

FIRST REGULAR SESSION

HOUSE BILL NO. 1201

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BRUNS.

Read 1st time March 28, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2735L.01I

AN ACT

To repeal sections 105.910, 105.915, and 105.920, RSMo, and to enact in lieu thereof two new sections relating to the administration of the Missouri state public employees deferred compensation fund.

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Section A. Sections 105.910, 105.915, and 105.920, RSMo, are repealed and two new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

105.910. 1. Sections 105.900 to [105.925] **105.927** shall provide for the establishment
2 of the "Missouri State Public Employees Deferred Compensation Fund". This fund shall be
3 administered by the Missouri state public employees deferred compensation commission. The
4 commission shall approve any deferred compensation agreement entered into by the state
5 [pursuant to] **under** sections 105.900 to [105.925] **105.927** and shall oversee the orderly
6 administration of the fund in compliance with the subsequent provisions of sections 105.900 to
7 [105.925] **105.927**.

8 2. Such commission shall have five commissioners, including one member of the
9 Missouri state house of representatives to be selected by the speaker of the house, one member
10 of the Missouri state senate to be selected by the president pro tempore of the senate, and three
11 other such commissioners to be appointed by the governor of the state of Missouri by and with
12 the advice and consent of the senate. The legislators appointed as commissioners shall serve
13 during their terms of office in the general assembly. The commissioners appointed by the
14 governor shall serve a term of three years; except that, of the commissioners first appointed, one

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 shall be appointed for a term of one year, one shall be appointed for a term of two years, and one
16 shall be appointed for a term of three years. The commission shall annually elect a chairman and
17 shall be required to meet not less than quarterly or at any other such time as called by the
18 chairman or a majority of the commission.

19 **3. On August 28, 2007, the commission shall transfer administration of the fund to**
20 **the board of trustees of the Missouri state employees' retirement system. Following such**
21 **transfer:**

22 **(1) The board shall assume sole control over and shall be authorized to administer**
23 **the fund beginning on the first day of the month following the month that the commission**
24 **transfers administration to the board;**

25 **(2) The commission shall provide for the orderly transfer of all records pertaining**
26 **to the fund, and shall take any other action necessary for the board to assume its duties**
27 **under section 105.915; and**

28 **(3) The commission shall be dissolved upon such transfer.**

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 shall [establish and] administer [a] the deferred**
4 **compensation [plan] fund for the employees of the state of Missouri that was previously**
5 **administered by the deferred compensation commission, as established in section 105.910,**
6 **prior to August 28, 2007. The board shall be vested with the same powers that it has under**
7 **chapter 104, RSMo, to enable it and its officers, employees, and agents to administer the**
8 **fund under sections 105.900 to 105.927. Two of the commissioners serving on the deferred**
9 **compensation commission immediately prior to the transfer made to the board under**
10 **section 105.910 shall serve as ex officio members of the board solely to participate in the**
11 **duties of administering the deferred compensation fund. One such commissioner serving**
12 **as an ex officio board member shall be a member of the house of representatives selected**
13 **by the speaker of the house of representatives, and such commissioner's service on the**
14 **board shall cease on December 31, 2009. The other commissioner serving as an ex officio**
15 **board member shall be the chairman of the deferred compensation commission**
16 **immediately prior to the transfer made to the board under section 105.910, and such**
17 **commissioner's service on the board shall cease December 31, 2008.**

18 **2. Participation in such plan shall be by a specific written agreement between [such]**
19 **state employees and the state, which shall provide for the deferral of such [amount] amounts**
20 **of compensation as requested by the employee subject to any limitations imposed under**
21 **federal law. Participating employees must authorize that such deferrals be made from their**
22 **wages for the purpose of participation in such program. All assets and income of such fund**

23 shall be held in trust by the board for the exclusive benefit of participants and their
24 beneficiaries. Assets of such trust may be pooled solely for investment management
25 purposes with assets of the trust established under section 104.320, RSMo.

26 [2.] 3. Notwithstanding any other provision of [this code] sections 105.900 to 105.927,
27 funds held for the state by the [Missouri public employees deferred compensation commission
28 pursuant to] board in accordance with written deferred compensation [agreement] agreements
29 between the state and participating employees may be invested[,] in such investments as are
30 deemed appropriate by the [office of administration and approved by the commission, including,
31 but not limited to, life insurance or annuity contracts or mutual funds] board. [It is further
32 provided that all such insurance, annuities, mutual funds, or other such investment products to
33 be offered pursuant to this plan shall have been reviewed and selected by the commission based
34 on a competitive bidding process as established by such specifications and considerations as are
35 deemed appropriate by the commission. Such investments shall not be construed to be a
36 prohibited use of the general assets of the state] All administrative costs of the program
37 described in this section, including staffing and overhead expenses, may be paid out of
38 assets of the fund, which may reduce the amount due participants in the fund. Such
39 investments shall not be construed to be a prohibited use of the general assets of the state.

40 [3.] 4. [In no case shall such investment be offered by other than such persons and
41 companies authorized and duly licensed by the state of Missouri and applicable federal
42 regulatory agencies to offer such insurance or investment programs in compliance with all
43 relevant provisions of this code.] Investments offered under the deferred compensation fund
44 for the employees of the state of Missouri shall be made available at the discretion of the
45 board.

46 5. The board and employees of the Missouri state employees' retirement system
47 shall be immune from suit and shall not be subject to any claim or liability associated with
48 any administrative actions or decisions made by the commission with regard to the
49 deferred compensation program prior to the transfer made to the board under section
50 105.910.

51 6. The board and employees of the system shall not be liable for the investment
52 decisions made or not made by participating employees as long as the board acts with the
53 same skill, prudence, and diligence in the selection and monitoring of providers of
54 investment products, education, advice, or any default investment option, under the
55 circumstances then prevailing that a prudent person acting in a similar capacity and
56 familiar with those matters would use in the conduct of a similar enterprise with similar
57 aims.

58 **7. The system shall be immune from suit and shall not be subject to any claim or**
59 **liability associated with the administration of the deferred compensation fund by the board**
60 **and employees of the system.**

2 [105.920. The financial liability of the state, or political subdivision
3 under a deferred compensation program shall be limited in each instance to the
4 value of the particular fixed or variable life insurance or annuity contract, mutual
 funds or other such investment options purchased on behalf of any employee.]

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