.

130 17. The board shall arrange for adequate surety bonds covering the executive secretary
131 and any other custodian of the funds or investments of the board. When approved by the board,
132 said bonds shall be deposited in the office of the secretary of state.

133 18. The board shall arrange for annual audits of the records and accounts of the system
134 by a certified public accountant or by a firm of certified public accountants. The state auditor
135 shall examine such audits at least once every three years and report to the board and the
136 governor.

137 19. The headquarters of the retirement system shall be in Jefferson City.

138 20. The board of trustees shall serve as trustees without compensation for their services
139 as such; except that each trustee shall be paid for any necessary expenses incurred in attending
140 meetings of the board or in the performance of other duties authorized by the board.

141 21. Subject to the limitations of sections 70.600 to 70.755, the board shall formulate and
142 adopt rules and regulations for the government of its own proceedings and for the administration
143 of the retirement system.

70.610. 1. Each political subdivision, by a majority vote of its governing body, may
2 elect to become an employer and cover its employees under the system, as follows:

3 (1) The clerk or secretary of the political subdivision shall certify the election to be an
4 employer to the board within ten days after the vote of the governing body. The effective date
5 of the political subdivision's coverage is the first day of the calendar month next following
6 receipt by the board of the election to be an employer, or the operative date of the system,
7 whichever is the later.

8 (2) An employer must cover all its employees who are neither policemen nor firemen and
9 may cover its policemen or firemen or both.

10 **2. Notwithstanding any other provision of law to the contrary, any home rule city**
11 **with a population over seventy thousand but not over seventy-five thousand, located in a**
12 **county of the first classification without a charter form of government and with a**
13 **population over eighty-one thousand but not over one hundred thousand, following good**
14 **faith negotiations regarding participation in the retirement plan between the city,**
15 **employees and the board, may allow actively employed firefighters to elect to participate**
16 **in a retirement plan pursuant to either sections 70.600 to 70.755 or sections 87.005 to**
17 **87.105, RSMo. The election period shall be the one-year period beginning on January 1,**
18 **2002, and ending on December 31, 2002.**

105.695. The joint committee on public employee retirement, the local government employees retirement system and a home rule city with a population over seventy thousand but not over seventy-five thousand, located in a county of the first classification without a charter form of government and with a population over eighty-one thousand but not over one hundred thousand, shall jointly undertake a feasibility study to allow actively employed firefighters to participate in a retirement plan pursuant to either sections 70.600 to 70.755, RSMo, or sections 87.005 to 87.105, RSMo. The joint committee on public employee retirement shall provide all necessary assistance in the coordination of the study. The study shall be presented by the joint committee on public employee retirement to the speaker of the house of representatives and the president pro tempore of the senate no later than December 1, 2001.

Section B. Because immediate action is necessary to provide equitable treatment and timely application of certain pension benefits and compensation, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.