

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1467**

AND  
**HOUSE BILL NO. 1934**

**100TH GENERAL ASSEMBLY**

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Reported from the Committee on Health and Pensions, April 29, 2020, with recommendation that the Senate Committee Substitute do pass.

3862S.04C

ADRIANE D. CROUSE, Secretary.

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**AN ACT**

To repeal sections 70.705, 104.010, 104.090, 104.395, 104.1003, 104.1027, and 169.020, RSMo, and to enact in lieu thereof eight new sections relating to public employee retirement systems.

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

Section A. Sections 70.705, 104.010, 104.090, 104.395, 104.1003, 104.1027, 2 and 169.020, RSMo, are repealed and eight new sections enacted in lieu thereof, 3 to be known as sections 70.705, 104.010, 104.090, 104.395, 104.1003, 104.1027, 4 104.1089, and 169.020, to read as follows:

70.705. 1. The "Members Deposit Fund" is hereby created. It shall be the 2 fund in which shall be accumulated the contributions made by members to the 3 system, and from which shall be made transfers and refunds of members' 4 contributions as provided in sections 70.600 to 70.755.

5 2. Except as provided otherwise in this section, the contributions of a 6 member to the system shall be four percent of his compensations after the date 7 he has completed sufficient employment for six months of credited service. Such 8 contributions shall be made notwithstanding that the minimum salary or wages 9 provided by law for any member shall thereby be changed. Each member shall 10 be deemed to consent and agree to the deductions made and provided for 11 herein. Payment of a member's compensation less such deductions shall be a full

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

12 and complete discharge and acquittance of all claims and demands whatsoever  
13 for services rendered by him to a political subdivision, except as to benefits  
14 provided by this system.

15         3. The officer or officers responsible for making up the payrolls for each  
16 political subdivision shall cause the contributions provided for in this section to  
17 be deducted from the compensation of each member in the employ of the political  
18 subdivision, on each and every payroll, for each and every payroll period after the  
19 date he has completed sufficient employment for six months of credited service  
20 to the date his membership terminates. When deducted, each of these amounts  
21 shall be paid by the political subdivision to the system; the payments shall be  
22 made in the manner and shall be accompanied by such supporting data as the  
23 board shall from time to time prescribe. When paid to the system, each of the  
24 amounts shall be credited to the members deposit fund account of the member  
25 from whose compensations the contributions were deducted.

26         4. In addition to the contributions deducted from the compensations of a  
27 member, as heretofore provided, a member shall deposit in the members deposit  
28 fund, by a single contribution or by an increased rate of contributions, as  
29 approved by the board, the amount or amounts he may have withdrawn therefrom  
30 and not repaid thereto, together with regular interest from the date of withdrawal  
31 to the date of repayment. In no case shall a member be given credit for service  
32 rendered prior to the date he withdrew his accumulated contributions until he  
33 returns to the members deposit fund all amounts due the fund by him.

34         5. Upon the retirement of a member, or upon his death if an allowance  
35 becomes payable on account of his death, his accumulated contributions shall be  
36 transferred to the benefit reserve fund.

37         6. Each political subdivision, by majority vote of its governing body, may  
38 elect with respect to its members **an alternate contribution amount of two**  
39 **percent or six percent of compensation or** to eliminate future member  
40 contributions otherwise provided for in this section. **Should a political**  
41 **subdivision elect one benefit program for members whose political**  
42 **subdivision employment is concurrently covered by federal Social**  
43 **Security and a different benefit program for members whose political**  
44 **subdivision employment is not concurrently covered by federal Social**  
45 **Security, as provided in section 70.655, the political subdivision may**  
46 **also, by majority vote of its governing body, make one election**  
47 **concerning member contributions provided for in this section for**

48 **members whose political subdivision employment is concurrently**  
49 **covered by federal Social Security and one election concerning member**  
50 **contributions provided for in this section for members whose political**  
51 **subdivision employment is not concurrently covered by federal Social**  
52 **Security.** The clerk or secretary of the political subdivision shall certify the  
53 election concerning member contributions to the board within ten days after such  
54 vote. The effective date of the political subdivision's member contribution election  
55 is the first day of the calendar month specified by such governing body, or the  
56 first day of the calendar month next following receipt by the board of the  
57 certification of such election, or the effective date of the political subdivision's  
58 becoming an employer, whichever is the latest. Such election concerning member  
59 contributions may be changed from time to time by such vote, but not more often  
60 than once in two years. Except as provided in section 70.707, if such election is  
61 to eliminate member contributions, then such election shall apply only to future  
62 member compensations and shall not change the status of any member  
63 contributions made before such election. If the effect of such election is to require  
64 member contributions, then such election shall apply only to future member  
65 compensations and shall not change any member contribution requirements  
66 existing before such election. Should an employer change its member  
67 contribution requirements as provided in this section, the employer contribution  
68 requirements shall be correspondingly changed effective the same date as the  
69 member contribution change. The limitation on increases in an employer's  
70 contribution provided by subsection 6 of section 70.730 shall not apply to any  
71 contribution increase resulting from an employer electing to eliminate member  
72 contributions.

104.010. 1. The following words and phrases as used in sections 104.010  
2 to 104.800, unless a different meaning is plainly required by the context, shall  
3 mean:

4 (1) "Accumulated contributions", the sum of all deductions for retirement  
5 benefit purposes from a member's compensation which shall be credited to the  
6 member's individual account and interest allowed thereon;

7 (2) "Active armed warfare", any declared war, or the Korean or  
8 Vietnamese Conflict;

9 (3) "Actuarial equivalent", a benefit which, when computed upon the basis  
10 of [actuarial tables and interest] **specified actuarial assumptions approved**  
11 **by the board**, is equal in value to a certain amount or other benefit;

12           (4) "Actuarial tables", the actuarial tables approved and in use by a board  
13 at any given time;

14           (5) "Actuary", the actuary who is a member of the American Academy of  
15 Actuaries or who is an enrolled actuary under the Employee Retirement Income  
16 Security Act of 1974 and who is employed by a board at any given time;

17           (6) "Annuity", annual payments, made in equal monthly installments, to  
18 a retired member from funds provided for in, or authorized by, this chapter;

19           (7) "Annuity starting date", the first day of the first month with respect  
20 to which an amount is paid as an annuity under sections 104.010 to 104.800, and  
21 the terms retirement, time of retirement, and date of retirement shall mean  
22 annuity starting date as defined in this subdivision unless the context in which  
23 the term is used indicates otherwise;

24           (8) "Average compensation", the average compensation of a member for  
25 the thirty-six consecutive months of service prior to retirement when the  
26 member's compensation was greatest; or if the member is on workers'  
27 compensation leave of absence or a medical leave of absence due to an employee  
28 illness, the amount of compensation the member would have received may be  
29 used, as reported and verified by the employing department; or if the member had  
30 less than thirty-six months of service, the average annual compensation paid to  
31 the member during the period up to thirty-six months for which the member  
32 received creditable service when the member's compensation was the greatest; or  
33 if the member is on military leave, the amount of compensation the member  
34 would have received may be used as reported and verified by the employing  
35 department or, if such amount is not determinable, the amount of the employee's  
36 average rate of compensation during the twelve-month period immediately  
37 preceding such period of leave, or if shorter, the period of employment  
38 immediately preceding such period of leave. The board of each system may  
39 promulgate rules for purposes of calculating average compensation and other  
40 retirement provisions to accommodate for any state payroll system in which  
41 compensation is received on a monthly, semimonthly, biweekly, or other basis;

42           (9) "Beneficiary", any persons or entities entitled to or nominated by a  
43 member or retiree who may be legally entitled to receive benefits pursuant to this  
44 chapter;

45           (10) "Biennial assembly", the completion of no less than two years of  
46 creditable service or creditable prior service by a member of the general assembly;

47           (11) "Board of trustees", "board", or "trustees", a board of trustees as

48 established for the applicable system pursuant to this chapter;

49 (12) "Chapter", sections 104.010 to 104.800;

50 (13) "Compensation":

51 (a) All salary and wages payable out of any state, federal, trust, or other  
52 funds to an employee for personal services performed for a department; but  
53 including only amounts for which contributions have been made in accordance  
54 with section 104.436, or section 104.070, whichever is applicable, and excluding  
55 any nonrecurring single sum payments or amounts paid after the member's  
56 termination of employment unless such amounts paid after such termination are  
57 a final installment of salary or wages at the same rate as in effect immediately  
58 prior to termination of employment in accordance with a state payroll system  
59 adopted on or after January 1, 2000, or any other one-time payments made as a  
60 result of such payroll system;

61 (b) All salary and wages which would have been payable out of any state,  
62 federal, trust or other funds to an employee on workers' compensation leave of  
63 absence during the period the employee is receiving a weekly workers'  
64 compensation benefit, as reported and verified by the employing department;

65 (c) Effective December 31, 1995, compensation in excess of the limitations  
66 set forth in Internal Revenue Code Section 401(a)(17) shall be disregarded. The  
67 limitation on compensation for eligible employees shall not be less than the  
68 amount which was allowed to be taken into account under the system as in effect  
69 on July 1, 1993. For this purpose, an "eligible employee" is an individual who  
70 was a member of the system before the first plan year beginning after December  
71 31, 1995;

72 (14) "Consumer price index", the Consumer Price Index for All Urban  
73 Consumers for the United States, or its successor index, as approved by a board,  
74 as such index is defined and officially reported by the United States Department  
75 of Labor, or its successor agency;

76 (15) "Creditable prior service", the service of an employee which was  
77 either rendered prior to the establishment of a system, or prior to the date the  
78 employee last became a member of a system, and which is recognized in  
79 determining the member's eligibility and for the amount of the member's benefits  
80 under a system;

81 (16) "Creditable service", the sum of membership service and creditable  
82 prior service, to the extent such service is standing to a member's credit as  
83 provided in this chapter; except that in no case shall more than one day of

84 creditable service or creditable prior service be credited any member for any one  
85 calendar day of eligible service credit as provided by law;

86 (17) "Deferred normal annuity", the annuity payable to any former  
87 employee who terminated employment as an employee or otherwise withdrew  
88 from service with a vested right to a normal annuity, payable at a future date;

89 (18) "Department", any department or agency of the executive, legislative  
90 or judicial branch of the state of Missouri receiving state appropriations,  
91 including allocated funds from the federal government but not including any body  
92 corporate or politic unless its employees are eligible for retirement coverage from  
93 a system pursuant to this chapter as otherwise provided by law;

94 (19) "Disability benefits", benefits paid to any employee while totally  
95 disabled as provided in this chapter;

96 (20) "Early retirement age", a member's attainment of fifty-five years of  
97 age and the completion of ten or more years of creditable service, except for  
98 uniformed members of the water patrol;

99 (21) "Employee":

100 (a) Effective August 28, 2007, any elective or appointive officer or person  
101 employed by the state who is employed, promoted or transferred by a department  
102 into a new or existing position and earns a salary or wage in a position normally  
103 requiring the performance by the person of duties during not less than one  
104 thousand forty hours per year, including each member of the general assembly  
105 but not including any patient or inmate of any state, charitable, penal or  
106 correctional institution. However, persons who are members of the public school  
107 retirement system and who are employed by a state agency other than an  
108 institution of higher learning shall be deemed employees for purposes of  
109 participating in all insurance programs administered by a board established  
110 pursuant to section 104.450. This definition shall not exclude any employee as  
111 defined in this subdivision who is covered only under the federal Old Age and  
112 Survivors' Insurance Act, as amended. As used in this chapter, the term  
113 "employee" shall include:

114 a. Persons who are currently receiving annuities or other retirement  
115 benefits from some other retirement or benefit fund, so long as they are not  
116 simultaneously accumulating creditable service in another retirement or benefit  
117 system which will be used to determine eligibility for or the amount of a future  
118 retirement benefit;

119 b. Persons who have elected to become or who have been made members



120 of a system pursuant to section 104.342;

121 (b) Any person who is not a retiree and has performed services in the  
122 employ of the general assembly or either house thereof, or any employee of any  
123 member of the general assembly while acting in the person's official capacity as  
124 a member, and whose position does not normally require the person to perform  
125 duties during at least one thousand forty hours per year, with a month of service  
126 being any monthly pay period in which the employee was paid for full-time  
127 employment for that monthly period; except that persons described in this  
128 paragraph shall not include any such persons who are employed on or after  
129 August 28, 2007, and who have not previously been employed in such positions;

130 (c) "Employee" does not include special consultants employed pursuant to  
131 section 104.610;

132 (d) The system shall consider a person who is employed in multiple  
133 positions simultaneously within a single agency to be working in a single position  
134 for purposes of determining whether the person is an employee as defined in this  
135 subdivision;

136 (22) "Employer", a department of the state;

137 (23) "Executive director", the executive director employed by a board  
138 established pursuant to the provisions of this chapter;

139 (24) "Fiscal year", the period beginning July first in any year and ending  
140 June thirtieth the following year;

141 (25) "Full biennial assembly", the period of time beginning on the first day  
142 the general assembly convenes for a first regular session until the last day of the  
143 following year;

144 (26) "Fund", the benefit fund of a system established pursuant to this  
145 chapter;

146 (27) "Interest", interest at such rate as shall be determined and prescribed  
147 from time to time by a board;

148 (28) "Member", as used in sections 104.010 to 104.272 or 104.601 to  
149 104.800 shall mean an employee, retiree, or former employee entitled to a  
150 deferred annuity covered by the Missouri department of transportation and  
151 highway patrol employees' retirement system. "Member", as used in this section  
152 and sections 104.312 to 104.800, shall mean an employee, retiree, or former  
153 employee entitled to deferred annuity covered by the Missouri state employees'  
154 retirement system;

155 (29) "Membership service", the service after becoming a member that is

156 recognized in determining a member's eligibility for and the amount of a  
157 member's benefits under a system;

158       (30) "Military service", all active service performed in the United States  
159 Army, Air Force, Navy, Marine Corps, Coast Guard, and members of the United  
160 States Public Health Service or any women's auxiliary thereof; and service in the  
161 Army National Guard and Air National Guard when engaged in active duty for  
162 training, inactive duty training or full-time National Guard duty, and service by  
163 any other category of persons designated by the President in time of war or  
164 emergency;

165       (31) "Normal annuity", the annuity provided to a member upon retirement  
166 at or after the member's normal retirement age;

167       (32) "Normal retirement age", an employee's attainment of sixty-five years  
168 of age and the completion of four years of creditable service or the attainment of  
169 age sixty-five years of age and the completion of five years of creditable service  
170 by a member who has terminated employment and is entitled to a deferred  
171 normal annuity or the member's attainment of age sixty and the completion of  
172 fifteen years of creditable service, except that normal retirement age for  
173 uniformed members of the highway patrol shall be fifty-five years of age and the  
174 completion of four years of creditable service and uniformed employees of the  
175 water patrol shall be fifty-five years of age and the completion of four years of  
176 creditable service or the attainment of age fifty-five and the completion of five  
177 years of creditable service by a member of the water patrol who has terminated  
178 employment and is entitled to a deferred normal annuity and members of the  
179 general assembly shall be fifty-five years of age and the completion of three full  
180 biennial assemblies. Notwithstanding any other provision of law to the contrary,  
181 a member of the Missouri department of transportation and highway patrol  
182 employees' retirement system or a member of the Missouri state employees'  
183 retirement system shall be entitled to retire with a normal annuity and shall be  
184 entitled to elect any of the survivor benefit options and shall also be entitled to  
185 any other provisions of this chapter that relate to retirement with a normal  
186 annuity if the sum of the member's age and creditable service equals eighty years  
187 or more and if the member is at least forty-eight years of age;

188       (33) "Payroll deduction", deductions made from an employee's  
189 compensation;

190       (34) "Prior service credit", the service of an employee rendered prior to the  
191 date the employee became a member which service is recognized in determining



192 the member's eligibility for benefits from a system but not in determining the  
193 amount of the member's benefit;

194 (35) "Reduced annuity", an actuarial equivalent of a normal annuity;

195 (36) "Retiree", a member who is not an employee and who is receiving an  
196 annuity from a system pursuant to this chapter;

197 (37) "System" or "retirement system", the Missouri department of  
198 transportation and highway patrol employees' retirement system, as created by  
199 sections 104.010 to 104.270, or sections 104.601 to 104.800, or the Missouri state  
200 employees' retirement system as created by sections 104.320 to 104.800;

201 (38) "Uniformed members of the highway patrol", the superintendent,  
202 lieutenant colonel, majors, captains, director of radio, lieutenants, sergeants,  
203 corporals, and patrolmen of the Missouri state highway patrol who normally  
204 appear in uniform;

205 (39) "Uniformed members of the water patrol", employees of the Missouri  
206 state water patrol of the department of public safety who are classified as water  
207 patrol officers who have taken the oath of office prescribed by the provisions of  
208 chapter 306 and who have those peace officer powers given by the provisions of  
209 chapter 306;

210 (40) "Vesting service", the sum of a member's prior service credit and  
211 creditable service which is recognized in determining the member's eligibility for  
212 benefits under the system.

213 2. Benefits paid pursuant to the provisions of this chapter shall not exceed  
214 the limitations of Internal Revenue Code Section 415, the provisions of which are  
215 hereby incorporated by reference. Notwithstanding any other law to the contrary,  
216 the board of trustees may establish a benefit plan under Section 415(m) of the  
217 Internal Revenue Code of 1986, as amended. Such plan shall be created solely  
218 for the purposes described in Section 415(m)(3)(A) of the Internal Revenue Code  
219 of 1986, as amended. The board of trustees may promulgate regulations  
220 necessary to implement the provisions of this subsection and to create and  
221 administer such benefit plan.

104.090. 1. The normal annuity of a member shall equal one and  
2 six-tenths percent of the average compensation of the member multiplied by the  
3 number of years of creditable service of such member. In addition, the normal  
4 annuity of a uniformed member of the patrol shall be increased by thirty-three  
5 and one-third percent.

6 2. In addition, a uniformed member of the highway patrol who is retiring

7 with a normal annuity after attaining normal retirement age shall receive an  
8 additional sum of ninety dollars per month as a contribution by the system until  
9 such member attains the age of sixty-five years, when such contribution shall  
10 cease. To qualify for the contribution provided in this subsection by the system,  
11 the retired uniformed member of the highway patrol is made, constituted,  
12 appointed and employed by the board as a special consultant on the problems of  
13 retirement, aging and other state matters. Such additional contribution shall be  
14 reduced each month by such amount earned by the retired uniformed member of  
15 the highway patrol in gainful employment. In order to qualify for the additional  
16 contribution provided in this subsection, the retired uniformed member of the  
17 highway patrol shall have been:

18 (1) Hired by the Missouri state highway patrol prior to January 1, 1995;  
19 and

20 (2) Employed by the Missouri state highway patrol or receiving long-term  
21 disability or work-related disability benefits on the day before the effective date  
22 of the member's retirement.

23 3. In lieu of the annuity payable to the member pursuant to section  
24 104.100, a member whose age at retirement is forty-eight or more may elect in the  
25 member's application for retirement to receive one of the following:

26 Option 1.

27 An actuarial reduction approved by the board of the member's annuity in  
28 reduced monthly payments for life during retirement with the provision that upon  
29 the member's death the reduced annuity at date of death shall be continued  
30 throughout the life of, and be paid to, the member's spouse; or

31 Option 2.

32 The member's normal annuity in regular monthly payments for life during  
33 retirement with the provision that upon the member's death a survivor's benefit  
34 equal to one-half the member's normal annuity at date of death shall be paid to  
35 the member's spouse in regular monthly payments for life; or

36 Option 3.

37 An actuarial reduction approved by the board of the member's normal  
38 annuity in reduced monthly payments for the member's life with the provision  
39 that if the member dies prior to the member's having received one hundred  
40 twenty monthly payments of the member's reduced annuity, the member's  
41 reduced allowance to which the member would have been entitled had the  
42 member lived shall be paid for the remainder of the one hundred twenty-month

43 period to such beneficiary as the member shall have nominated by written  
44 designation duly executed and filed with the board. If there is no beneficiary  
45 surviving the retiree, the reserve for such allowance for the remainder of such one  
46 hundred twenty-month period shall be paid to the retiree's estate; or

47 Option 4.

48 An actuarial reduction approved by the board of the member's normal  
49 annuity in reduced monthly payments for the member's life with the provision  
50 that if the member dies prior to the member having received sixty monthly  
51 payments of the member's reduced annuity, the member's reduced allowance to  
52 which the member would have been entitled had the member lived shall be paid  
53 for the remainder of the sixty-month period to such beneficiary as the member  
54 shall have nominated by written designation duly executed and filed with the  
55 board. If there is no beneficiary surviving the retiree, the reserve for such  
56 allowance for the remainder of such sixty-month period shall be paid to the  
57 retiree's estate.

58 4. The election may be made only in the application for retirement, and  
59 such application shall be filed at least thirty days but not more than ninety days  
60 prior to the date on which the retirement of the member is to be effective,  
61 provided that if either the member or the spouse nominated to receive the  
62 survivorship payment dies before the effective date of retirement, the election  
63 shall not be effective. If after the reduced annuity commences, the spouse  
64 predeceases the retired member, the reduced annuity continues to the retired  
65 member during the member's lifetime.

66 5. Effective July 1, 2000, a member may make an election under option  
67 1 or 2 after the date retirement benefits are initiated if the member makes the  
68 election within one year from the date of marriage or July 1, 2000, whichever is  
69 later, under any of the following circumstances:

70 (1) The member elected to receive a normal annuity and was not eligible  
71 to elect option 1 or 2 on the date retirement benefits were initiated; or

72 (2) The member's annuity reverted to a normal annuity pursuant to  
73 subsection **7 of this section or subsection 7 or 8** of section 104.103 and the  
74 member remarried; or

75 (3) The member elected option 1 or 2 but the member's spouse at the time  
76 of retirement has died and the member has remarried.

77 6. Any person who terminates employment or retires prior to July 1, 2000,  
78 shall be made, constituted, appointed and employed by the board as a special

79 consultant on the problems of retirement, aging and other state matters, and for  
80 such services shall be eligible to elect to receive the benefits described in  
81 subsection 5 of this section.

82 7. For retirement applications filed on or after August 28, 2004, the  
83 beneficiary for either option 1 or option 2 of subsection 3 of this section shall be  
84 the member's spouse at the time of retirement. If the member's marriage ends  
85 after retirement as a result of a dissolution of marriage, such dissolution shall not  
86 affect the option election and the former spouse shall continue to be eligible to  
87 receive survivor benefits upon death of the member, **except a member may**  
88 **cancel his or her election if:**

89 (1) **The dissolution of marriage of the member and former spouse**  
90 **occurred on or after January 1, 2021, and the dissolution decree**  
91 **provides for sole retention by the member of all rights in the annuity**  
92 **and provides that the former spouse shall not be entitled to any**  
93 **survivor benefits pursuant to this chapter; or**

94 (2) **The dissolution of marriage of the member and former spouse**  
95 **occurred prior to January 1, 2021, and:**

96 (a) **The dissolution decree provided for the sole retention by the**  
97 **member of all rights in the annuity pursuant to this chapter, and the**  
98 **parties obtained an amended or modified dissolution decree after**  
99 **January 1, 2021, providing for immediate removal of the former spouse**  
100 **as the beneficiary entitled to survivor benefits to the satisfaction of the**  
101 **system; or**

102 (b) **The dissolution decree does not provide for the sole retention**  
103 **by the member of all rights in the annuity and the parties obtained an**  
104 **amended or modified dissolution decree after January 1, 2021, which**  
105 **provides for the sole retention by the member of all rights in the**  
106 **annuity and provides that the former spouse shall not be entitled to**  
107 **any survivor benefits pursuant to this chapter.**

108 **Upon meeting the requirements of subdivision (1) or (2) of this**  
109 **subsection, the monthly benefit payable for the lifetime of the member**  
110 **shall be the actuarial equivalent of the annuity payable pursuant to the**  
111 **provisions of option 1 or option 2 of subsection 3 of this section, as**  
112 **adjusted for early retirement if applicable. In no event shall the**  
113 **monthly benefit payable for the lifetime of the member be greater than**  
114 **the amount that would have been payable to the member under**  
115 **subsection 7 or 8 of section 104.103, whichever is applicable, had the**

116 **former spouse died on the date of the dissolution of marriage. Any**  
117 **increase in the annuity amount pursuant to this subsection shall be**  
118 **prospective and effective the first of the month following the date of**  
119 **receipt by the system of a certified copy of the dissolution decree that**  
120 **meets the requirements of this subsection.**

121 8. Any application for retirement shall only become effective on the first  
122 day of the month.

104.395. 1. In lieu of the normal annuity otherwise payable to a member  
2 pursuant to sections 104.335, 104.370, 104.371, 104.374, or 104.400, and prior to  
3 the last business day of the month before the annuity starting date pursuant to  
4 section 104.401, a member shall elect whether or not to have such member's  
5 normal annuity reduced as provided by the options set forth in this section;  
6 provided that if such election has not been made within such time, annuity  
7 payments due beginning on and after such annuity starting date shall be made  
8 the month following the receipt by the system of such election, and further  
9 provided, that if such person dies after such annuity starting date but before  
10 making such election, no benefits shall be paid except as required pursuant to  
11 section 104.420:

12 Option 1.

13 An actuarial reduction approved by the board of the member's annuity in  
14 reduced monthly payments for life during retirement with the provision that upon  
15 the member's death the reduced annuity at the date of the member's death shall  
16 be continued throughout the life of, and be paid to, the member's spouse to whom  
17 the member was married at the date of retirement and who was nominated by the  
18 member to receive such payments in the member's application for retirement or  
19 as otherwise provided pursuant to subsection 5 of this section. Such annuity  
20 shall be reduced in the same manner as an annuity under option 2 as in effect  
21 immediately prior to August 28, 1997. The surviving spouse shall designate a  
22 beneficiary to receive any final monthly payment due after the death of the  
23 surviving spouse; or

24 Option 2.

25 The member's normal annuity in regular monthly payments for life during  
26 the member's retirement with the provision that upon the member's death a  
27 survivor's benefit equal to one-half the member's annuity at the date of the  
28 member's death shall be paid to the member's spouse to whom the member was  
29 married at the date of retirement and who was nominated by the member to

30 receive such payments in the member's application for retirement or as otherwise  
31 provided pursuant to subsection 5 of this section, in regular monthly payments  
32 for life. The surviving spouse shall designate a beneficiary to receive any final  
33 monthly payment due after the death of the surviving spouse; or

34 Option 3.

35 An actuarial reduction approved by the board of the member's normal  
36 annuity in reduced monthly payments for the member's life with the provision  
37 that if the member dies prior to the member having received one hundred twenty  
38 monthly payments of the member's reduced annuity, the member's reduced  
39 annuity to which the member would have been entitled had the member lived  
40 shall be paid for the remainder of the one hundred twenty months' period to such  
41 beneficiary as the member shall have nominated by written designation duly  
42 executed and filed with the board. If there is no such beneficiary surviving the  
43 retirant, the reserve for such annuity for the remainder of such one hundred  
44 twenty months' period shall be paid as provided under subsection 3 of section  
45 104.620. If such beneficiary dies after the member's date of death but before  
46 having received the remainder of the one hundred twenty monthly payments of  
47 the retiree's reduced annuity, the reserve for such annuity for the remainder of  
48 such one hundred twenty-month period shall be paid as provided under  
49 subsection 3 of section 104.620; or

50 Option 4.

51 An actuarial reduction approved by the board of the member's normal  
52 annuity in reduced monthly payments for the member's life with the provision  
53 that if the member dies prior to the member having received sixty monthly  
54 payments of the member's reduced annuity, the member's reduced annuity to  
55 which the member would have been entitled had the member lived shall be paid  
56 for the remainder of the sixty months' period to such beneficiary as the member  
57 shall have nominated by written designation duly executed and filed with the  
58 board. If there be no such beneficiary surviving the retirant, the reserve for such  
59 annuity for the remainder of such sixty months' period shall be paid as provided  
60 under subsection 3 of section 104.620. If such beneficiary dies after the member's  
61 date of death but before having received the remainder of the sixty monthly  
62 payments of the retiree's reduced annuity, the reserve for such annuity for the  
63 remainder of the sixty-month period shall be paid as provided under subsection  
64 3 of section 104.620.

65 2. Effective July 1, 2000, if a member is married as of the annuity starting



66 date to a person who has been the member's spouse, the member's annuity shall  
67 be paid pursuant to the provisions of either option 1 or option 2 as set forth in  
68 subsection 1 of this section, at the member's choice, with the spouse as the  
69 member's designated beneficiary unless the spouse consents in writing to the  
70 member electing another available form of payment.

71         3. For members who retire on or after August 28, 1995, in the event such  
72 member elected a joint and survivor option pursuant to the provisions of this  
73 section and the member's eligible spouse or eligible former spouse precedes the  
74 member in death, the member's annuity shall revert effective the first of the  
75 month following the death of the spouse or eligible former spouse regardless of  
76 when the board receives the member's written application for the benefit provided  
77 in this subsection, to an amount equal to the member's normal annuity, as  
78 adjusted for early retirement if applicable; such benefit shall include any  
79 increases the member would have received since the date of retirement had the  
80 member elected a normal annuity. If a member dies prior to notifying the system  
81 of the spouse's death, the benefit will not revert to a normal annuity and no  
82 retroactive payments shall be made.

83         4. Effective on or after August 28, 1995, any retired member who had  
84 elected a joint and survivor option and whose spouse or eligible former spouse  
85 precedes or preceded the member in death shall upon application to the board be  
86 made, constituted, appointed and employed by the board as a special consultant  
87 on the problems of retirement, aging and other state matters. As a special  
88 consultant pursuant to the provisions of this section, the member's reduced  
89 annuity shall revert to a normal annuity as adjusted for early retirement, if  
90 applicable, effective the first of the month following the death of the spouse or  
91 eligible former spouse or August 28, 1995, whichever is later, if the member  
92 cancels the member's original joint and survivor election; such annuity shall  
93 include any increases the retired member would have received since the date of  
94 retirement had the member elected a normal annuity.

95         5. Effective July 1, 2000, a member may make an election under option  
96 1 or 2 after the date retirement benefits are initiated if the member makes such  
97 election within one year from the date of marriage or July 1, 2000, whichever is  
98 later, under any of the following circumstances:

99             (1) The member elected to receive a normal annuity and was not eligible  
100 to elect option 1 or 2 on the date retirement benefits were initiated; or

101             (2) The member's annuity reverted to a normal annuity pursuant to

102 subsection 3 [or], 4, or 9 of this section and the member remarried.

103           6. Any person who terminates employment or retires prior to July 1, 2000,  
104 shall be made, constituted, appointed and employed by the board as a special  
105 consultant on the problems of retirement, aging and other state matters, and for  
106 such services shall be eligible to elect to receive the benefits described in  
107 subsection 5 of this section.

108           7. Effective September 1, 2001, the retirement application of any member  
109 who fails to make an election pursuant to subsection 1 of this section within  
110 ninety days of the annuity starting date contained in such retirement application  
111 shall be nullified. Any member whose retirement application is nullified shall not  
112 receive retirement benefits until the member files a new application for  
113 retirement pursuant to section 104.401 and makes the election pursuant to  
114 subsection 1 of this section. In no event shall any retroactive retirement benefits  
115 be paid.

116           8. A member may change a member's election made under this section at  
117 any time prior to the system mailing or electronically transferring the first  
118 annuity payment to such member.

119           **9. If a member designates a spouse as a beneficiary pursuant to**  
120 **option 1 or option 2 of subsection 1 of this section and subsequently**  
121 **that marriage ends as a result of a dissolution of marriage, such**  
122 **dissolution shall not affect the option election pursuant to this section**  
123 **and the former spouse shall continue to be eligible to receive survivor**  
124 **benefits upon the death of the member, except a member may cancel his**  
125 **or her election if:**

126           **(1) The dissolution of marriage of the member and former spouse**  
127 **occurred on or after January 1, 2021, and the dissolution decree**  
128 **provides for sole retention by the member of all rights in the annuity**  
129 **and provides that the former spouse shall not be entitled to any**  
130 **survivor benefits pursuant to this chapter; or**

131           **(2) The dissolution of marriage of the member and former spouse**  
132 **occurred prior to January 1, 2021, and:**

133           **(a) The dissolution decree provided for the sole retention by the**  
134 **member of all rights in the annuity pursuant to this chapter and the**  
135 **parties obtained an amended or modified dissolution decree after**  
136 **January 1, 2021, providing for immediate removal of the former spouse**  
137 **as the beneficiary entitled to survivor benefits to the satisfaction of the**

138 system; or

139           **(b) The dissolution decree does not provide for the sole retention**  
140 **by the member of all rights in the annuity and the parties obtain an**  
141 **amended or modified dissolution decree after January 1, 2021, which**  
142 **provides for the sole retention by the member of all rights in the**  
143 **annuity and provides that the former spouse shall not be entitled to**  
144 **any survivor benefits pursuant to this chapter.**

145 Upon meeting the requirements of subdivision (1) or (2) of this  
146 subsection, the monthly benefit payable for the lifetime of the member  
147 shall be the actuarial equivalent of the annuity payable pursuant to the  
148 provisions of option 1 or option 2 of subsection 1 of this section, as  
149 adjusted for early retirement if applicable. In no event shall the  
150 monthly benefit payable for the lifetime of the member be greater than  
151 the amount that would have been payable to the member under  
152 subsection 3 or 4 of this section, whichever is applicable, had the  
153 former spouse died on the date of the dissolution of marriage. Any  
154 increase in the annuity amount shall be prospective and effective the  
155 first of the month following the date of receipt by the system of a  
156 certified copy of the dissolution decree that meets the requirements of  
157 this subsection.

104.1003. 1. Unless a different meaning is plainly required by the  
2 context, the following words and phrases as used in sections 104.1003 to 104.1093  
3 shall mean:

4           (1) "Act", the year 2000 plan created by sections 104.1003 to 104.1093;

5           (2) "Actuarial equivalent", **a benefit which, when computed upon**  
6 **the basis of specified actuarial assumptions approved by the board, is**  
7 **equal in value to a certain amount or other benefit;**

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

11           [(3)] (4) "Annuity", annual benefit amounts, paid in equal monthly  
12 installments, from funds provided for in, or authorized by, sections 104.1003 to  
13 104.1093;

14           [(4)] (5) "Annuity starting date" means the first day of the first month  
15 with respect to which an amount is paid as an annuity pursuant to sections  
16 104.1003 to 104.1093;

17           [(5)] **(6)** "Beneficiary", any persons or entities entitled to receive an  
18 annuity or other benefit pursuant to sections 104.1003 to 104.1093 based upon  
19 the employment record of another person;

20           [(6)] **(7)** "Board of trustees", "board", or "trustees", a governing body or  
21 bodies established for the year 2000 plan pursuant to sections 104.1003 to  
22 104.1093;

23           [(7)] **(8)** "Closed plan", a benefit plan created pursuant to this chapter  
24 and administered by a system prior to July 1, 2000. No person first employed on  
25 or after July 1, 2000, shall become a member of the closed plan, but the closed  
26 plan shall continue to function for the benefit of persons covered by and  
27 remaining in the closed plan and their beneficiaries;

28           [(8)] **(9)** "Consumer price index", the Consumer Price Index for All Urban  
29 Consumers for the United States, or its successor index, as approved by the  
30 board, as such index is defined and officially reported by the United States  
31 Department of Labor, or its successor agency;

32           [(9)] **(10)** "Credited service", the total credited service to a member's  
33 credit as provided in sections 104.1003 to 104.1093; except that in no case shall  
34 more than one day of credited service be credited to any member or vested former  
35 member for any one calendar day of eligible credit as provided by law;

36           [(10)] **(11)** "Department", any department or agency of the executive,  
37 legislative, or judicial branch of the state of Missouri receiving state  
38 appropriations, including allocated funds from the federal government but not  
39 including any body corporate or politic unless its employees are eligible for  
40 retirement coverage from a system pursuant to this chapter as otherwise provided  
41 by law;

42           [(11)] **(12)** "Early retirement eligibility", a member's attainment of  
43 fifty-seven years of age and the completion of at least five years of credited  
44 service;

45           [(12)] **(13)** "Effective date", July 1, 2000;

46           [(13)] **(14)** "Employee" shall be any person who is employed by a  
47 department and is paid a salary or wage by a department in a position normally  
48 requiring the performance of duties of not less than one thousand forty hours per  
49 year, provided:

50           (a) The term "employee" shall not include any patient or inmate of any  
51 state, charitable, penal or correctional institution, or any person who is employed  
52 by a department in a position that is covered by a state-sponsored defined benefit

53 retirement plan not created by this chapter;

54 (b) The term "employee" shall be modified as provided by other provisions  
55 of sections 104.1003 to 104.1093;

56 (c) The system shall consider a person who is employed in multiple  
57 positions simultaneously within a single agency to be working in a single position  
58 for purposes of determining whether the person is an employee as defined in this  
59 subdivision;

60 (d) Beginning September 1, 2001, the term "year" as used in this  
61 subdivision shall mean the twelve-month period beginning on the first day of  
62 employment;

63 (e) The term "employee" shall include any person as defined under  
64 paragraph (b) of subdivision (21) of subsection 1 of section 104.010 who is first  
65 employed on or after July 1, 2000, but prior to August 28, 2007;

66 [(14)] **(15)** "Employer", a department;

67 [(15)] **(16)** "Executive director", the executive director employed by a  
68 board established pursuant to the provisions of sections 104.1003 to 104.1093;

69 [(16)] **(17)** "Final average pay", the average pay of a member for the  
70 thirty-six full consecutive months of service before termination of employment  
71 when the member's pay was greatest; or if the member was on workers'  
72 compensation leave of absence or a medical leave of absence due to an employee  
73 illness, the amount of pay the member would have received but for such leave of  
74 absence as reported and verified by the employing department; or if the member  
75 was employed for less than thirty-six months, the average monthly pay of a  
76 member during the period for which the member was employed. The board of  
77 each system may promulgate rules for purposes of calculating final average pay  
78 and other retirement provisions to accommodate for any state payroll system in  
79 which pay is received on a monthly, semimonthly, biweekly, or other basis;

80 [(17)] **(18)** "Fund", a fund of the year 2000 plan established pursuant to  
81 sections 104.1003 to 104.1093;

82 [(18)] **(19)** "Investment return", or "interest", rates as shall be  
83 determined and prescribed from time to time by a board;

84 [(19)] **(20)** "Member", a person who is included in the membership of the  
85 system, as set forth in section 104.1009;

86 [(20)] **(21)** "Normal retirement eligibility", a member's attainment of at  
87 least sixty-two years of age and the completion of at least five or more years of  
88 credited service or, the attainment of at least forty-eight years of age with a total

89 of years of age and years of credited service which is at least eighty or, in the case  
90 of a member of the highway patrol who shall be subject to the mandatory  
91 retirement provisions of section 104.080, the mandatory retirement age and  
92 completion of five years of credited service or, the attainment of at least  
93 forty-eight years of age with a total of years of age and years of credited service  
94 which is at least eighty;

95        ~~[(21)]~~ **(22)** "Pay" shall include:

96        (a) All salary and wages payable to an employee for personal services  
97 performed for a department; but excluding:

98            a. Any amounts paid after an employee's employment is terminated,  
99 unless the payment is made as a final installment of salary or wages at the same  
100 rate as in effect immediately prior to termination of employment in accordance  
101 with a state payroll system adopted on or after January 1, 2000;

102            b. Any amounts paid upon termination of employment for unused annual  
103 leave or unused sick leave;

104            c. Pay in excess of the limitations set forth in Section 401(a)(17) of the  
105 Internal Revenue Code of 1986 as amended and other applicable federal laws or  
106 regulations;

107            d. Any nonrecurring single sum payments; and

108            e. Any amounts for which contributions have not been made in accordance  
109 with section 104.1066;

110        (b) All salary and wages which would have been payable to an employee  
111 on workers' compensation leave of absence during the period the employee is  
112 receiving a weekly workers' compensation benefit, as reported and verified by the  
113 employing department;

114        (c) All salary and wages which would have been payable to an employee  
115 on a medical leave due to employee illness, as reported and verified by the  
116 employing department;

117        (d) For purposes of members of the general assembly, pay shall be the  
118 annual salary provided to each senator and representative pursuant to section  
119 21.140, plus any salary adjustment pursuant to section 21.140;

120        ~~[(22)]~~ **(23)** "Retiree", a person receiving an annuity from the year 2000  
121 plan based upon the person's employment record;

122        ~~[(23)]~~ **(24)** "State", the state of Missouri;

123        ~~[(24)]~~ **(25)** "System" or "retirement system", the Missouri state  
124 employees' retirement system or the Missouri department of transportation and



125 highway patrol employees' retirement system, as the case may be;

126 [(25)] (26) "Vested former member", a person entitled to receive a  
127 deferred annuity pursuant to section 104.1036;

128           **[(26)] (27)** "Year 2000 plan", the benefit plan created by sections  
129 104.1003 to 104.1093.

2. Benefits paid under the provisions of this chapter shall not exceed the limitations of Internal Revenue Code Section 415, the provisions of which are hereby incorporated by reference. Notwithstanding any other law to the contrary, the board of trustees may establish a benefit plan under Section 415(m) of the Internal Revenue Code of 1986, as amended. Such plan shall be created solely for the purposes described in Section 415(m)(3)(A) of the Internal Revenue Code of 1986, as amended. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.

104.1027. 1. Prior to the last business day of the month before the annuity starting date, a member or a vested former member shall elect whether or not to have such member's or such vested former member's life annuity reduced, but not any temporary annuity which may be payable, and designate a beneficiary, as provided by the options set forth in this section; provided that if such election has not been made within such time, annuity payments due beginning on and after the month of the annuity starting date shall be made the month following the receipt by the appropriate system of such election and any other information required by the year 2000 plan created by sections 104.1003 to 104.1093, and further provided, that if such person dies after the annuity starting date but before making such election and providing such other information, no benefits shall be paid except as required pursuant to section 104.1030:

13 Option 1.

A retiree's life annuity shall be reduced to a certain percent of the annuity otherwise payable. Such percent shall be ninety percent adjusted as follows: if the retiree's age on the annuity starting date is younger than sixty-two years, an increase of three-tenths of one percent for each year the retiree's age is younger than age sixty-two years; and if the beneficiary's age is younger than the retiree's age on the annuity starting date, a decrease of three-tenths of one percent for each year of age difference; and if the retiree's age is younger than the beneficiary's age on the annuity starting date, an increase of three-tenths of one percent for each year of age difference; provided, after all adjustments the option

23 1 percent cannot exceed ninety-five percent. Upon the retiree's death, fifty  
24 percent of the retiree's reduced annuity shall be paid to such beneficiary who was  
25 the retiree's spouse on the annuity starting date or as otherwise provided by  
26 subsection 5 of this section.

27 Option 2.

28 A retiree's life annuity shall be reduced to a certain percent of the annuity  
29 otherwise payable. Such percent shall be eighty-three percent adjusted as  
30 follows: if the retiree's age on the annuity starting date is younger than sixty-two  
31 years, an increase of four-tenths of one percent for each year the retiree's age is  
32 younger than sixty-two years; and if the beneficiary's age is younger than the  
33 retiree's age on the annuity starting date, a decrease of five-tenths of one percent  
34 for each year of age difference; and if the retiree's age is younger than the  
35 beneficiary's age on the annuity starting date, an increase of five-tenths of one  
36 percent for each year of age difference; provided, after all adjustments the option  
37 2 percent cannot exceed ninety percent. Upon the retiree's death one hundred  
38 percent of the retiree's reduced annuity shall be paid to such beneficiary who was  
39 the retiree's spouse on the annuity starting date or as otherwise provided by  
40 subsection 5 of this section.

41 Option 3.

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

52 Option 4.

53 A retiree's life annuity shall be reduced to ninety percent of the annuity  
54 otherwise payable. If the retiree dies before having received one hundred eighty  
55 monthly payments, the reduced annuity shall be continued for the remainder of  
56 the one hundred eighty-month period to the retiree's designated beneficiary  
57 provided that if there is no beneficiary surviving the retiree, the present value of  
58 the remaining annuity payments shall be paid as provided under subsection 3 of

59 section 104.620. If the beneficiary survives the retiree but dies before receiving  
60 the remainder of such one hundred eighty monthly payments, the present value  
61 of the remaining annuity payments shall be paid as provided under subsection  
62 3 of section 104.620.

63 2. If a member is married as of the annuity starting date, the member's  
64 annuity shall be paid under the provisions of either option 1 or option 2 as set  
65 forth in subsection 1 of this section, at the member's choice, with the spouse as  
66 the member's designated beneficiary unless the spouse consents in writing to the  
67 member electing another available form of payment.

68 3. If a member has elected at the annuity starting date option 1 or 2  
69 pursuant to this section and if the member's spouse or eligible former spouse dies  
70 after the annuity starting date but before the member dies, then the member may  
71 cancel the member's election and return to the life annuity form of payment and  
72 annuity amount, effective the first of the month following the date of such  
73 spouse's or eligible former spouse's death. If a member dies prior to notifying the  
74 system of the spouse's death, the benefit will not revert to a life annuity and no  
75 retroactive payments shall be made.

76 4. If a member designates a spouse as a beneficiary pursuant to **option**  
77 **1 or option 2 of subsection 1 of** this section and subsequently that marriage  
78 ends as a result of a dissolution of marriage, such dissolution shall not affect the  
79 option election pursuant to this section and the former spouse shall continue to  
80 be eligible to receive survivor benefits upon the death of the member, **except a**  
81 **member may cancel his or her election if:**

82 (1) **The dissolution of marriage of the member and former spouse**  
83 **occurred on or after January 1, 2021, and the dissolution decree**  
84 **provides for sole retention by the member of all rights in the annuity**  
85 **and provides that the former spouse shall not be entitled to any**  
86 **survivor benefits pursuant to this chapter; or**

87 (2) **The dissolution of marriage of the member and former spouse**  
88 **occurred prior to January 1, 2021, and:**

89 (a) **The dissolution decree provided for the sole retention by the**  
90 **member of all rights in the annuity pursuant to this chapter, and the**  
91 **parties obtained an amended or modified dissolution decree after**  
92 **January 1, 2021, providing for immediate removal of the former spouse**  
93 **as the beneficiary entitled to survivor benefits to the satisfaction of the**  
94 **system; or**

95           **(b) The dissolution decree does not provide for the sole retention**  
96 **by the member of all rights in the annuity and the parties obtained an**  
97 **amended or modified dissolution decree after January 1, 2021, which**  
98 **provides for the sole retention by the member of all rights in the**  
99 **annuity and provides that the former spouse shall not be entitled to**  
100 **any survivor benefits pursuant to this chapter.**

101 **Upon meeting the requirements of subdivision (1) or (2) of this**  
102 **subsection, the monthly benefit payable for the lifetime of the member**  
103 **shall be the actuarial equivalent of the annuity payable pursuant to the**  
104 **provisions of option 1 or option 2 of subsection 1 of this section, as**  
105 **adjusted for early retirement if applicable. In no event shall the**  
106 **monthly benefit payable for the lifetime of the member be greater than**  
107 **the amount that would have been payable to the member under**  
108 **subsection 3 of this section, whichever is applicable, had the former**  
109 **spouse died on the date of the dissolution of marriage. Any increase in**  
110 **the annuity amount pursuant to this subsection shall be prospective**  
111 **and effective the first of the month following the date of receipt by the**  
112 **system of a certified copy of the dissolution decree that meets the**  
113 **requirements of this subsection.**

114           5. Effective July 1, 2000, a member may make an election under option  
115 1 or 2 after the annuity starting date as described in this section if the member  
116 makes such election within one year from the date of marriage or July 1, 2000,  
117 whichever is later, pursuant to any of the following circumstances:

118           (1) The member elected to receive a life annuity and was not eligible to  
119 elect option 1 or 2 on the annuity starting date; or

120           (2) The member's annuity reverted to a normal or early retirement  
121 annuity pursuant to subsection 3 **or** 4 of this section, and the member remarried.

122           6. Effective September 1, 2001, the retirement application of any member  
123 who fails to make an election pursuant to subsection 1 of this section within  
124 ninety days of the annuity starting date contained in such retirement application  
125 shall be nullified. Any member whose retirement application is nullified shall not  
126 receive retirement benefits until the member files a new application for  
127 retirement pursuant to section 104.1024 and makes the election pursuant to  
128 subsection 1 of this section. In no event shall any retroactive retirement benefits  
129 be paid.

130           7. A member may change a member's election made under this section at

131 any time prior to the system mailing or electronically transferring the first  
132 annuity payment to such member.

**104.1089. 1. In lieu of retirement annuity benefits otherwise  
2 payable under the closed plan or year 2000 plan by the Missouri state  
3 employees' retirement system, any member who is no longer an  
4 employee covered by the closed plan or year 2000 plan, is entitled to a  
5 deferred annuity from either such plan, and is employed in a position  
6 covered by a retirement plan provided in chapter 476 may make a one-  
7 time election to receive a lump sum payment equal to sixty percent, or  
8 a greater percentage determined by the board pursuant to section  
9 104.1063, of the present value of such member's deferred annuity.**

**10 2. Any such member making such election under subsection 1 of  
11 this section shall forfeit all such member's creditable or credited  
12 service and future rights to receive retirement annuity benefits or long  
13 term disability benefits from the Missouri state employees' retirement  
14 system under the closed plan or year 2000 plan. If such member  
15 subsequently becomes an employee in a position covered by the  
16 Missouri state employees' retirement system, such member shall be  
17 considered a new employee with no prior credited service and shall be  
18 subject to the provisions of section 104.1091.**

**169.020. 1. For the purpose of providing retirement allowances and other  
2 benefits for public school teachers, there is hereby created and established a  
3 retirement system which shall be a body corporate, shall be under the  
4 management of a board of trustees herein described, and shall be known as "The  
5 Public School Retirement System of Missouri". Such system shall, by and in such  
6 name, sue and be sued, transact all of its business, invest all of its funds, and  
7 hold all of its cash, securities, and other property. The system so created shall  
8 include all school districts in this state, except those in cities that had  
9 populations of four hundred thousand or more according to the latest United  
10 States decennial census, and such others as are or hereafter may be included in  
11 a similar system or in similar systems established by law and made operative;  
12 provided, that teachers in school districts of more than four hundred thousand  
13 inhabitants who are or may become members of a local retirement system may  
14 become members of this system with the same legal benefits as accrue to present  
15 members of such state system on the terms and under the conditions provided for  
16 in section 169.021. The system hereby established shall begin operations on the**

17 first day of July next following the date upon which sections 169.010 to 169.130  
18 shall take effect.

19         2. The general administration and the responsibility for the proper  
20 operation of the retirement system and for making effective the provisions of  
21 sections 169.010 to 169.141 are hereby vested in a board of trustees of seven  
22 persons as follows: four persons to be elected as trustees by the members and  
23 retired members of the public school retirement system created by sections  
24 169.010 to 169.141 and the public education employee retirement system created  
25 by sections 169.600 to 169.715; and three members appointed by the governor  
26 with the advice and consent of the senate. The first member appointed by the  
27 governor shall replace the commissioner of education for a term beginning August  
28 28, 1998. The other two members shall be appointed by the governor at the time  
29 each member's, who was appointed by the state board of education, term expires.

30         3. Trustees appointed and elected shall be chosen for terms of four years  
31 from the first day of July next following their appointment or election, except that  
32 one of the elected trustees shall be a member of the public education employee  
33 retirement system and shall be initially elected for a term of three years from  
34 July 1, 1991. The initial term of one other elected trustee shall commence on  
35 July 1, 1992.

36         4. Trustees appointed by the governor shall be residents of school districts  
37 included in the retirement system, but not employees of such districts or a state  
38 employee or a state elected official. At least one trustee so appointed shall be a  
39 retired member of the public school retirement system or the public education  
40 employee retirement system. Three elected trustees shall be members of the  
41 public school retirement system and one elected trustee shall be a member of the  
42 public education employee retirement system.

43         5. The elections of the trustees shall be arranged for, managed and  
44 conducted by the board of trustees of the retirement system.

45         6. If a vacancy occurs in the office of trustee, the vacancy shall be filled  
46 for the unexpired term in the same manner as the office was previously filled.

47         7. Trustees of the retirement system shall serve without compensation but  
48 they shall be reimbursed for expenses necessarily incurred through service on the  
49 board of trustees.

50         8. Each trustee shall be commissioned by the governor, and before  
51 entering upon the duties of the trustee's office, shall take and subscribe to an  
52 oath or affirmation to support the Constitution of the United States, and of the



53 state of Missouri and to demean himself or herself faithfully in the trustee's  
54 office. Such oath as subscribed to shall be filed in the office of secretary of state  
55 of this state.

56         9. Each trustee shall be entitled to one vote in the board of trustees. Four  
57 votes shall be necessary for a decision by the trustees at any meeting of the board  
58 of trustees. Unless otherwise expressly provided herein, a meeting need not be  
59 called or held to make any decision on a matter before the board. Each member  
60 must be sent by the executive director a copy of the matter to be decided with full  
61 information from the files of the board of trustees. The unanimous decision of  
62 four trustees may decide the issue by signing a document declaring their decision  
63 and sending such written instrument to the executive director of the board,  
64 provided that no other member of the board of trustees shall send a dissenting  
65 decision to the executive director of the board within fifteen days after such  
66 document and information was mailed to the trustee. If any member is not in  
67 agreement with four members the matter is to be passed on at a regular board  
68 meeting or a special meeting called for the purpose.

69         10. The board of trustees shall elect one of their number as chairman, and  
70 shall employ a full-time executive director, not one of their number, who shall be  
71 the executive officer of the board. Other employees of the board shall be chosen  
72 only upon the recommendation of the executive director.

73         11. The board of trustees shall employ an actuary who shall be its  
74 technical advisor on matters regarding the operation of the retirement system,  
75 and shall perform such duties as are essential in connection therewith, including  
76 the recommendation for adoption by the board of mortality and other necessary  
77 tables, and the recommendation of the level rate of contributions required for  
78 operation of the system.

79         12. As soon as practicable after the establishment of the retirement  
80 system, and annually thereafter, the actuary shall make a valuation of the  
81 system's assets and liabilities on the basis of such tables as have been adopted.

82         13. At least once in the three-year period following the establishment of  
83 the retirement system, and in each five-year period thereafter, the board of  
84 trustees shall cause to be made an actuarial investigation into the mortality,  
85 service, and compensation experience of the members and beneficiaries of the  
86 system, and shall make any changes in the mortality, service, and other tables  
87 then in use which the results of the investigation show to be necessary.

88         14. Subject to the limitations of sections 169.010 to 169.141 and 169.600

89 to 169.715, the board of trustees shall formulate and adopt rules and regulations  
90 for the government of its own proceedings and for the administration of the  
91 retirement system.

92       15. The board of trustees shall determine and decide all questions of  
93 doubt as to what constitutes employment within the meaning of sections 169.010  
94 to 169.141 and 169.600 to 169.715, the amount of benefits to be paid to members,  
95 retired members, beneficiaries and survivors and the amount of contributions to  
96 be paid by employer and employee. The executive director shall notify by  
97 certified mail both employer and member, retired member, beneficiary or survivor  
98 interested in such determination. Any member, retired member, beneficiary or  
99 survivor, district or employer adversely affected by such determination, at any  
100 time within thirty days after being notified of such determination, may appeal to  
101 the circuit court of Cole County. Such appeal shall be tried and determined anew  
102 in the circuit court and such court shall hear and consider any and all competent  
103 testimony relative to the issues in the case, which may be offered by either party  
104 thereto. The circuit court shall determine the rights of the parties under sections  
105 169.010 to 169.141 and 169.600 to 169.715 using the same standard provided in  
106 section 536.150, and the judgment or order of such circuit court shall be binding  
107 upon the parties and the board shall carry out such judgment or order unless an  
108 appeal is taken from such decision of the circuit court. Appeals may be had from  
109 the circuit court by the employer, member, retired member, beneficiary, survivor  
110 or the board, in the manner provided by the civil code.

111       16. The board of trustees shall keep a record of all its proceedings, which  
112 shall be open to public inspection. It shall prepare annually a comprehensive  
113 annual financial report, the financial section of which shall be prepared in  
114 accordance with applicable accounting standards and shall include the  
115 independent auditor's opinion letter. The report shall also include information  
116 on the actuarial status and the investments of the system. The reports shall be  
117 preserved by the executive director and made available for public inspection.

118       17. The board of trustees shall provide for the maintenance of an  
119 individual account with each member, setting forth such data as may be  
120 necessary for a ready determination of the member's earnings, contributions, and  
121 interest accumulations. It shall also collect and keep in convenient form such  
122 data as shall be necessary for the preparation of the required mortality and  
123 service tables and for the compilation of such other information as shall be  
124 required for the valuation of the system's assets and liabilities. **Except for**

125 **information pertaining to the salaries and benefits of the executive**  
126 **director and other employees of the board described under subsection**  
127 **10 of this section,** all individually identifiable information pertaining to  
128 members, retirees, beneficiaries and survivors shall be confidential.

129         18. The board of trustees shall meet regularly at least twice each year,  
130 with the dates of such meetings to be designated in the rules and regulations  
131 adopted by the board. Such other meetings as are deemed necessary may be  
132 called by the chairman of the board or by any four members acting jointly.

133         19. The headquarters of the retirement system shall be in Jefferson City,  
134 where suitable office space, utilities and other services and equipment necessary  
135 for the operation of the system shall be provided by the board of trustees and all  
136 costs shall be paid from funds of the system. All suits or proceedings directly or  
137 indirectly against the board of trustees, the board's members or employees or the  
138 retirement system established by sections 169.010 to 169.141 or 169.600 to  
139 169.715 shall be brought in Cole County.

140         20. The board may appoint an attorney or firm of attorneys to be the legal  
141 advisor to the board and to represent the board in legal proceedings, however, if  
142 the board does not make such an appointment, the attorney general shall be the  
143 legal advisor of the board of trustees, and shall represent the board in all legal  
144 proceedings.

145         21. The board of trustees shall arrange for adequate surety bonds covering  
146 the executive director. When approved by the board, such bonds shall be  
147 deposited in the office of the secretary of state of this state.

148         22. The board shall arrange for annual audits of the records and accounts  
149 of the system by a firm of certified public accountants.

150         23. The board by its rules may establish an interest charge to be paid by  
151 the employer on any payments of contributions which are delinquent. The rate  
152 charged shall not exceed the actuarially assumed rate of return on invested funds  
153 of the pertinent system.

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