

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1540**  
**98TH GENERAL ASSEMBLY**

4632H.03C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 285.100 and 285.105, RSMo, and to enact in lieu thereof three new sections relating to employee retirement or welfare plans, with a penalty provision.

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

Section A. Sections 285.100 and 285.105, RSMo, are repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 285.100, 285.105, and 285.115, to read as  
3 follows:

285.100. Any employer who promises in writing to make payments to an employee  
2 retirement **plan** or **employee** welfare plan, either by contract with an individual employee, by  
3 a collective bargaining agreement, or by agreement with the employee retirement **plan** or  
4 **employee** welfare plan, and who willfully fails to make the payment within sixty days after they  
5 become due and payable is guilty of a misdemeanor.

285.105. [The term "employee retirement or welfare plan", as defined in sections  
2 285.100 to 285.110, includes any plan, trust or fund established by an employer organization,  
3 or by an employer and a labor organization or by an employer and an employee organization, the  
4 funds for which are derived in whole or in part from contributions by employers, and which  
5 exists for the purpose of paying or providing for employees or their families or dependents  
6 medical or hospital care, recreation facilities, pensions, annuities, benefits on retirement or death  
7 or unemployment of beneficiaries, severance pay, compensation for injuries or illness, insurance  
8 to provide any of the foregoing, vacation or holiday benefits, apprenticeship training, or life  
9 insurance, disability or sickness or accident insurance.] **As used in sections 285.100 to 285.125,**  
10 **the following terms mean:**

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.

11           (1) "Actuary", an independent third party actuary, hired by the employee  
12 retirement plan, who is a member of the Society of Actuaries, the American Academy of  
13 Actuaries, or both;

14           (2) "Employee", any individual employed by an employer;

15           (3) "Employee organization", any labor union; any agency, organization, or  
16 employee representation committee, association, group, or plan in which employees  
17 participate and which exists for the purpose, in whole or in part, of dealing with employers  
18 concerning an employee retirement plan or employee welfare plan or other matters  
19 incidental to employment relationships; or any employees' beneficiary association  
20 organized for the purpose, in whole or in part, of establishing such a plan;

21           (4) "Employee retirement plan", any plan, trust, fund, or program:

22           (a) Established by an employer, by an employer and a labor organization, or by an  
23 employer and an employee organization;

24           (b) Whose funds are derived, in whole or in part, from contributions by employers;  
25 and

26           (c) That exists for the purpose of paying or providing for employees or their  
27 families or dependents benefits on retirement;

28           (5) "Employee welfare plan", any plan, trust, fund, or program:

29           (a) Established by an employer, by an employer and a labor organization, or by an  
30 employer and an employee organization;

31           (b) Whose funds are derived, in whole or in part, from contributions by employers;  
32 and

33           (c) That exists for the purpose of paying or providing for employees' or their  
34 families' or dependents' medical or hospital care, recreation facilities, severance pay,  
35 compensation for injuries or illness, insurance to provide any of the foregoing, vacation or  
36 holiday benefits, apprenticeship training, life insurance, or insurance for disability,  
37 sickness, or accident;

38           (6) "Employer", any person, group, or association acting directly as an employer  
39 or indirectly in the interest of an employer in relation to an employee retirement plan;

40           (7) "Labor organization", any organization that exists for the purpose, in whole or  
41 in part, of collective bargaining or of dealing with employers concerning grievances, terms  
42 or conditions of employment, or other mutual aid or protection in relation to employment;

43           (8) "Multiemployer Plan", any employee retirement plan or employee welfare plan  
44 that is maintained under one or more collective bargaining agreements to which more than  
45 one employer contributes;

46           **(9) "Participant", any current or former employee of an employer or current or**  
47 **former member of an employee organization who is or may become eligible to receive a**  
48 **benefit of any type, or whose beneficiaries may be eligible to receive such benefit, from an**  
49 **employee retirement plan or employee welfare plan that covers such employees or such**  
50 **members.**

**285.115. 1. Except as otherwise required by law, the administrator of any**  
2 **multiemployer retirement plan shall furnish annually to each participant of such plan and**  
3 **to each beneficiary receiving benefits under such plan a summary annual report**  
4 **conforming to the requirements of this section. Such report shall be furnished within nine**  
5 **months after the close of such plan year.**

6           **2. (1) The information used to complete the summary annual report shall be based**  
7 **on the most recent annual report of such plan, which is required to be filed in accordance**  
8 **with the Employee Retirement Income Security Act of 1974, as amended.**

9           **(2) The summary annual report shall contain the following information:**

10           **(a) A basic financial statement, including:**

11           **a. Who is providing benefits under such plan;**

12           **b. Plan expenses including administrative expenses, benefits paid to participants**  
13 **and beneficiaries, and any other expenses;**

14           **c. Total number of participants or beneficiaries of such plan at the end of the plan**  
15 **year; and**

16           **d. If such plan is funded other than solely by allocated insurance contracts, the**  
17 **following:**

18           **(i) The value of such plan's assets after subtracting liabilities as of the end of the**  
19 **plan year and as of the beginning of plan year;**

20           **(ii) Whether such plan experienced an increase or decrease in its net assets during**  
21 **the plan year; and**

22           **(iii) Such plan's total income, including employer contributions, employee**  
23 **contributions, gains or losses from the sale of assets, and earnings from investments; and**

24           **e. If such plan's funds are used to purchase allocated insurance contracts, the**  
25 **following:**

26           **(i) The name of the insurance carrier that allocates funds toward individual policies**  
27 **or group deferred annuities; and**

28           **(ii) The total premiums paid for the plan year;**

29           **(b) Minimum funding standards, including:**

30           **a. If such plan is a defined benefit plan:**

- 31           **(i) An actuary's statement showing whether enough money was contributed to such**  
32 **plan to keep it funded in accordance with the minimum funding standards under the**  
33 **Employee Retirement Income Security Act of 1974, as amended; and**
- 34           **(ii) The deficit amount, if applicable; or**
- 35           **b. If such plan is a defined contribution plan covered by funding requirements:**
- 36           **(i) An actuary's statement showing whether enough money was contributed to such**  
37 **plan to keep it funded in accordance with the minimum standards of the Employee**  
38 **Retirement Income Security Act of 1974, as amended; and**
- 39           **(ii) The deficit amount, if applicable; and**
- 40           **(c) Additional information, including:**
- 41           **a. An accountant's report;**
- 42           **b. Financial information and information on payments to service providers;**
- 43           **c. Assets held for investment;**
- 44           **d. Fiduciary information, including nonexempt transactions between such plan and**  
45 **parties-in-interest;**
- 46           **e. Loans or other obligations in default or classified as uncollectible;**
- 47           **f. Leases in default or classified as uncollectible;**
- 48           **g. Transactions in excess of five percent of such plan assets;**
- 49           **h. Insurance information, including sales commissions paid by insurance carriers;**
- 50           **i. Information regarding any common or collective trusts, pooled separate accounts,**  
51 **or master trusts in which such plan participates; and**
- 52           **j. Actuarial information regarding the funding of such plan.**

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