

SECOND REGULAR SESSION

# HOUSE BILL NO. 1305

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES SMITH (118) (Sponsor), DEMPSEY, FRANZ, VIEBROCK,  
BEAN, YAEGER, PORTWOOD AND SANDER (Co-sponsors).

Read 1st time January 10, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3971L.01I

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### AN ACT

To repeal sections 70.615, 105.660, 105.665, and 320.320, RSMo, and to enact in lieu thereof nine new sections relating to retirement plans.

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

Section A. Sections 70.615, 105.660, 105.665, and 320.320, RSMo, are repealed and  
2 nine new sections enacted in lieu thereof, to be known as sections 70.615, 104.1095, 105.660,  
3 105.665, 105.666, 105.667, 105.684, 320.320, and 321.696, to read as follows:

70.615. After October 13, 1967, a political subdivision shall not commence coverage of  
2 its employees [who are neither policemen nor firemen] under another plan similar in purpose to  
3 this system, other than under this system, except the federal Social Security Old Age, Survivors,  
4 and Disability Insurance Program, as amended; except that, any political corporation or  
5 subdivision of this state, now having or which may hereafter have an assessed valuation of [one]  
6 **five** hundred million dollars or more, which does not now have a pension system for its officers  
7 and employees adopted pursuant to state law, may provide by proper legislative action of its  
8 governing body for the pensioning of its officers and employees and the widows and minor  
9 children of deceased officers and employees under a plan separate and apart from that provided  
10 in sections 70.600 to 70.670 and appropriate and utilize its revenues and other available funds  
11 for such purposes, and except that the board of hospital trustees of any hospital which is owned  
12 by any political corporation or subdivision of this state, may provide for the pensioning of its  
13 employees and the widows and minor children of deceased employees under a plan separate and

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.

14 apart from that provided in sections 70.600 to 70.670, and utilize its revenues and other funds  
15 for such purposes.

**104.1095. Notwithstanding any law to the contrary, if the actuary for the system  
2 created and established under sections 104.020 and 104.1006 determines that the plan has  
3 a funded ratio below fifty percent for three consecutive plan years, the plan shall be closed  
4 to any new members effective January first of the year following such determination.**

105.660. The following words and phrases as used in sections 105.660 to 105.685,  
2 unless a different meaning is plainly required by the context, shall mean:

3 (1) "Actuarial valuation", a mathematical process which determines plan financial  
4 condition and plan benefit cost;

5 (2) "Actuary", an actuary (i) who is a member of the American Academy of Actuaries  
6 or who is an enrolled actuary under the Employee Retirement Income Security Act of 1974 and  
7 (ii) who is experienced in retirement plan financing;

8 (3) **"Board", the governing board or decision-making body of a plan that is  
9 authorized by law to administer the plan;**

10 (4) **"Defined benefit plan", a plan providing a definite benefit formula for  
11 calculating retirement benefit amounts;**

12 (5) **"Defined contribution plan", a plan in which the contributions are made to an  
13 individual retirement account for each employee;**

14 (6) **"Funded ratio", the ratio of the actuarial value of assets over its actuarial  
15 accrued liability;**

16 (7) **"Lump sum benefit plan", payment within one taxable year of the entire  
17 balance to the participant from a plan;**

18 [(3)] (8) "Plan", any retirement system established by the state of Missouri or any  
19 political subdivision or instrumentality of the state for the purpose of providing plan benefits for  
20 elected or appointed public officials or employees of the state of Missouri or any political  
21 subdivision or instrumentality of the state;

22 [(4)] (9) "Plan benefit", the benefit amount payable from a plan together with any  
23 supplemental payments from public funds;

24 [(5)] (10) "Substantial proposed change", a proposed change in future plan benefits  
25 which would increase or decrease the total contribution percent by at least one-quarter of one  
26 percent of active employee payroll, or would increase or decrease a plan benefit by five percent  
27 or more, or would materially affect the actuarial soundness of the plan. In testing for such  
28 one-quarter of one percent of payroll contribution increase, the proposed change in plan benefits  
29 shall be added to all actual changes in plan benefits since the last date that an actuarial valuation  
30 was prepared.

105.665. 1. The legislative body or committee thereof which determines the amount and  
2 type of plan benefits to be paid shall, before taking final action on any substantial proposed  
3 change in plan benefits, cause to be prepared a statement regarding the cost of such change.

4 2. The cost statement shall be prepared by an actuary using the methods used in  
5 preparing the most recent periodic actuarial valuation for the plan and shall, without limitation  
6 by enumeration, include the following:

7 (1) The level normal cost of plan benefits currently in effect, which cost is expressed as  
8 a percent of active employee payroll;

9 (2) The contribution for unfunded accrued liabilities currently payable by the plan, which  
10 cost is expressed as a percent of active employee payroll and shall be over a period not to exceed  
11 [forty] **thirty** years;

12 (3) The total contribution rate expressed as a percent of active employees payroll, which  
13 contribution rate shall be the total of the normal cost percent plus the contribution percent for  
14 unfunded accrued liabilities;

15 (4) A statement as to whether the legislative body is currently paying the total  
16 contribution rate as defined in subdivision (3) of this subsection;

17 (5) The total contribution rate expressed as a percent of active employee payroll which  
18 would be sufficient to adequately fund the proposed change in benefits;

19 (6) A statement as to whether such additional contributions are mandated by the  
20 proposed change;

21 (7) A statement as to whether or not the proposed change would in any way impair the  
22 ability of the plan to meet the obligations thereof in effect at the time the proposal is made;

23 (8) All assumptions relied upon to evaluate the present financial condition of the plan  
24 and all assumptions relied upon to evaluate the impact of the proposed change upon the financial  
25 condition of the plan, which shall be those assumptions used in preparing the most recent  
26 periodic actuarial valuation for the plan, unless the nature of the proposed change is such that  
27 alternative assumptions are clearly warranted, and shall be made and stated with respect to at  
28 least the following:

29 (a) Investment return;

30 (b) Pay increase;

31 (c) Mortality of employees and officials, and other persons who may receive benefits  
32 under the plan;

33 (d) Withdrawal (turnover);

34 (e) Disability;

35 (f) Retirement ages;

36 (g) Change in active employee group size;

37 (9) The actuary shall certify that in the actuary's opinion the assumptions used for the  
38 valuation produce results which, in the aggregate, are reasonable;

39 (10) A description of the actuarial funding method used in preparing the valuation  
40 including a description of the method used and period applied in amortizing unfunded actuarial  
41 accrued liabilities;

42 (11) The increase in the total contribution amount required to adequately fund the  
43 proposed change in benefits, expressed in annual dollars as determined by multiplying the  
44 increase in total contribution rate by the active employee annual payroll used for this valuation.

**105.666. Each plan shall, in conjunction with its staff and advisors, establish a  
2 board member education program, which shall be in effect on or after January 1, 2007.  
3 The curriculum shall include, at a minimum, education in the areas of duties and  
4 responsibilities of board members as trustees, ethics, governance process and procedures,  
5 pension plan design and administration of benefits, investments including but not limited  
6 to the fiduciary duties as defined under section 105.688, legal liability and risks associated  
7 with the administration of a plan, sunshine law requirements under chapter 610, RSMo,  
8 actuarial principles and methods related to plan administration, and the role of staff and  
9 consultants in plan administration. Board members appointed or elected on a board on  
10 or after January 1, 2007, shall complete a board member education program designated  
11 to orient new board members in the areas described in this section within ninety days of  
12 becoming a new board member. Board members who have served one or more years shall  
13 attend at least two continuing education programs each year in the areas described in this  
14 section.**

**105.667. 1. Any appointing authority, board member, or employee shall be  
2 prohibited from receiving any gain or profit from any funds or transaction of the plan,  
3 except benefits from interest in investments common to all members of the plan, if entitled  
4 thereto.**

**5 2. Any appointing authority, board member, or employee accepting any political  
6 contribution, gratuity, or compensation for the purpose of influencing his or her action  
7 with respect to the investment of the funds of the system shall thereby forfeit his or her  
8 office and in addition thereto be subject to the penalties prescribed for bribery.**

**9 3. Any trustee, employee, or participant of a plan convicted of a felony that is  
10 determined by a court of law to have been committed in connection with the member's  
11 duties as either a trustee, employee, or participant of a plan shall not be eligible to receive  
12 any retirement benefits from the respective plan.**

**105.684. 1. Notwithstanding any law to the contrary, on or after August 28, 2006,  
2 any plan with a funded ratio less than eighty percent shall be prohibited from providing**

3 any additional benefit increase, supplement, enhancement, lump sum benefit payments to  
4 participants, or cost-of-living adjustment beyond the current provisions of the then existing  
5 plan.

6 2. Notwithstanding any law to the contrary, any plan with a funded ratio greater  
7 than eighty percent may adopt or implement a benefit increase, supplement, or  
8 enhancement, provided the funded ratio does not decrease more than ten percent and the  
9 total funded ratio does not fall below seventy-five percent.

10 3. The unfunded actuarial accrued liabilities associated with benefit changes  
11 described in this section shall be amortized over a period not to exceed fifteen years for  
12 purposes of calculation of the unfunded ratio and payment of contributions associated with  
13 the adoption or implementation of any such benefit increase, supplement, or enhancement.

14 4. Any plan with a funded ratio below sixty percent shall have the actuary prepare  
15 an accelerated contribution schedule based on a descending amortization period for  
16 inclusion in the actuarial valuation.

17 5. Any plan whose actuary determines that the plan has a funded ratio below fifty  
18 percent for three consecutive plan years shall be closed to any new members effective  
19 January first of the year following such determination.

20 6. Any plan whose actuary determines that the plan has a funded ratio below sixty  
21 percent not meeting one hundred percent of the actuarially required contribution payment  
22 shall be closed to any new members effective January first following such determination.

23 7. Nothing in this section shall apply to any plan established under chapter 476,  
24 RSMo.

320.320. 1. A volunteer firefighter serving a rural, volunteer or subscription fire  
2 department or organization is serving the state of Missouri in an official capacity as a fire  
3 protection volunteer and is hereby declared to be a public safety officer of the state of Missouri  
4 serving without wages, salary or certain other employee-type fringe benefits described in  
5 subsection 3 of this section.

6 2. The designation of a volunteer firefighter as a public safety officer of the state of  
7 Missouri in subsection 1 of this section does not entitle a volunteer firefighter to any rights,  
8 privileges or benefits provided to an employee or official of the state of Missouri, including  
9 retirement benefits and participation in the state legal defense fund, except as provided in  
10 subsection 3 of this section.

11 3. Notwithstanding the provisions of subsection 2 of this section, any rural, volunteer  
12 or subscription fire department or organization, or volunteer fire protection association as defined  
13 in section 320.300, may provide life insurance, accident, sickness, health, disability, annuity,  
14 [length of service, retirement, pension] **defined contribution benefit** and other employee-type

15 fringe benefits, subject to the provisions of section 70.615, RSMo, for volunteer firefighters who  
16 are members of any such department, organization or association and such other benefits for their  
17 spouses and eligible unemancipated children as the governing board deems appropriate, either  
18 through a contributory or noncontributory plan, or both. For purposes of this section, "eligible  
19 unemancipated child" means a natural or adopted child of an insured, or a stepchild of an insured  
20 who is domiciled with the insured, who is less than twenty-three years of age, who is not  
21 married, not employed on a full-time basis, not maintaining a separate residence except for  
22 full-time students in an accredited school or institution of higher learning, and who is dependent  
23 on parents or guardians for at least fifty percent of his or her support. The type and extent of  
24 such benefits shall be determined by the governing board of the department, organization or  
25 association, whichever is applicable. The provision and receipt of such benefits shall not make  
26 the recipient an employee of the district, association or organization. Directors or board  
27 members who are also volunteer firefighters may receive such benefits while serving as a director  
28 or board member of the district, association or organization.

**321.696. Notwithstanding any other provision of law, effective January 1, 2007,  
2 defined benefit pension plans shall not be established by any district for salaried members,  
3 volunteer members, or district board of directors except under the provisions of chapter  
4 70, RSMo.**

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