

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1882
97TH GENERAL ASSEMBLY

5723H.05C

D. ADAM CRUMBLISS, Chief Clerk

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 twelve 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,
2 105.666, 105.670, 105.683, and 105.684, RSMo, are repealed and twelve new sections enacted
3 in lieu thereof, to be known as sections 21.557, 21.561, 21.562, 21.563, 105.660, 105.664,
4 105.665, 105.666, 105.670, 105.683, 105.684, and 105.702, to read as follows:

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

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

4 2. **If any state or local public employee retirement system does not comply with the**
5 **committee's request for books, records, or information, or does not cooperate and assist**
6 **the committee as provided in subsection 1 of this section, then the committee may request**
7 **the staff or board members of any state or local public employee retirement system to**
8 **testify before the committee regarding non-compliance with this section.**

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

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 **The closing or freezing of a current defined benefit plan is considered a substantial**
31 **proposed change only for the purposes of sections 105.665, 105.670, 105.675, and 105.685.**

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

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

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
8 **both in estimated annual dollars and** as a percent of active employee payroll;

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

12 (3) The total contribution rate expressed **both in estimated annual dollars and** as a
13 percent of active [employees] **employee** payroll, which contribution rate shall be the total of the
14 normal cost percent plus the contribution percent for 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 plan's actuarial value of assets, market value of assets, actuarial accrued**
18 **liability, and funded ratio as defined in section 105.660 as of the most recent actuarial**
19 **valuation;**

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

23 (7) **A projection of at least ten years of the current plan provisions compared to the**
24 **proposed change from the proposed effective date of such change including the total**
25 **annual contribution requirements expressed both in estimated annual dollars and as a**
26 **percent of active employee payroll, the actuarial value of assets, the market value of assets,**
27 **the actuarial accrued liability, and the funded ratio as defined in section 105.660 except**
28 **that such projection shall not apply to employers within the retirement system established**
29 **in sections 70.600 to 70.755, but in lieu thereof shall include a prospective schedule of at**
30 **least ten years containing current provision estimated employer contributions as a percent**
31 **of payroll and estimated annual dollars, proposed provision estimated employer**
32 **contributions as a percent of payroll and estimated annual dollars, and the resulting**
33 **difference. Such schedule shall also contain the estimated difference between the actuarial**
34 **accrued liability and actuarial value of assets for each scenario;**

35 [(6)] (8) A statement as to whether such additional contributions are mandated by the
36 proposed change;

37 [(7)] (9) A statement as to whether or not the proposed change would in any way impair
38 the ability of the plan to meet the obligations thereof in effect at the time the proposal is made;

39 [(8)] (10) All assumptions relied upon to evaluate the present financial condition of the
40 plan and all assumptions relied upon to evaluate the impact of the proposed change upon the
41 financial condition of the plan, which shall be those assumptions used in preparing the most
42 recent periodic actuarial valuation for the plan, unless the nature of the proposed change is such
43 that alternative assumptions are clearly warranted, and shall be made and stated with respect to
44 at least the following:

- 45 (a) Investment return;
46 (b) Pay increase;
47 (c) Mortality of employees and officials, and other persons who may receive benefits
48 under the plan;
49 (d) Withdrawal (turnover);
50 (e) Disability;
51 (f) Retirement ages;
52 (g) Change in active employee group size;

53 [(9)] (11) The actuary shall certify that in the actuary's opinion the assumptions used for
54 the valuation produce results which, in the aggregate, are reasonable;

55 [(10)] (12) A description of the actuarial funding method used in preparing the valuation
56 including a description of the method used and period applied in amortizing unfunded actuarial
57 accrued liabilities[;

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

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

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

19 3. **Plan governing body or staff shall maintain a record of board member education**
20 **including, but not limited to, date, time length, location, education material, and any**

21 **facilitator utilized. The record shall be signed and attested to by the attending board**
22 **member or board chairperson or designee. Such information shall be maintained for**
23 **public record and disclosure for at least three years or until the expiration of such board**
24 **member's term, whichever occurs first.**

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

29 **5. Each plan shall, upon the request of any individual participant, provide an annual**
30 **pension benefit statement which shall be written in a manner calculated to be understood by the**
31 **average plan participant and may be delivered in written, electronic, or other appropriate form**
32 **to the extent such form is reasonably accessible to each participant or beneficiary. Such pension**
33 **benefit statement shall include, but not be limited to, accrued participant contributions to the**
34 **plan, total benefits accrued, date first eligible for a normal retirement benefit, and projected**
35 **benefit at normal retirement. Any plan failing to do so shall submit in writing to the joint**
36 **committee on public employee retirement as to why the information may not be provided as**
37 **requested.**

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

105.683. Any plan, other than a plan created under sections 169.010 to 169.141 or
2 sections 169.600 to 169.715, whose actuary determines that the plan has a funded ratio below

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

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

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

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

19 4. Nothing in this section shall apply to any plan established under chapter 70 or chapter
20 476.

21 5. Nothing in this section shall prevent a plan from adopting and implementing any
22 provision necessary to maintain a plan's status as a qualified trust pursuant to 26 U.S.C. 401(a).

105.702. All retirement plans defined under section 105.660 shall develop a
2 **procurement action plan for utilization of minority and women money managers, brokers,**
3 **and investment counselors. Such retirement systems shall report their progress annually**

4 to the joint committee on public employee retirement and the governor's minority
5 advocacy commission.

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

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