

FIRST EXTRAORDINARY SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1

95TH GENERAL ASSEMBLY

6004L.06T

2010

AN ACT

To amend chapters 104 and 476, RSMo, by adding thereto three new sections relating to retirement.

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

Section A. Chapters 104 and 476, RSMo, are amended by adding thereto three new sections, to be known as sections 104.1091, 476.521, and 476.529, to read as follows:

104.1091. 1. Notwithstanding any provision of the year 2000 plan to the contrary, each person who first becomes an employee on or after January 1, 2011, shall be a member of the year 2000 plan subject to the provisions of this section.

2. A member's normal retirement eligibility shall be as follows:

(1) The member's attainment of at least age sixty-seven and the completion of at least ten years of credited service; or the member's attainment of at least age fifty-five with the sum of the member's age and credited service equaling at least ninety; or, in the case of a member who is serving as a uniformed member of the highway patrol and subject to the mandatory retirement provisions of section 104.081, such member's attainment of at least age sixty or, the attainment of at least age fifty-five with ten years of credited service;

(2) For members of the general assembly, the member's attainment of at least age sixty-two and the completion of at least three full biennial assemblies; or the member's attainment of at least age fifty-five with the sum of the member's age and credited service equaling at least ninety;

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 **(3) For statewide elected officials, the official's attainment of at least age sixty-two**
16 **and the completion of at least four years of credited service; or the official's attainment of**
17 **at least age fifty-five with the sum of the official's age and credited service equaling at least**
18 **ninety.**

19 **3. A vested former member's normal retirement eligibility shall be based on the**
20 **attainment of at least age sixty-seven and the completion of at least ten years of credited**
21 **service.**

22 **4. A temporary annuity paid pursuant to subsection 4 of section 104.1024 shall be**
23 **payable if the member has attained at least age fifty-five with the sum of the member's age**
24 **and credited service equaling at least ninety; or in the case of a member who is serving as**
25 **a uniformed member of the highway patrol and subject to the mandatory retirement**
26 **provisions of section 104.081, the temporary annuity shall be payable if the member has**
27 **attained at least age sixty, or at least age fifty-five with ten years of credited service.**

28 **5. A member, other than a member who is serving as a uniformed member of the**
29 **highway patrol and subject to the mandatory retirement provisions of section 104.081,**
30 **shall be eligible for an early retirement annuity upon the attainment of at least age sixty-**
31 **two and the completion of at least ten years of credited service. A vested former member**
32 **shall not be eligible for early retirement.**

33 **6. The provisions of subsection 6 of section 104.1021 and section 104.344 as applied**
34 **pursuant to subsection 7 of section 104.1021 and section 104.1090 shall not apply to**
35 **members covered by this section.**

36 **7. The minimum credited service requirements of five years contained in sections**
37 **104.1018, 104.1030, 104.1036, and 104.1051 shall be ten years for members covered by this**
38 **section. The normal and early retirement eligibility requirements in this section shall**
39 **apply for purposes of administering section 104.1087.**

40 **8. A member shall be required to contribute four percent of the member's pay to**
41 **the retirement system, which shall stand to the member's credit in his or her individual**
42 **account with the system, together with investment credits thereon, for purposes of funding**
43 **retirement benefits payable under the year 2000 plan, subject to the following provisions:**

44 **(1) The state of Missouri employer, pursuant to the provisions of 26 U.S.C. section**
45 **414(h)(2), shall pick up and pay the contributions that would otherwise be payable by the**
46 **member under this section. The contributions so picked up shall be treated as employer**
47 **contributions for purposes of determining the member's pay that is includable in the**
48 **member's gross income for federal income tax purposes;**

49 **(2) Member contributions picked up by the employer shall be paid from the same**
50 **source of funds used for the payment of pay to a member. A deduction shall be made from**

51 each member's pay equal to the amount of the member's contributions picked up by the
52 employer. This deduction, however, shall not reduce the member's pay for purposes of
53 computing benefits under the retirement system pursuant to this chapter;

54 (3) Member contributions so picked up shall be credited to a separate account
55 within the member's individual account so that the amounts contributed pursuant to this
56 section may be distinguished from the amounts contributed on an after-tax basis;

57 (4) The contributions, although designated as employee contributions, shall be paid
58 by the employer in lieu of the contributions by the member. The member shall not have
59 the option of choosing to receive the contributed amounts directly instead of having them
60 paid by the employer to the retirement system;

61 (5) Interest shall be credited annually on June 30 based on the value in the account
62 as of July 1 of the immediately preceding year at a rate of four percent. Interest credits
63 shall cease upon termination of employment if the member is not a vested former member.
64 Otherwise, interest credits shall cease upon retirement;

65 (6) A vested former member or a former member who is not vested may request a
66 refund of his or her contributions and interest credited thereon. If such member is
67 married at the time of such request, such request shall not be processed without consent
68 from the spouse. Such member is not eligible to request a refund if such member's
69 retirement benefit is subject to a division of benefit order pursuant to section 104.1051.
70 Such refund shall be paid by the system after ninety days from the date of termination of
71 employment or the request, whichever is later, and shall include all contributions made to
72 any retirement plan administered by the system and interest credited thereon. A vested
73 former member may not request a refund after such member becomes eligible for normal
74 retirement. A vested former member or a former member who is not vested who receives
75 a refund shall forfeit all the member's credited service and future rights to receive benefits
76 from the system and shall not be eligible to receive any long term disability benefits;
77 provided that any member or vested former member receiving long term disability benefits
78 shall not be eligible for a refund. If such member subsequently becomes an employee and
79 works continuously for at least one year, the credited service previously forfeited shall be
80 restored if the member returns to the system the amount previously refunded plus interest
81 at a rate established by the board;

82 (7) The beneficiary of any member who made contributions shall receive a refund
83 upon the member's death equal to the amount, if any, of such contributions less any
84 retirement benefits received by the member unless an annuity is payable to a survivor or
85 beneficiary as a result of the member's death. In that event, the beneficiary of the survivor
86 or beneficiary who received the annuity shall receive a refund upon the survivor's or

87 beneficiary's death equal to the amount, if any, of the member's contributions less any
88 annuity amounts received by the member and the survivor or beneficiary.

89 **9. The employee contribution rate, the benefits provided under the year 2000 plan**
90 **to members covered under this section, and any other provision of the year 2000 plan with**
91 **regard to members covered under this section may be altered, amended, increased,**
92 **decreased, or repealed, but only with respect to services rendered by the member after the**
93 **effective date of such alteration, amendment, increase, decrease, or repeal, or, with respect**
94 **to interest credits, for periods of time after the effective date of such alteration,**
95 **amendment, increase, decrease, or repeal.**

96 **10. For purposes of members covered by this section, the options under section**
97 **104.1027 shall be as follows:**

98 **Option 1. A retiree's life annuity shall be reduced to a certain percent of the**
99 **annuity otherwise payable. Such percent shall be eighty-eight and one half percent**
100 **adjusted as follows: if the retiree's age on the annuity starting date is younger than sixty-**
101 **seven years, an increase of three-tenths of one percent for each year the retiree's age is**
102 **younger than age sixty-seven years; and if the beneficiary's age is younger than the**
103 **retiree's age on the annuity starting date, a decrease of three-tenths of one percent for each**
104 **year of age difference; and if the retiree's age is younger than the beneficiary's age on the**
105 **annuity starting date, an increase of three-tenths of one percent for each year of age**
106 **difference; provided, after all adjustments the option 1 percent cannot exceed ninety-four**
107 **and one quarter percent. Upon the retiree's death, fifty percent of the retiree's reduced**
108 **annuity shall be paid to such beneficiary who was the retiree's spouse on the annuity**
109 **starting date or as otherwise provided by subsection 5 of this section.**

110 **Option 2. A retiree's life annuity shall be reduced to a certain percent of the**
111 **annuity otherwise payable. Such percent shall be eighty-one percent adjusted as follows:**
112 **if the retiree's age on the annuity starting date is younger than sixty-seven years, an**
113 **increase of four-tenths of one percent for each year the retiree's age is younger than sixty-**
114 **seven years; and if the beneficiary's age is younger than the retiree's age on the annuity**
115 **starting date, a decrease of five-tenths of one percent for each year of age difference; and**
116 **if the retiree's age is younger than the beneficiary's age on the annuity starting date, an**
117 **increase of five-tenths of one percent for each year of age difference; provided, after all**
118 **adjustments the option 2 percent cannot exceed eighty-seven and three quarter percent.**
119 **Upon the retiree's death one hundred percent of the retiree's reduced annuity shall be paid**
120 **to such beneficiary who was the retiree's spouse on the annuity starting date or as**
121 **otherwise provided by subsection 5 of this section.**

Option 3. A retiree's life annuity shall be reduced to ninety-three percent of the annuity otherwise payable. If the retiree dies before having received one hundred twenty monthly payments, the reduced annuity shall be continued for the remainder of the one hundred twenty-month period to the retiree's designated beneficiary provided that if there is no beneficiary surviving the retiree, the present value of the remaining annuity payments shall be paid as provided under subsection 3 of section 104.620. If the beneficiary survives the retiree but dies before receiving the remainder of such one hundred twenty monthly payments, the present value of the remaining annuity payments shall be paid as provided under subsection 3 of section 104.620.

Option 4. A retiree's life annuity shall be reduced to eighty-six percent of the annuity otherwise payable. If the retiree dies before having received one hundred eighty monthly payments, the reduced annuity shall be continued for the remainder of the one hundred eighty-month period to the retiree's designated beneficiary provided that if there is no beneficiary surviving the retiree, the present value of the remaining annuity payments shall be paid as provided under subsection 3 of section 104.620. If the beneficiary survives the retiree but dies before receiving the remainder of such one hundred eighty monthly payments, the present value of the remaining annuity payments shall be paid as provided under subsection 3 of section 104.620.

11. The provisions of subsection 6 of section 104.1024 shall not apply to members covered by this section.

476.521. 1. Notwithstanding any provision of chapter 476 to the contrary, each person who first becomes a judge on or after January 1, 2011, and continues to be a judge may receive benefits as provided in sections 476.445 to 476.688 subject to the provisions of this section.

2. Any person who is at least sixty-seven years of age, has served in this state an aggregate of at least twelve years, continuously or otherwise, as a judge, and ceases to hold office by reason of the expiration of the judge's term, voluntary resignation, or retirement pursuant to the provisions of subsection 2 of section 24 of article V of the Constitution of Missouri may receive benefits as provided in sections 476.515 to 476.565. The twelve-year requirement of this subsection may be fulfilled by service as judge in any of the courts covered, or by service in any combination as judge of such courts, totaling an aggregate of twelve years. Any judge who is at least sixty-seven years of age and who has served less than twelve years and is otherwise qualified under sections 476.515 to 476.565 may retire after reaching age sixty-seven, or thereafter, at a reduced retirement compensation in a sum equal to the proportion of the retirement compensation provided in section 476.530 that his or her period of judicial service bears to twelve years.

17 **3. Any person who is at least sixty-two years of age or older, has served in this state**
18 **an aggregate of at least twenty years, continuously or otherwise, as a judge, and ceases to**
19 **hold office by reason of the expiration of the judge's term, voluntary resignation, or**
20 **retirement pursuant to the provisions of subsection 2 of section 24 of article V of the**
21 **Constitution of Missouri may receive benefits as provided in sections 476.515 to 476.565.**
22 **The twenty-year requirement of this subsection may be fulfilled by service as a judge in**
23 **any of the courts covered, or by service in any combination as judge of such courts, totaling**
24 **an aggregate of twenty years. Any judge who is at least sixty-two years of age and who has**
25 **served less than twenty years and is otherwise qualified under sections 476.515 to 476.565**
26 **may retire after reaching age sixty-two, at a reduced retirement compensation in a sum**
27 **equal to the proportion of the retirement compensation provided in section 476.530 that**
28 **his or her period of judicial service bears to twenty years.**

29 **4. All judges under this section required by the provisions of section 26 of article**
30 **V of the Constitution of Missouri to retire at the age of seventy years shall retire upon**
31 **reaching that age.**

32 **5. The provisions of sections 104.344, 476.524, and 476.690 shall not apply to judges**
33 **covered by this section.**

34 **6. A judge shall be required to contribute four percent of the judge's compensation**
35 **to the retirement system, which shall stand to the judge's credit in his or her individual**
36 **account with the system, together with investment credits thereon, for purposes of funding**
37 **retirement benefits payable as provided in sections 476.515 to 476.565, subject to the**
38 **following provisions:**

39 **(1) The state of Missouri employer, pursuant to the provisions of 26 U.S.C. section**
40 **414(h)(2), shall pick up and pay the contributions that would otherwise be payable by the**
41 **judge under this section. The contributions so picked up shall be treated as employer**
42 **contributions for purposes of determining the judge's compensation that is includable in**
43 **the judge's gross income for federal income tax purposes;**

44 **(2) Judge contributions picked up by the employer shall be paid from the same**
45 **source of funds used for the payment of compensation to a judge. A deduction shall be**
46 **made from each judge's compensation equal to the amount of the judge's contributions**
47 **picked up by the employer. This deduction, however, shall not reduce the judge's**
48 **compensation for purposes of computing benefits under the retirement system pursuant**
49 **to this chapter;**

50 **(3) Judge contributions so picked up shall be credited to a separate account within**
51 **the judge's individual account so that the amounts contributed pursuant to this section**
52 **may be distinguished from the amounts contributed on an after tax basis;**

53 (4) The contributions, although designated as employee contributions, are being
54 paid by the employer in lieu of the contributions by the judge. The judge shall not have
55 the option of choosing to receive the contributed amounts directly instead of having them
56 paid by the employer to the retirement system;

57 (5) Interest shall be credited annually on June 30 based on the value in the account
58 as of July 1 of the immediately preceding year at a rate of four percent. Interest credits
59 shall cease upon retirement of the judge;

60 (6) A judge whose employment is terminated may request a refund of his or her
61 contributions and interest credited thereon. If such judge is married at the time of such
62 request, such request shall not be processed without consent from the spouse. A judge is
63 not eligible to request a refund if the judge's retirement benefit is subject to a division of
64 benefit order pursuant to section 104.312. Such refund shall be paid by the system after
65 ninety days from the date of termination of employment or the request, whichever is later
66 and shall include all contributions made to any retirement plan administered by the system
67 and interest credited thereon. A judge may not request a refund after such judge becomes
68 eligible for retirement benefits under sections 476.515 to 476.565. A judge who receives a
69 refund shall forfeit all the judge's service and future rights to receive benefits from the
70 system and shall not be eligible to receive any long term disability benefits; provided that
71 any judge or former judge receiving long term disability benefits shall not be eligible for
72 a refund. If such judge subsequently becomes a judge and works continuously for at least
73 one year, the service previously forfeited shall be restored if the judge returns to the system
74 the amount previously refunded plus interest at a rate established by the board;

75 (7) The beneficiary of any judge who made contributions shall receive a refund
76 upon the judge's death equal to the amount, if any, of such contributions less any
77 retirement benefits received by the judge unless an annuity is payable to a survivor or
78 beneficiary as a result of the judge's death. In that event, the beneficiary of the survivor
79 or beneficiary who received the annuity shall receive a refund upon the survivor's or
80 beneficiary's death equal to the amount, if any, of the judge's contributions less any
81 annuity amounts received by the judge and the survivor or beneficiary.

82 7. The employee contribution rate, the benefits provided under sections 476.515 to
83 476.565 to judges covered under this section, and any other provision of sections 476.515
84 to 476.565 with regard to judges covered under this section may be altered, amended,
85 increased, decreased, or repealed, but only with respect to services rendered by the judge
86 after the effective date of such alteration, amendment, increase, decrease, or repeal, or,
87 with respect to interest credits, for periods of time after the effective date of such
88 alteration, amendment, increase, decrease, or repeal.

89 **8. Any judge who is receiving retirement compensation under section 476.529 or**
90 **476.530 who becomes employed as an employee eligible to participate in the closed plan or**
91 **in the year 2000 plan under chapter 104, shall not receive such retirement compensation**
92 **for any calendar month in which the retired judge is so employed. Any judge who is**
93 **receiving retirement compensation under section 476.529 or section 476.530 who**
94 **subsequently serves as a judge as defined pursuant to subdivision (4) of subsection 1 of**
95 **section 476.515 shall not receive such retirement compensation for any calendar month in**
96 **which the retired judge is serving as a judge; except that upon retirement such judge's**
97 **annuity shall be recalculated to include any additional service or salary accrued based on**
98 **the judge's subsequent service. A judge who is receiving compensation under section**
99 **476.529 or 476.530 may continue to receive such retirement compensation while serving as**
100 **a senior judge or senior commissioner and shall receive additional credit and salary for**
101 **such service pursuant to section 476.682.**

476.529. 1. In lieu of the retirement compensation provided in section 476.530, a
2 **judge employed for the first time on or after January 1, 2011, may elect in the judge's**
3 **application for retirement whether or not to have such judge's annuity reduced, and**
4 **designate a beneficiary, as provided by the options set forth in this subsection prior to the**
5 **judge's annuity starting date:**

6 **Option 1. A judge's annuity shall be reduced to a certain percent of the annuity**
7 **otherwise payable. Such percent shall be eighty-eight and one half percent adjusted as**
8 **follows: if the judge's age on the annuity starting date is younger than sixty-seven years,**
9 **an increase of three-tenths of one percent for each year the judge's age is younger than age**
10 **sixty-seven years; and if the beneficiary's age is younger than the judge's age on the**
11 **annuity starting date, a decrease of three-tenths of one percent for each year of age**
12 **difference; and if the judge's age is younger than the beneficiary's age on the annuity**
13 **starting date, an increase of three-tenths of one percent for each year of age difference;**
14 **provided, after all adjustments the option 1 percent cannot exceed ninety-four and one**
15 **quarter percent. Upon the judge's death, fifty percent of the judge's reduced annuity shall**
16 **be paid to such beneficiary who was the judge's spouse on the annuity starting date or as**
17 **otherwise provided by subsection 5 of this section.**

18 **Option 2. A judge's life annuity shall be reduced to a certain percent of the annuity**
19 **otherwise payable. Such percent shall be eighty-one percent adjusted as follows: if the**
20 **judge's age on the annuity starting date is younger than sixty-seven years, an increase of**
21 **four-tenths of one percent for each year the judge's age is younger than sixty-seven years;**
22 **and if the beneficiary's age is younger than the judge's age on the annuity starting date, a**
23 **decrease of five-tenths of one percent for each year of age difference; and if the judge's age**

24 is younger than the beneficiary's age on the annuity starting date, an increase of five-tenths
25 of one percent for each year of age difference; provided, after all adjustments the option
26 2 percent cannot exceed eighty-seven and three quarter percent. Upon the judge's death
27 one hundred percent of the judge's reduced annuity shall be paid to such beneficiary who
28 was the judge's spouse on the annuity starting date or as otherwise provided by subsection
29 5 of this section.

30 **Option 3.** A judge's life annuity shall be reduced to ninety-three percent of the
31 annuity otherwise payable. If the judge dies before having received one hundred twenty
32 monthly payments, the reduced annuity shall be continued for the remainder of the one
33 hundred twenty-month period to the judge's designated beneficiary provided that if there
34 is no beneficiary surviving the judge, the present value of the remaining annuity payments
35 shall be paid as provided under subsection 4 of section 104.1054 as if the judge was a
36 deceased member under that section. If the beneficiary survives the judge but dies before
37 receiving the remainder of such one hundred twenty monthly payments, the present value
38 of the remaining annuity payments shall be paid as provided under subsection 4 of section
39 104.1054 for a deceased beneficiary under that section.

40 **Option 4.** A judge's life annuity shall be reduced to eighty-six percent of the
41 annuity otherwise payable. If the judge dies before having received one hundred eighty
42 monthly payments, the reduced annuity shall be continued for the remainder of the one
43 hundred eighty-month period to the judge's designated beneficiary provided that if there
44 is no beneficiary surviving the judge, the present value of the remaining annuity payments
45 shall be paid as provided under subsection 4 of section 104.1054 as if the judge was a
46 deceased member under that section. If the beneficiary survives the judge but dies before
47 receiving the remainder of such one hundred eighty monthly payments, the present value
48 of the remaining annuity payments shall be paid as provided under subsection 4 of section
49 104.1054 for a deceased beneficiary under that section.

50 **2.** If a judge is married as of the annuity starting date, the judge's annuity shall be
51 paid under the provisions of either option 1 or option 2 as set forth in subsection 1 of this
52 section, at the judge's choice, with the spouse as the judge's designated beneficiary unless
53 the spouse consents in writing to the judge electing another available form of payment.

54 **3.** If a judge has elected at the annuity starting date option 1 or 2 pursuant to this
55 section and if the judge's spouse or eligible former spouse dies after the annuity starting
56 date but before the judge dies, then the judge may cancel the judge's election and return
57 to the unreduced annuity form of payment and annuity amount, effective the first of the
58 month following the date of such spouse's or eligible former spouse's death. If a judge dies

59 prior to notifying the system of the spouse's death, the benefit shall not revert to an
60 unreduced annuity and no retroactive payments shall be made.

61 **4. If a judge designates a spouse as a beneficiary pursuant to this section and**
62 **subsequently that marriage ends as a result of a dissolution of marriage, such dissolution**
63 **shall not affect the option election pursuant to this section and the former spouse shall**
64 **continue to be eligible to receive survivor benefits upon the death of the judge.**

65 **5. A judge may make an election under option 1 or 2 after the annuity starting date**
66 **as described in this section if the judge makes such election within one year from the date**
67 **of marriage pursuant to any of the following circumstances:**

68 **(1) The judge elected to receive a life annuity and was not eligible to elect option**
69 **1 or 2 on the annuity starting date; or**

70 **(2) The judge's annuity reverted to a normal or early retirement annuity pursuant**
71 **to subsection 3 of this section, and the judge remarried.**

72 **6. A judge may change a judge's election made under this section at any time prior**
73 **to the system mailing or electronically transferring the first annuity payment to such**
74 **member.**

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