

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1044
97TH GENERAL ASSEMBLY

Reported from the Committee on Seniors, Families and Pensions, May 1, 2014, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

4121S.03C

AN ACT

To repeal sections 21.557, 21.561, 21.562, 21.563, 21.564, 105.660, 105.664, 105.665, 105.666, 105.670, 105.683, and 105.684, RSMo, and to enact in lieu thereof thirteen new sections relating to administrative requirements of public employee retirement plans.

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

Section A. Sections 21.557, 21.561, 21.562, 21.563, 21.564, 105.660, 105.664, 105.665, 105.670, 105.683, and 105.684, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 21.557, 21.561, 21.562, 21.563, 21.564, 105.660, 105.664, 105.665, 105.666, 105.670, 105.681, 105.683, and 105.684, to read as follows:

21.557. The committee may employ such personnel and actuarial assistance as it deems necessary to carry out its duties and prepare required reports. The compensation of such personnel and the expenses of the committee shall be paid from **moneys appropriated to the committee or from** the joint contingent fund **as approved** [or jointly from the senate and house contingent funds until an appropriation is made therefor].

21.561. 1. All state and local public employee retirement systems shall cooperate with and assist the committee in the performance of its duties and shall make available all books, records and information requested.

2. **If any state or local public employee retirement system does not comply with the committee's request for books, records, or information, or does not cooperate and assist the committee as**

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

7 **provided in subsection 1 of this section, then the committee may**
8 **request the staff or board members of any state or local public**
9 **employee retirement system to testify before the committee regarding**
10 **non-compliance with this section.**

11 3. The committee may subpoena witnesses, take testimony under oath,
12 and compel the production of records.

21.562. 1. [All state and local public employee retirement systems
2 providing periodic cost-of-living increases in pension and retirement benefits paid
3 to its retired officers and employees and spouses of deceased officers and
4 employees prior to September 28, 1985, shall notify the joint committee on public
5 employee retirement of such periodic cost-of-living increases within seven days
6 after September 28, 1985.

7 2.] All state or local public employee retirement systems shall notify the
8 committee within seven calendar days when the governing body thereof which
9 determines the amount and type of plan benefits to be paid takes final action
10 providing any new or additional payments **beyond the plan provisions of the**
11 **prior plan year** of periodic cost-of-living increases in pension and retirement
12 benefits for its retired officers and employees and spouses of deceased officers and
13 employees.

14 [3.] 2. If so requested at any time by the committee, any state or local
15 public employee retirement system providing such periodic cost-of-living increases
16 shall provide satisfactory evidence of its actuarial soundness.

21.563. The committee shall compile a full report of its activities for
2 submission to the general assembly. The report shall be submitted not later than
3 the [fifteenth of January of] **annual first quarterly meeting of the joint**
4 **committee on public employee retirement** each year in which the general
5 assembly convenes in regular session and shall include any recommendations
6 which the committee may have for legislative action, as well as any
7 recommendations to retirement system boards of management. The report shall
8 also include an analysis and statement of the manner in which statutory
9 provisions relating to public employee retirement programs are being executed.

70.621. 1. **In the event a political subdivision has in effect for all**
2 **or part of its employees, a plan similar in purpose to the Missouri local**
3 **government employees' retirement system, and in the further event**
4 **such a political subdivision is an employer in the system, at the request**
5 **of the political subdivision, the board of the system may at its sole**

6 discretion enter into an agreement with such an employer whereby the
7 system assumes all duties and responsibilities of operating the
8 employer's prior plan.

9 2. Notwithstanding any language to the contrary in any other
10 statute, city ordinance, or city charter regarding the composition or
11 duties of any governing board of a plan of any employer that is similar
12 in purpose to the system, such employer may enter into an agreement
13 with the board of the system to operate the employer's prior plan so
14 long as an election has been made to cover new employees under
15 section 70.630. Upon entering into such agreement, the employer shall
16 irrevocably delegate and cede all operational duties and
17 responsibilities to the system. Upon entering into such an agreement,
18 the board of the system shall become the governing board of the
19 employer's prior plan. The employer's prior plan shall be administered
20 as a frozen prior plan by the system and shall continue to operate
21 under its existing governing documents in all other respects.

22 3. Where an agreement authorized by this section is entered into
23 by an employer and the system, the employer shall continue to have
24 sole responsibility for the full funding of its prior plan including all
25 related expenses. If any employer fails to make any payment due under
26 the prior plan, the provisions in section 70.735 shall apply.

27 4. The system shall formulate and adopt rules and regulations for
28 the government of its own proceedings relating to this section and for
29 the administration of this section, as the board may deem necessary.

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

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

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

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

12 (4) "Defined benefit plan", a plan providing a definite benefit formula for
13 calculating retirement benefit amounts;

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

16 (6) "Funded ratio", the ratio of the actuarial value of assets over its
17 actuarial accrued liability;

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

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

24 (9) "Plan benefit", the benefit amount payable from a plan together with
25 any supplemental payments from public funds;

26 (10) "Substantial proposed change", a proposed change in future plan
27 benefits which would increase or decrease the total contribution percent by at
28 least one-quarter of one percent of active employee payroll, or would increase or
29 decrease a plan benefit by five percent or more, or would materially affect the
30 actuarial soundness of the plan. In testing for such one-quarter of one percent
31 of payroll contribution increase, the proposed change in plan benefits shall be
32 added to all actual changes in plan benefits since the last date that an actuarial
33 valuation was prepared. **The closing or freezing of a current defined**
34 **benefit plan is not considered a substantial proposed change for the**
35 **purposes of section 105.684.**

105.664. 1. Each plan shall at least biennially prepare and have available
2 as public information an actuarial valuation performed in compliance with [the
3 recommended] **applicable** standards and guidelines as set forth by the
4 governmental accounting standards board. Any plan currently performing
5 valuations on a biennial basis making a substantial proposed change in benefits
6 as defined in section 105.660 shall have a new actuarial valuation performed
7 using the same methods and assumptions for the most recent periodic actuarial
8 valuation.

9 **2. An actuarial valuation performed in compliance with**
10 **applicable governmental accounting standards board pronouncements**
11 **shall be forwarded to the joint committee on public employee**
12 **retirement no later than sixty calendar days after completion or**
13 **adoption of such valuation.**

105.665. 1. The legislative body or committee thereof which determines

2 the amount and type of plan benefits to be paid shall, before taking final action
3 on any substantial proposed change in plan benefits, cause to be prepared a
4 statement regarding the cost of such change.

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

8 (1) The level normal cost of plan benefits currently in effect, which cost
9 is expressed **both in estimated annual dollars and** as a percent of active
10 employee payroll;

11 (2) The contribution for unfunded accrued liabilities currently payable by
12 the plan, which cost is expressed **both in estimated annual dollars and** as a
13 percent of active employee payroll and shall be over a period not to exceed thirty
14 years;

15 (3) The total contribution rate expressed **both in estimated annual**
16 **dollars and** as a percent of active [employees] **employee** payroll, which
17 contribution rate shall be the total of the normal cost percent plus the
18 contribution percent for unfunded accrued liabilities;

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

21 (5) **The plan's actuarial value of assets, market value of assets,**
22 **actuarial accrued liability, and funded ratio as defined in section**
23 **105.660 as of the most recent actuarial valuation;**

24 (6) The total **post change** contribution rate expressed **both in**
25 **estimated annual dollars and** as a percent of active employee payroll [which
26 would be sufficient to adequately fund the proposed change in benefits];

27 (7) **A projection of at least ten years of the current plan**
28 **provisions compared to the proposed change from the proposed**
29 **effective date of such change including the total annual contribution**
30 **requirements expressed both in estimated annual dollars and as a**
31 **percent of active employee payroll, the actuarial value of assets, the**
32 **market value of assets, the actuarial accrued liability, and the funded**
33 **ratio as defined in section 105.660, except that such projection shall not**
34 **apply to employers within the retirement system established in sections**
35 **70.600 to 70.755. In lieu thereof, any retirement system established in**
36 **sections 70.600 to 70.744 shall include a projection of at least ten years**
37 **containing current estimated employer contributions as a percent of**

38 **payroll and estimated annual dollars, proposed estimated employer**
39 **contributions as a percent of payroll and estimated annual dollars, and**
40 **the resulting difference. Such projection shall also contain the**
41 **estimated difference between the actuarial accrued liability and**
42 **actuarial value of assets;**

43 **[(6)] (8)** A statement as to whether such additional contributions are
44 mandated by the proposed change;

45 **[(7)] (9)** A statement as to whether or not the proposed change would in
46 any way impair the ability of the plan to meet the obligations thereof in effect at
47 the time the proposal is made;

48 **[(8)] (10)** All assumptions relied upon to evaluate the present financial
49 condition of the plan and all assumptions relied upon to evaluate the impact of
50 the proposed change upon the financial condition of the plan, which shall be those
51 assumptions used in preparing the most recent periodic actuarial valuation for
52 the plan, unless the nature of the proposed change is such that alternative
53 assumptions are clearly warranted, and shall be made and stated with respect to
54 at least the following:

55 (a) Investment return;

56 (b) Pay increase;

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

59 (d) Withdrawal (turnover);

60 (e) Disability;

61 (f) Retirement ages;

62 (g) Change in active employee group size;

63 **[(9)] (11)** The actuary shall certify that in the actuary's opinion the
64 assumptions used for the valuation produce results which, in the aggregate, are
65 reasonable;

66 **[(10)] (12)** A description of the actuarial funding method used in
67 preparing the valuation including a description of the method used and period
68 applied in amortizing unfunded actuarial accrued liabilities[;

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

105.666. 1. Each plan shall, in conjunction with its staff and advisors,

2 establish a board member education program, which shall be in effect on or after
3 January 1, 2008. The curriculum shall include, at a minimum, education in the
4 areas of duties and responsibilities of board members as trustees, ethics,
5 governance process and procedures, pension plan design and administration of
6 benefits, investments including but not limited to the fiduciary duties as defined
7 under section 105.688, legal liability and risks associated with the administration
8 of a plan, sunshine law requirements under chapter 610, actuarial principles and
9 methods related to plan administration, and the role of staff and consultants in
10 plan administration. Board members appointed or elected on a board on or after
11 January 1, 2008, shall complete a board member education program designated
12 to orient new board members in the areas described in this section within ninety
13 days of becoming a new board member. Board members who have served one or
14 more years shall attend at least [two] **a total of six hours of** continuing
15 education programs each year in the areas described in this section.

16 **2. Routine annual presentation by outside plan service providers**
17 **shall not be used to satisfy board member education or continuing**
18 **education program requirements contained in subsection 1 of this**
19 **section. Such service providers may be utilized to perform education**
20 **programs with such programs being separate and apart from routine**
21 **annual presentations.**

22 **3. Plan governing body or staff shall maintain a record of board**
23 **member education including, but not limited to, date, time length,**
24 **location, education material, and any facilitator utilized. The record**
25 **shall be signed and attested to by the attending board member or board**
26 **chairperson or designee. Such information shall be maintained for**
27 **public record and disclosure for at least three years or until the**
28 **expiration of such board member's term, whichever occurs first.**

29 **4. A board member who is knowingly not participating in the**
30 **required education programs under this section may be removed from**
31 **such board by a majority of the board members which shall result in a**
32 **vacancy to be filled in accordance with plan provisions, except that ex**
33 **officio board members shall not be removed under the provisions of**
34 **this subsection.**

35 **5. Each plan shall, upon the request of any individual participant, provide**
36 **an annual pension benefit statement which shall be written in a manner**
37 **calculated to be understood by the average plan participant and may be delivered**

38 in written, electronic, or other appropriate form to the extent such form is
39 reasonably accessible to each participant or beneficiary. Such pension benefit
40 statement shall include, but not be limited to, accrued participant contributions
41 to the plan, total benefits accrued, date first eligible for a normal retirement
42 benefit, and projected benefit at normal retirement. Any plan failing to do so
43 shall submit in writing to the joint committee on public employee retirement as
44 to why the information may not be provided as requested.

105.670. When the general assembly is the legislative body responsible for
2 authorizing a substantial proposed change in plan benefits, a prepared statement
3 regarding the cost of such change shall be made available for its consideration
4 prior to taking final action. Such statement of cost shall be prepared in
5 accordance with section 105.665 and shall be available as public information for
6 at least five legislative days before ~~[final]~~ **third reading and** passage by either
7 ~~[house]~~ **the house of representatives or the senate**. The speaker or
8 president pro tem may refer such bill for reconsideration upon receipt of the
9 actuary statement to the committee to which the bill was originally referred. The
10 bill shall retain its place on the calendar as though it had not been recalled. The
11 committee shall report the bill to the house or senate, respectively, within seven
12 calendar days with its recommendations. If any additional substantial proposed
13 change as defined in subdivision ~~[(5)]~~ **(10)** of section 105.660, in cost or benefits
14 is made by either ~~[house]~~ **the house of representatives or the senate** or
15 committee thereof, the actuary making the original cost statement shall amend
16 the statement to reflect the additional features **prior to the proposal being**
17 **truly agreed to and finally passed**. The plan shall make available to the
18 actuary such information as is necessary to prepare such actuarial
19 statement. The statement of cost shall be filed with the chief clerk of the
20 Missouri house of representatives, the secretary of the senate, and with the joint
21 committee on public employee retirement.

105.681. All plans defined under section 105.660 shall develop a
2 **procurement action plan for the utilization of minority and women**
3 **money managers, brokers, and investment counselors. Such plans shall**
4 **report their progress annually to the joint committee on public**
5 **employee retirement and the governor's minority advocacy commission.**

105.683. Any plan, other than a plan created under sections 169.010 to
2 169.141 or sections 169.600 to 169.715, whose actuary determines that the plan
3 has a funded ratio below sixty percent and the political subdivision has failed to

4 make one hundred percent of the actuarially required contribution payment for
5 five successive plan years with a descending funded ratio for five successive plan
6 years [after August 28, 2007], shall be deemed delinquent in the contribution
7 payment and such delinquency in the contribution payment shall constitute a
8 first lien on the funds of the political subdivision, and the board as defined under
9 section 105.660 is authorized to compel payment by application for a writ of
10 mandamus; and in addition, such delinquency in the contribution payment shall
11 be certified by the board to the state treasurer and director of the department of
12 revenue. Until such delinquency in the contribution payment, together with
13 regular interest, is satisfied, the state treasurer and director of the department
14 of revenue shall withhold twenty-five percent of the certified contribution
15 deficiency from the total moneys due the political subdivision from the state.

105.684. 1. Notwithstanding any law to the contrary, no plan shall adopt
2 or implement any additional benefit increase, supplement, enhancement, lump
3 sum benefit payments to participants, or cost-of-living adjustment beyond current
4 plan provisions in effect prior to August 28, 2007, **which would, in aggregate**
5 **with any other proposed plan provisions, increase the plan's actuarial**
6 **accrued liability when valued by an actuary using the same methods**
7 **and assumptions as used in the most recent periodic valuation,** unless
8 the plan's actuary determines that the funded ratio of the most recent periodic
9 actuarial valuation and prior to such adoption or implementation is at least
10 eighty percent and will not be less than seventy-five percent after such adoption
11 or implementation. **Methods and assumptions used in valuing such**
12 **proposed change may be modified if the nature is such that alternative**
13 **assumptions are clearly warranted.**

14 2. The unfunded actuarial accrued liabilities associated with benefit
15 changes described in this section shall be amortized over a period not to exceed
16 twenty years for purposes of determining the contributions associated with the
17 adoption or implementation of any such benefit increase, supplement, or
18 enhancement.

19 3. Any plan with a funded ratio below sixty percent shall have the actuary
20 prepare an accelerated contribution schedule based on a descending amortization
21 period for inclusion in the actuarial valuation.

22 4. Nothing in this section shall apply to any plan established under
23 chapter 70 or chapter 476.

24 5. Nothing in this section shall prevent a plan from adopting and

25 implementing any provision necessary to maintain a plan's status as a qualified
26 trust pursuant to 26 U.S.C. 401(a).

 [21.564. The joint committee on public employee retirement
2 shall conduct a study of pension, retirement and other benefits and
3 the taxation thereof by the state of Missouri in relation to recent
4 federal court decisions and shall report its findings and
5 recommendations to the general assembly no later than the
6 beginning of the second regular session of the eighty-fifth general
7 assembly.]

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