

SECOND REGULAR SESSION

# HOUSE BILL NO. 1493

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SMITH (118).

Read 1st time January 24, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

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### AN ACT

To repeal sections 105.910, 105.915, and 105.920, RSMo, and to enact in lieu thereof three new sections relating to state employee deferred compensation.

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

Section A. Sections 105.910, 105.915, and 105.920, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 105.910, 105.915, and 105.920, to read as follows:

105.910. [1.] Sections 105.900 to 105.925 [shall] provide for the establishment of the "Missouri State Public Employees Deferred Compensation Fund". This fund shall be administered by the [Missouri state public employees deferred compensation commission] **board of trustees of the Missouri state employees' retirement system, hereinafter "the board"**. **The board shall be vested with the same powers that it has under chapter 104, RSMo, to enable it and its officers, employees, and agents to carry out fully and effectively all the purposes of this section.** The [commission] **board** shall [approve any deferred compensation agreement entered into by the state pursuant to] **administer the fund under** sections 105.900 to 105.925 [and shall oversee the orderly administration of the fund in compliance with the subsequent provisions of sections 105.900 to 105.925].

[2. Such commission shall have five commissioners, including one member of the Missouri state house of representatives to be selected by the speaker of the house, one member of the Missouri state senate to be selected by the president pro tempore of the senate, and three other such commissioners to be appointed by the governor of the state of Missouri by and with

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 the advice and consent of the senate. The legislators appointed as commissioners shall serve  
16 during their terms of office in the general assembly. The commissioners appointed by the  
17 governor shall serve a term of three years; except that, of the commissioners first appointed, one  
18 shall be appointed for a term of one year, one shall be appointed for a term of two years, and one  
19 shall be appointed for a term of three years. The commission shall annually elect a chairman and  
20 shall be required to meet not less than quarterly or at any other such time as called by the  
21 chairman or a majority of the commission.]

105.915. 1. [Subject to the approval of Missouri state public employees deferred  
2 compensation commission, the office of administration] **The board of trustees of the Missouri**  
3 **state employees' retirement system, hereinafter the board,** shall establish and administer a  
4 deferred compensation plan for the employees of the state of Missouri **in accordance with the**  
5 **applicable state and federal law.** Participation in such plan shall be by a specific written  
6 agreement between such employees and the state which shall provide for the deferral of such  
7 amount of compensation as requested by the employee **subject to any limitations imposed**  
8 **under federal law.** Participating employees must authorize that such deferrals be made from  
9 their wages for the purpose of participation in such program.

2. Notwithstanding any other provision of [this code] **sections 105.900 to 105.925,** funds  
11 held for the state by the [Missouri public employees deferred compensation commission] **board**  
12 pursuant to written deferred compensation [agreement] **agreements** between the state and  
13 participating employees may be invested[, ] in such investments as are deemed appropriate by the  
14 [office of administration and approved by the commission, including, but not limited to, life  
15 insurance or annuity contracts or mutual funds. It is further provided that all such insurance,  
16 annuities, mutual funds, or other such investment products to be offered pursuant to this plan  
17 shall have been reviewed and selected by the commission based on a competitive bidding process  
18 as established by such specifications and considerations as are deemed appropriate by the  
19 commission] **board, including, but not limited to, funds designed to replicate the investment**  
20 **program established by the board under chapter 104, RSMo. All administrative costs of**  
21 **the program described in this section, including staffing and overhead expenses, shall be**  
22 **paid by plan participants.** Such investments shall not be construed to be a prohibited use of  
23 the general assets of the state.

3. [In no case shall such investment be offered by other than such persons and companies  
25 authorized and duly licensed by the state of Missouri and applicable federal regulatory agencies  
26 to offer such insurance or investment programs in compliance with all relevant provisions of this  
27 code] **Investments offered under the deferred compensation plan for the employees of the**  
28 **state of Missouri shall be made and offered in accordance with applicable state and federal**  
29 **law.**

105.920. [The financial liability of the state, or political subdivision under a deferred  
2 compensation program shall be limited in each instance to the value of the particular fixed or  
3 variable life insurance or annuity contract, mutual funds or other such investment options  
4 purchased on behalf of any employee] **The state of Missouri and the board shall not be liable**  
5 **for the investment decisions made or not made by participating employees so long as the**  
6 **board acts with the same care, skill, prudence, and diligence in the selection and**  
7 **monitoring of providers of investment products, education, advice or any default**  
8 **investment option, under the circumstances then prevailing that a prudent person acting**  
9 **in a similar capacity and familiar with those matters would use in the conduct of a similar**  
10 **enterprise with similar aims.**

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