

FIRST EXTRAORDINARY SESSION

SENATE BILL NO. 1

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS CROWELL, SHIELDS, ENGLER, SCOTT AND DEMPSEY.

Read 1st time June 24, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

6001S.02I

AN ACT

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

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

Section A. Chapters 104 and 476, RSMo, are amended by adding thereto
2 eight new sections, to be known as sections 104.1091, 104.1500, 104.1502,
3 104.1504, 104.1506, 476.521, 476.527, and 476.529, to read as follows:

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

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

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

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

19 **(3) For statewide elected officials, the official's attainment of at
20 least age sixty-two and the completion of at least four years of credited**

21 service; or the official's attainment of at least age fifty-five with the
22 sum of the official's age and credited service equaling at least ninety.

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

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

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

40 6. The provisions of subsection 6 of section 104.1021 and section
41 104.344 as applied pursuant to subsection 7 of section 104.1021 and
42 section 104.1090 shall not apply to members covered by this section.

43 7. The minimum credited service requirements of five years
44 contained in sections 104.1018, 104.1030, 104.1036, and 104.1051 shall be
45 ten years for members covered by this section. The normal and early
46 retirement eligibility requirements in this section shall apply for
47 purposes of administering section 104.1087.

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

54 (1) The state of Missouri employer, pursuant to the provisions of
55 26 U.S.C. section 414(h)(2), shall pick up and pay the contributions that
56 would otherwise be payable by the member under this section. The
57 contributions so picked up shall be treated as employer contributions

58 for purposes of determining the member's pay that is includable in the
59 member's gross income for federal income tax purposes;

60 (2) Member contributions picked up by the employer shall be
61 paid from the same source of funds used for the payment of pay to a
62 member. A deduction shall be made from each member's pay equal to
63 the amount of the member's contributions picked up by the
64 employer. This deduction, however, shall not reduce the member's pay
65 for purposes of computing benefits under the retirement system
66 pursuant to this chapter;

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

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

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

81 (6) A vested former member or a former member who is not
82 vested may request a refund of his or her contributions and interest
83 credited thereon. If such member is married at the time of such
84 request, such request shall not be processed without consent from the
85 spouse. Such member is not eligible to request a refund if such
86 member's retirement benefit is subject to a division of benefit order
87 pursuant to section 104.1051. Such refund shall be paid by the system
88 after ninety days from the date of termination of employment or the
89 request, whichever is later, and shall include all contributions made to
90 any retirement plan administered by the system and interest credited
91 thereon. A vested former member may not request a refund after such
92 member becomes eligible for normal retirement. A vested former
93 member or a former member who is not vested who receives a refund
94 shall forfeit all the member's credited service and future rights to

95 receive benefits from the system and shall not be eligible to receive any
96 long term disability benefits; provided that any member or vested
97 former member receiving long term disability benefits shall not be
98 eligible for a refund. If such member subsequently becomes an
99 employee and works continuously for at least one year, the credited
100 service previously forfeited shall be restored if the member returns to
101 the system the amount previously refunded plus interest at a rate
102 established by the board;

103 (7) The beneficiary of any member who made contributions shall
104 receive a refund upon the member's death equal to the amount, if any,
105 of such contributions less any retirement benefits received by the
106 member unless an annuity is payable to a survivor or beneficiary as a
107 result of the member's death. In that event, the beneficiary of the
108 survivor or beneficiary who received the annuity shall receive a refund
109 upon the survivor's or beneficiary's death equal to the amount, if any,
110 of the member's contributions less any annuity amounts received by the
111 member and the survivor or beneficiary.

112 9. The employee contribution rate, the benefits provided under
113 the year 2000 plan, and any other provision of the year 2000 plan with
114 regard to members covered under this section may be altered,
115 amended, increased, decreased, or repealed, but only with respect to
116 services rendered by the member after the effective date of such
117 alteration, amendment, increase, decrease, or repeal, or, with respect
118 to interest credits, for periods of time after the effective date of such
119 alteration, amendment, increase, decrease, or repeal.

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

122 Option 1. A retiree's life annuity shall be reduced to a certain
123 percent of the annuity otherwise payable. Such percent shall be eighty-
124 eight and one half percent adjusted as follows: if the retiree's age on
125 the annuity starting date is younger than sixty-seven years, an increase
126 of three-tenths of one percent for each year the retiree's age is younger
127 than age sixty-seven years; and if the beneficiary's age is younger than
128 the retiree's age on the annuity starting date, a decrease of three-tenths
129 of one percent for each year of age difference; and if the retiree's age
130 is younger than the beneficiary's age on the annuity starting date, an
131 increase of three-tenths of one percent for each year of age difference;

132 provided, after all adjustments the option 1 percent cannot exceed
133 ninety-four and one quarter percent. Upon the retiree's death, fifty
134 percent of the retiree's reduced annuity shall be paid to such
135 beneficiary who was the retiree's spouse on the annuity starting date
136 or as otherwise provided by subsection 5 of this section.

137 **Option 2.** A retiree's life annuity shall be reduced to a certain
138 percent of the annuity otherwise payable. Such percent shall be eighty-
139 one percent adjusted as follows: if the retiree's age on the annuity
140 starting date is younger than sixty-seven years, an increase of four-
141 tenths of one percent for each year the retiree's age is younger than
142 sixty-seven years; and if the beneficiary's age is younger than the
143 retiree's age on the annuity starting date, a decrease of five-tenths of
144 one percent for each year of age difference; and if the retiree's age is
145 younger than the beneficiary's age on the annuity starting date, an
146 increase of five-tenths of one percent for each year of age difference;
147 provided, after all adjustments the option 2 percent cannot exceed
148 eighty-seven and three quarter percent. Upon the retiree's death one
149 hundred percent of the retiree's reduced annuity shall be paid to such
150 beneficiary who was the retiree's spouse on the annuity starting date
151 or as otherwise provided by subsection 5 of this section.

152 **Option 3.** A retiree's life annuity shall be reduced to ninety-three
153 percent of the annuity otherwise payable. If the retiree dies before
154 having received one hundred twenty monthly payments, the reduced
155 annuity shall be continued for the remainder of the one hundred
156 twenty-month period to the retiree's designated beneficiary provided
157 that if there is no beneficiary surviving the retiree, the present value
158 of the remaining annuity payments shall be paid as provided under
159 subsection 3 of section 104.620. If the beneficiary survives the retiree
160 but dies before receiving the remainder of such one hundred twenty
161 monthly payments, the present value of the remaining annuity
162 payments shall be paid as provided under subsection 3 of section
163 104.620.

164 **Option 4.** A retiree's life annuity shall be reduced to eighty-six
165 percent of the annuity otherwise payable. If the retiree dies before
166 having received one hundred eighty monthly payments, the reduced
167 annuity shall be continued for the remainder of the one hundred
168 eighty-month period to the retiree's designated beneficiary provided

169 that if there is no beneficiary surviving the retiree, the present value
170 of the remaining annuity payments shall be paid as provided under
171 subsection 3 of section 104.620. If the beneficiary survives the retiree
172 but dies before receiving the remainder of such one hundred eighty
173 monthly payments, the present value of the remaining annuity
174 payments shall be paid as provided under subsection 3 of section
175 104.620.

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

104.1500. 1. For the purpose of managing the investment of
2 assets of the retirement systems established by this chapter and any
3 systems authorized by section 104.1502, there is hereby created and
4 established an investment board, the "board", which shall be a body
5 corporate and an instrumentality of the state, which shall be under the
6 management and control of a board of trustees herein described, which
7 shall be known as the "Missouri State Retirement Investment
8 Board". The board shall be vested with the powers and duties specified
9 in sections 104.1500 to 104.1506 and such other powers as may be
10 necessary or proper to enable it, its officers, employees, and agents to
11 carry out fully and effectively all the purposes of sections 104.1500 to
12 104.1506.

13 2. The board shall not provide investment oversight or accept
14 responsibility for managing any assets until both the board of trustees
15 of the Missouri state employees' retirement system and of the Missouri
16 department of transportation and highway patrol employees'
17 retirement system irrevocably elect to transfer oversight and
18 management of the investment of assets managed by each retirement
19 system to the board. If the board of trustees of either system expressly
20 elects not to transfer such assets, then the powers and duties of the
21 board shall lapse, such assets shall not be transferred, and the board
22 shall not oversee or manage any funds.

23 3. The board shall consist of the executive directors of the
24 Missouri state employees' retirement system and the Missouri
25 department of transportation and highway patrol employees'
26 retirement system, and the commissioner of administration, all three
27 of whom shall be voting ex officio members of the board, and four
28 members appointed by the governor who shall not be state

29 employees. The two executive directors shall recommend eight persons
30 to the governor and the governor shall appoint four of those persons to
31 be members of the board. The first member appointed by the governor
32 shall serve initially for a one year term, the second member shall serve
33 initially for a two year term, the third member shall serve initially for
34 a three year term, and the fourth member shall serve initially for a four
35 year term. Subsequently, all such members shall serve four year
36 terms. Any vacancies occurring in the office of any such member
37 appointed by the governor shall be filled by the governor who shall
38 appoint a new member from a list of two persons recommended to the
39 governor by all board members. All persons recommended to the
40 governor as provided in this subsection shall have at least five years of
41 experience in banking or finance or the investment business in general,
42 including public investments, securities, or economics, which may
43 include teaching and research at the collegiate and university level
44 related to these subjects. The governor shall have the right to reject
45 any or all persons recommended by the executive directors or by the
46 board members. In the event the governor rejects any or all persons
47 recommended by the executive directors or by the board members, the
48 executive directors or the board members shall submit a list of two
49 persons, not previously recommended, for each position on the board
50 that remains vacant. This process shall continue until no position
51 remains vacant. All appointments made by the governor shall be
52 subject to the advice and consent of the senate.

53 4. The board shall elect by secret ballot one member as chairman
54 and one member as vice chairman during the first board meeting of
55 each year. The chairman shall preside over meetings of the board and
56 perform such other duties as may be required by action of the
57 board. The vice chairman shall perform the duties of the chairman in
58 the absence of the chairman or upon the chairman's inability or refusal
59 to act. The board shall employ a chief executive officer who shall also
60 serve as the chief investment officer. Other employees of the board
61 shall be chosen only upon the recommendation of the chief executive
62 officer.

63 5. The general administration of, and responsibility for the
64 proper operation of, the board, including staffing, is hereby vested in
65 the board. The Missouri state employees' retirement system and the

66 Missouri department of transportation and highway patrol employees'
67 retirement system may cause the transfer of any of their employees to
68 the board to provide initial staffing of the board, provided that neither
69 the executive director of Missouri state employees' retirement system
70 nor the executive director of the Missouri department of transportation
71 and highway patrol employees' retirement system shall be transferred
72 to the board. The Missouri state employees' retirement system and the
73 Missouri department of transportation and highway patrol employees'
74 retirement system shall, on an equitable basis, contribute initial capital
75 as necessary to cover all reasonable costs associated with the
76 establishment and implementation of the board.

77 6. No person who serves on the board or has served as a member
78 of the board or the board of trustees of the Missouri state employees'
79 retirement system or of the Missouri department of transportation and
80 highway patrol employees' retirement system may become an employee
81 of the board or work for or have a business relationship with any
82 service provider of the board until two years have expired after the
83 date of his or her resignation or termination as a member of the board.
84 No current or former member of the general assembly or statewide
85 elected official may become an employee of the board or work for or
86 have a business relationship with any service provider of the board
87 until five years have expired after the date of his or her resignation or
88 termination as a member of the general assembly or statewide elected
89 official.

90 7. Employees of the board shall receive such salaries and other
91 compensation, benefits, and reimbursements for necessary travel and
92 expenses as shall be determined by the board. All employees of the
93 board shall be both state employees and members of the Missouri state
94 employees' retirement system.

95 8. Any summons or other writ issued by the courts of the state
96 shall be served upon the board's chief executive officer or designee for
97 such purposes.

98 9. The board shall meet within the state of Missouri, at the time
99 and date set at a previously scheduled meeting or by the request of any
100 four members of the board. Notice of such meeting shall be delivered
101 to all other members of the board in person or by mail not less than ten
102 days prior to the date fixed for the meeting.

103 **10. Four members of the board shall constitute a quorum for the**
104 **transaction of business, and any official action of the board shall be**
105 **based on the majority vote of the members present. Unless otherwise**
106 **expressly provided in this section, a decision on a matter before the**
107 **board may be made by written consent without a meeting; provided the**
108 **chief executive officer delivers a written resolution to all the board**
109 **members with a thorough explanation of the matter to be decided with**
110 **full information regarding the matter from the records of the board,**
111 **and a quorum of members sign and return the written resolution to the**
112 **chief executive officer within seven days after the document and**
113 **information were sent to the members. If any member is not in**
114 **agreement and objects to the resolution in writing to the chief**
115 **executive officer, the matter shall be decided at a regular board**
116 **meeting or a special meeting called for that purpose.**

117 **11. The members of the board shall serve without compensation**
118 **but shall be reimbursed for their necessary expenses incurred in the**
119 **performance of their duties for the board.**

120 **12. Duties performed for the board by any member of the board**
121 **who is a state employee shall be considered duties in connection with**
122 **the regular employment of the individual by another agency or**
123 **instrumentality of the state, and he or she shall suffer no loss in**
124 **regular compensation by reason of the performance of such duties.**

125 **13. In the event any member of the board, other than an ex**
126 **officio member, fails to attend three consecutive meetings of the board,**
127 **unless excused for cause at the third meeting and each consecutive**
128 **meeting thereafter, by the members attending such meetings, the**
129 **member shall be considered to have resigned from the board and the**
130 **board shall declare such member's office vacated. The vacancy shall be**
131 **filled in the same manner as described in subsection 2 of this section.**

132 **14. The board shall keep a complete record of its proceedings,**
133 **which shall be open at all reasonable hours to the inspection of the**
134 **public pursuant to chapter 610.**

135 **15. Subject to the limitations of law, the board shall formulate**
136 **and adopt rules and regulations for the governance of its own**
137 **proceedings and for the administration of the board, including board**
138 **rules as may be necessary to administer the board in accordance with**
139 **applicable Internal Revenue Code provisions and regulations. The**

140 board is authorized to promulgate rules to properly administer the
141 board and govern its own proceedings and to hold hearings as required
142 by law. The term "agency" and the term "state agency", as defined by
143 section 536.010, shall not include the board with regard to the
144 promulgation of rules or hearings required by law, provided the board
145 has established written procedures to assure that constitutionally
146 required due process safeguards exist and apply to the promulgation
147 of a rule or regulation that would otherwise constitute a "rule", as
148 defined in section 536.010, and to a proceeding that would otherwise
149 constitute a "contested case" as defined in section 536.010. The board
150 may delegate a hearing officer to hear all matters wherein a hearing is
151 required by law.

152 16. The accounts and records of any retirement system or plan
153 whose assets are managed by the board shall be open to inspection by
154 the board and its agents for the purpose of obtaining information
155 necessary in the performance of the duties of the board under sections
156 104.1500 to 104.1506.

157 17. The board shall have the power to subpoena witnesses or
158 obtain the production of records when necessary for the performance
159 of its duties.

160 18. Subject to the provisions of the constitution and sections
161 104.1500 to 104.1506, the board shall have exclusive jurisdiction and
162 control over the funds and property managed by the board.

163 19. No member of the board, employee of the board, or their
164 immediate family members shall receive any personal monetary gain
165 or profit from any funds managed by or transaction made by the board.

166 20. Any member of the board or employee of the board accepting
167 any gratuity or compensation for the purpose of influencing his or her
168 action with respect to the investment of the funds managed by the
169 board shall thereby forfeit his or her office and may be subject to
170 criminal penalties. The board shall establish a code of conduct policy
171 for the board and for officers and employees and, at a minimum, the
172 policy shall address conflicts of interest, prohibit the acceptance of
173 items of value by the board or employees of the board from any current
174 or prospective service provider in connection with any purchasing,
175 hiring or firing decision made by the board or employees of the board,
176 and require notice be provided to all external service providers that a

177 violation of this policy may lead to termination of employment or
178 prohibition from hiring.

179 21. Board financial statements shall be issued in accordance with
180 generally accepted accounting principles covering the operations of the
181 board for the fiscal year ending June thirtieth which shall each year be
182 delivered to the governor and the board of each retirement system or
183 plan for which assets are managed by the board.

184 22. The board shall have a seal bearing the inscription "Missouri
185 State Retirement Investment Board", which shall be in the custody of
186 its chief executive officer. The courts of this state shall take judicial
187 notice of the seal; and all copies of records, books, and written
188 instruments which are kept in the office of the board and are certified
189 by the chief executive officer under the seal shall be proved or
190 admitted in any court or proceeding as provided by section 109.130.

191 23. The board shall arrange for annual audits in accordance with
192 generally accepted auditing standards of the records and accounts of
193 the board to be conducted by an independent auditor retained by the
194 board. The state auditor may audit the board once every three years
195 and report to the board and the governor.

196 24. The board may select and employ service providers including
197 but not limited to legal counsel, auditors, and actuaries as it deems
198 appropriate to properly carry out the purposes of the board.

199 25. The board may sue and be sued in its official name, but the
200 officers and employees of the board shall not be personally liable for
201 acts of the board. The board may indemnify, protect, defend, and hold
202 harmless the members of the board, and the officers and employees of
203 the board, against all claims and suits for negligent or wrongful acts
204 alleged to have been committed in the scope of their service or
205 employment or under the direction of the members of the board or the
206 chief executive officer, provided that the members of the board, and the
207 officers and employees of the board, shall not be indemnified for willful
208 misconduct. The board is authorized to insure against loss or liability
209 of the members of the board, and the officers and employees of the
210 board, that may result from claims and suits for negligent or wrongful
211 acts alleged to have been committed in the scope of their service or
212 employment or under the direction of the members of the board or the
213 chief executive officer. This insurance shall be carried through a

214 company that is licensed to write such coverage in this state. The
215 service of all legal process and of all notices which may be required to
216 be in writing, whether in legal proceedings or otherwise, shall be made
217 on the chief executive officer or, in his or her absence, on the chief
218 executive officer's designee at his or her office. Nothing in this
219 subsection shall be construed to waive sovereign immunity to the
220 extent provided by law.

221 26. In the event the Internal Revenue Service determines that
222 any retirement system or plan is not a qualified plan within the
223 meaning of Section 401(a) of the Internal Revenue Code, and if such
224 retirement system or plan is not amended so as to qualify under such
225 section within the period of time permitted by law for retroactive
226 amendment of such plan, then the board may segregate the assets of
227 such plan and withdraw the assets from the trust and hold such assets
228 in a separate trust under all of the terms of sections 104.1500 to
229 104.1506.

104.1502. 1. Notwithstanding any law to the contrary, if the
2 board of trustees of the Missouri state employees' retirement system
3 and of the Missouri department of transportation and highway patrol
4 employees' retirement system make the election provided for in section
5 104.1500, the board shall provide investment oversight and management
6 of all investment assets of all retirement plans administered by the
7 Missouri state employees' retirement system or the Missouri
8 department of transportation and highway patrol employees'
9 retirement system subject to the transition provisions provided in
10 sections 104.1500 to 104.1506. Any public employee retirement system
11 or plan in the state, other than the Missouri local government
12 employees retirement system, the public school retirement system of
13 Missouri, the public education employee retirement system of Missouri,
14 the retirement system created in section 169.420, the retirement system
15 created in section 169.280, any retirement plan established by the bi-
16 state development agency, or any retirement plan established by the
17 regional investment district which is created under sections 70.515 to
18 70.540, may apply to the board to provide investment oversight and
19 management of all investment assets of the retirement system or plan
20 upon the approval of such retirement system or plan and of the board
21 and subject to a mutually approved written agreement. The assets

22 managed by the board may include the assets of any defined benefit
23 plan, defined contribution plan, deferred compensation plan, or public
24 employee medical plan of the state or political subdivision, unless
25 otherwise prohibited by this subsection.

26 2. Notwithstanding section 104.1205 and section 105.915, the
27 board shall administer the deferred compensation fund for the
28 employees of the state of Missouri and the defined contribution plan
29 established by section 104.1205.

104.1504. 1. All assets managed by the board for each respective
2 retirement system or plan shall be held by the board as trustee in a
3 trust for each such retirement system or plan for the exclusive benefit
4 of the participants of such retirement system or plan. Such assets shall
5 not be subject to execution, garnishment, attachment, writ of
6 sequestration, or any other claim or process whatsoever, and shall be
7 unassignable.

8 2. All moneys received by the board from or for the account of
9 a retirement system or plan shall be deposited in one or more banks or
10 trust companies for the credit of the trust maintained for such
11 retirement system or plan. No such money shall be deposited in or be
12 retained by any bank or trust company which does not have on deposit
13 with and for the board at the time the kind and value of collateral
14 required by sections 30.240 and 30.270 for depositaries of the state
15 treasurer. The chief executive officer shall be responsible for all funds,
16 securities, and property belonging to each retirement system or plan,
17 and shall obtain such corporate surety bond for the faithful handling
18 of the same as the board shall require.

19 3. The board shall have the power, in the name and on behalf of
20 the board, to purchase, acquire, hold, invest, lend, lease, sell, assign,
21 transfer, and dispose of all property, rights, and securities, and enter
22 into written contracts, all as may be necessary or proper to carry out
23 the purposes of sections 104.1500 to 104.1506.

24 4. The board shall invest the funds of each retirement system
25 held by the board as trustee, as permitted by sections 105.687 to
26 105.689. The board may delegate to employees of the board, or to an
27 agent, functions that a prudent trustee acting in a like capacity and
28 familiar with those matters could properly delegate.

29 5. The board may deliberate about, or make tentative or final

30 decisions on, investments or other financial matters in executive
31 session if disclosure of the deliberations or decisions would jeopardize
32 the ability to implement a decision or to achieve investment objectives.
33 A record of the board that discloses proprietary investment information
34 or deliberations about, or a tentative or final decision on, investments
35 or other financial matters is not a public record under chapter 610 to
36 the extent and so long as its disclosure would jeopardize the ability to
37 implement a decision, to achieve investment objectives, or cause the
38 board to be in violation of an agreement not to disclose proprietary
39 information.

40 6. The board may invest the assets of any retirement system or
41 plan in a collective trust fund established or maintained by the
42 board. Any trust assets so transferred and any subsequent transfers
43 and contributions of the retirement systems or plans together with
44 proceeds and reinvestments thereof may be invested as a single pool
45 with appropriate accounting to identify the proportionate interests of
46 the retirement systems and plans in particular assets, asset sub-pools,
47 or asset classes. The assets held in such a collective trust fund shall be
48 held in one or more separate retirement benefit trusts for the exclusive
49 purpose of satisfying the obligations of each respective retirement
50 system or plan to pay retirement and other benefits pursuant to
51 applicable laws or plan documents and paying administrative expenses
52 associated with satisfying such obligations. At no time shall any part
53 of a retirement benefit trust held by the board be used for or diverted
54 to any purpose other than for the exclusive purpose of satisfying the
55 respective obligations of the retirement systems or plans and paying
56 administrative expenses associated with satisfying such
57 obligations. The board shall establish trust management agreements or
58 trust instruments that set forth the terms and conditions for holding,
59 managing, and distributing assets contributed by the respective
60 retirement systems or plans.

61 7. Participating retirement systems or plans shall transfer to the
62 board of trustees all appropriate securities and cash. All assets
63 transferred to the board shall be held in a trust and valued at their
64 current market value as determined by the board, including accrued
65 interest. The board shall establish and maintain account units to
66 determine the share of each retirement system or plan in the trust, and

67 in each investment account, if applicable.

68 8. The board shall maintain appropriate accounting records for
69 each participating retirement system or plan. The records shall reflect
70 the number of units in the combined investment funds owned by each
71 retirement system or plan. No certificates or other evidence of
72 ownership shall be required. As of each valuation date, or as often as
73 the board determines, each retirement system or plan shall be informed
74 of the number of units owned and the current value of the
75 units. Annually, the board shall provide each participating retirement
76 system or plan with financial statements prepared in accordance with
77 generally accepted accounting principles reflecting their participation
78 in the board.

79 9. The estimated administrative and investment expenses
80 incurred by the board shall be apportioned among the retirement
81 systems and plans and debited to each of the respective retirement
82 systems or funds on a quarterly basis. A reconciliation of the actual
83 expenses compared to the estimated costs shall occur at the end of each
84 fiscal year with any surplus or deficit being credited or debited to each
85 of the respective retirement systems or funds. The board shall present
86 a statement of expenses to each retirement system or plan at the end
87 of each quarter during each fiscal year.

88 10. Each retirement system or plan shall during the transition as
89 described in section 104.1506 and from time to time thereafter, transfer
90 to the board for investment those portions of the assets of the
91 retirement system or plan which in the judgment of those retirement
92 systems or plans are not required for immediate use. Upon acceptance
93 and transfer of such assets to the board, the retirement system or plan
94 shall be without liability for the management of such assets by the
95 board. When trust assets are transferred back or paid to the retirement
96 system or plan by the board, the board shall have no further liability
97 for the management of such assets.

98 11. The board shall not be responsible for the calculation or
99 collection of any contribution under or required by the retirement
100 systems or plans, but shall be responsible only for property received by
101 it pursuant to sections 104.1500 to 104.1506.

102 12. The board shall, from time to time, on written directions of
103 the executive director, chief executive officer, or designee of a

104 retirement system or plan, make payments out of the trust of such
105 retirement system or plan to such persons in such amounts and for
106 such purposes as may be specified in the directions of such executive
107 director, chief executive officer, or designee. The board shall not be
108 responsible for whether such payments are authorized or proper under
109 the governing document or other authority of such retirement system
110 or plan, but may rely on the instructions of the executive director, chief
111 executive officer, or designee of each respective retirement system or
112 plan.

113 13. The board shall not be liable for the proper application of
114 any part of any trust if distributions or transfers are made in
115 accordance with the written directions of the executive director, chief
116 executive officer, or designee of the retirement system or plan, nor
117 shall the board be responsible for the adequacy of the trust fund of a
118 retirement system or plan to satisfy any and all payments and
119 liabilities under the plan. The board shall not be liable for any
120 payment made pursuant to the direction of the executive director, chief
121 executive officer, or designee of the retirement system or plan. Any
122 written direction of the executive director, chief executive officer, or
123 designee of the retirement system or plan shall constitute a
124 certification that the distribution or payment so directed is one which
125 the executive director, chief executive officer, or designee of the
126 retirement system or plan or its designated representative is
127 authorized to direct. The board shall be under no liability for making
128 any distribution or transfer pursuant to the direction of the executive
129 director, chief executive officer, or designee of a retirement system or
130 plan, including amounts withheld pursuant to the previous section, and
131 shall be under no duty to make or inquire regarding whether any
132 distribution or transfer directed by the executive director, chief
133 executive officer, or designee of a retirement system or plan is made
134 pursuant to the plan provisions.

104.1506. There shall be a transition period after the board of
2 trustees of the Missouri state employees' retirement system and the
3 Missouri department of transportation and highway patrol employees'
4 make the election provided for in section 104.1500 during which time
5 assets of the Missouri state employees' retirement system and the
6 Missouri department of transportation and highway patrol employees'

7 retirement system shall be transferred to the board as provided in
8 sections 104.1500 to 104.1506. The responsibility to manage assets shall
9 remain with the retirement systems or plans until such time as those
10 assets are transferred to the board.

476.521. 1. Notwithstanding any provision of chapter 476 to the
2 contrary, each person who first becomes a judge on or after January 1,
3 2011, and continues to be a judge may receive benefits as provided in
4 sections 476.445 to 476.688 subject to the provisions of this section.

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

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

34 equal to the proportion of the retirement compensation provided in
35 section 476.530 that his or her period of judicial service bears to twenty
36 years.

37 4. All judges under this section required by the provisions of
38 section 26 of article V of the Constitution of Missouri to retire at the
39 age of seventy years shall retire upon reaching that age.

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

42 6. A judge shall be required to contribute four percent of the
43 judge's compensation to the retirement system, which shall stand to the
44 judge's credit in his or her individual account with the system, together
45 with investment credits thereon, for purposes of funding retirement
46 benefits payable as provided in sections 476.515 to 476.565, subject to
47 the following provisions:

48 (1) The state of Missouri employer, pursuant to the provisions of
49 26 U.S.C. section 414(h)(2), shall pick up and pay the contributions that
50 would otherwise be payable by the judge under this section. The
51 contributions so picked up shall be treated as employer contributions
52 for purposes of determining the judge's compensation that is includable
53 in the judge's gross income for federal income tax purposes;

54 (2) Judge contributions picked up by the employer shall be paid
55 from the same source of funds used for the payment of compensation
56 to a judge. A deduction shall be made from each judge's compensation
57 equal to the amount of the judge's contributions picked up by the
58 employer. This deduction, however, shall not reduce the judge's
59 compensation for purposes of computing benefits under the retirement
60 system pursuant to this chapter;

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

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

70 (5) Interest shall be credited annually on June 30 based on the

71 value in the account as of July 1 of the immediately preceding year at
72 a rate of four percent. Interest credits shall cease upon retirement of
73 the judge;

74 (6) A judge whose employment is terminated may request a
75 refund of his or her contributions and interest credited thereon. If
76 such judge is married at the time of such request, such request shall
77 not be processed without consent from the spouse. A judge is not
78 eligible to request a refund if the judge's retirement benefit is subject
79 to a division of benefit order pursuant to section 104.312. Such refund
80 shall be paid by the system after ninety days from the date of
81 termination of employment or the request, whichever is later and shall
82 include all contributions made to any retirement plan administered by
83 the system and interest credited thereon. A judge may not request a
84 refund after such judge becomes eligible for retirement benefits under
85 sections 476.515 to 476.565. A judge who receives a refund shall forfeit
86 all the judge's service and future rights to receive benefits from the
87 system and shall not be eligible to receive any long term disability
88 benefits; provided that any judge or former judge receiving long term
89 disability benefits shall not be eligible for a refund. If such judge
90 subsequently becomes a judge and works continuously for at least one
91 year, the service previously forfeited shall be restored if the judge
92 returns to the system the amount previously refunded plus interest at
93 a rate established by the board;

94 (7) The beneficiary of any judge who made contributions shall
95 receive a refund upon the judge's death equal to the amount, if any, of
96 such contributions less any retirement benefits received by the judge
97 unless an annuity is payable to a survivor or beneficiary as a result of
98 the judge's death. In that event, the beneficiary of the survivor or
99 beneficiary who received the annuity shall receive a refund upon the
100 survivor's or beneficiary's death equal to the amount, if any, of the
101 judge's contributions less any annuity amounts received by the judge
102 and the survivor or beneficiary.

103 7. The employee contribution rate, the benefits provided under
104 sections 476.515 to 476.565, and any other provision of sections 476.515
105 to 476.565 with regard to judges covered under this section may be
106 altered, amended, increased, decreased, or repealed, but only with
107 respect to services rendered by the judge after the effective date of

108 such alteration, amendment, increase, decrease, or repeal, or, with
109 respect to interest credits, for periods of time after the effective date
110 of such alteration, amendment, increase, decrease, or repeal.

476.527. Any judge who is receiving retirement compensation
2 under section 476.530 who becomes employed on or after January 1,
3 2011, as an employee eligible to participate in the year 2000 plan under
4 chapter 104, shall not receive such retirement compensation for any
5 calendar month in which the retired judge is so employed. Any judge
6 who is receiving retirement compensation under section 476.530 who
7 subsequently serves as a judge as defined pursuant to subdivision (4)
8 of subsection 1 of section 476.515 shall not receive such retirement
9 compensation for any calendar month in which the retired judge is
10 serving as a judge; except that upon retirement such judge's annuity
11 shall be recalculated to include any additional service or salary
12 accrued based on the judge's subsequent service. A judge who is
13 receiving compensation under section 476.530 may continue to receive
14 such retirement compensation while serving as a senior judge or senior
15 commissioner and shall receive additional credit and salary for such
16 service pursuant to section 476.682.

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

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

19 percent of the judge's reduced annuity shall be paid to such beneficiary
20 who was the judge's spouse on the annuity starting date or as otherwise
21 provided by subsection 5 of this section.

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

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

50 **Option 4.** A judge's life annuity shall be reduced to eighty-six
51 percent of the annuity otherwise payable. If the judge dies before
52 having received one hundred eighty monthly payments, the reduced
53 annuity shall be continued for the remainder of the one hundred
54 eighty-month period to the judge's designated beneficiary provided that
55 if there is no beneficiary surviving the judge, the present value of the

56 remaining annuity payments shall be paid as provided under
57 subsection 4 of section 104.1054 as if the judge was a deceased member
58 under that section. If the beneficiary survives the judge but dies before
59 receiving the remainder of such one hundred eighty monthly payments,
60 the present value of the remaining annuity payments shall be paid as
61 provided under subsection 4 of section 104.1054 for a deceased
62 beneficiary under that section.

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

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

78 4. If a judge designates a spouse as a beneficiary pursuant to this
79 section and subsequently that marriage ends as a result of a dissolution
80 of marriage, such dissolution shall not affect the option election
81 pursuant to this section and the former spouse shall continue to be
82 eligible to receive survivor benefits upon the death of the judge.

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

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

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

92 6. A judge may change a judge's election made under this section

93 at any time prior to the system mailing or electronically transferring
94 the first annuity payment to such member.

✓

Unofficial

Bill

Copy