

FIRST EXTRAORDINARY SESSION

[P E R F E C T E D]

# SENATE BILL NO. 1

95TH GENERAL ASSEMBLY

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

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

Read 2nd time June 25, 2010, and referred to the Committee on Veterans' Affairs, Pensions and Urban Affairs.

Reported from the Committee June 29, 2010, with recommendation that the bill do pass.

Taken up for Perfection July 1, 2010. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

6001S.02P

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## AN ACT

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

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*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 seven new sections, to be known as sections 104.1091, 104.1500, 104.1502,  
3 104.1504, 104.1506, 476.521, 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 to members covered under this section, and any  
114 other provision of the year 2000 plan with regard to members covered  
115 under this section may be altered, amended, increased, decreased, or  
116 repealed, but only with respect to services rendered by the member  
117 after the effective date of such alteration, amendment, increase,  
118 decrease, or repeal, or, with respect to interest credits, for periods of  
119 time after the effective date of such alteration, amendment, increase,  
120 decrease, or repeal.

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

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

129 the retiree's age on the annuity starting date, a decrease of three-tenths  
130 of one percent for each year of age difference; and if the retiree's age  
131 is younger than the beneficiary's age on the annuity starting date, an  
132 increase of three-tenths of one percent for each year of age difference;  
133 provided, after all adjustments the option 1 percent cannot exceed  
134 ninety-four and one quarter percent. Upon the retiree's death, fifty  
135 percent of the retiree's reduced annuity shall be paid to such  
136 beneficiary who was the retiree's spouse on the annuity starting date  
137 or as otherwise provided by subsection 5 of this section.

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

153 **Option 3.** A retiree's life annuity shall be reduced to ninety-three  
154 percent of the annuity otherwise payable. If the retiree dies before  
155 having received one hundred twenty monthly payments, the reduced  
156 annuity shall be continued for the remainder of the one hundred  
157 twenty-month period to the retiree's designated beneficiary provided  
158 that if there is no beneficiary surviving the retiree, the present value  
159 of the remaining annuity payments shall be paid as provided under  
160 subsection 3 of section 104.620. If the beneficiary survives the retiree  
161 but dies before receiving the remainder of such one hundred twenty  
162 monthly payments, the present value of the remaining annuity  
163 payments shall be paid as provided under subsection 3 of section  
164 104.620.

165 **Option 4.** A retiree's life annuity shall be reduced to eighty-six

166 percent of the annuity otherwise payable. If the retiree dies before  
167 having received one hundred eighty monthly payments, the reduced  
168 annuity shall be continued for the remainder of the one hundred  
169 eighty-month period to the retiree's designated beneficiary provided  
170 that if there is no beneficiary surviving the retiree, the present value  
171 of the remaining annuity payments shall be paid as provided under  
172 subsection 3 of section 104.620. If the beneficiary survives the retiree  
173 but dies before receiving the remainder of such one hundred eighty  
174 monthly payments, the present value of the remaining annuity  
175 payments shall be paid as provided under subsection 3 of section  
176 104.620.

177 11. The provisions of subsection 6 of section 104.1024 shall not  
178 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. No member shall serve on the board after the expiration of  
36 their term, until reappointed by the governor to a successive  
37 term. Subsequently, all such members shall serve four year terms. Any  
38 vacancies occurring in the office of any such member appointed by the  
39 governor shall be filled by the governor who shall appoint a new  
40 member from a list of two persons recommended to the governor by all  
41 board members. All persons recommended to the governor as provided  
42 in this subsection shall have at least five years of experience in  
43 banking or finance or the investment business in general, including  
44 public investments, securities, or economics, which may include  
45 teaching and research at the collegiate and university level related to  
46 these subjects. The governor shall have the right to reject any or all  
47 persons recommended by the executive directors or by the board  
48 members. In the event the governor rejects any or all persons  
49 recommended by the executive directors or by the board members, the  
50 executive directors or the board members shall submit a list of two  
51 persons, not previously recommended, for each position on the board  
52 that remains vacant. This process shall continue until no position  
53 remains vacant. All appointments made by the governor shall be  
54 subject to the advice and consent of the senate.

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

62 serve as the chief investment officer. Other employees of the board  
63 shall be chosen only upon the recommendation of the chief executive  
64 officer.

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

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

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

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



99 such purposes.

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

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

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

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

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

134 14. The board shall keep a complete record of its proceedings,  
135 which shall be open at all reasonable hours to the inspection of the

136 public pursuant to chapter 610.

137           15. Subject to the limitations of law, the board shall formulate  
138 and adopt rules and regulations for the governance of its own  
139 proceedings and for the administration of the board, including board  
140 rules as may be necessary to administer the board in accordance with  
141 applicable Internal Revenue Code provisions and regulations. The  
142 board is authorized to promulgate rules to properly administer the  
143 board and govern its own proceedings and to hold hearings as required  
144 by law. The term "agency" and the term "state agency", as defined by  
145 section 536.010, shall not include the board with regard to the  
146 promulgation of rules or hearings required by law, provided the board  
147 has established written procedures to assure that constitutionally  
148 required due process safeguards exist and apply to the promulgation  
149 of a rule or regulation that would otherwise constitute a "rule", as  
150 defined in section 536.010, and to a proceeding that would otherwise  
151 constitute a "contested case" as defined in section 536.010. The board  
152 may delegate a hearing officer to hear all matters wherein a hearing is  
153 required by law.

154           16. The accounts and records of any retirement system or plan  
155 whose assets are managed by the board shall be open to inspection by  
156 the board and its agents for the purpose of obtaining information  
157 necessary in the performance of the duties of the board under sections  
158 104.1500 to 104.1506.

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

162           18. Subject to the provisions of the constitution and sections  
163 104.1500 to 104.1506, the board shall have exclusive jurisdiction and  
164 control over the funds and property managed by the board.

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

168           20. Any member of the board or employee of the board accepting  
169 any gratuity or compensation for the purpose of influencing his or her  
170 action with respect to the investment of the funds managed by the  
171 board shall thereby forfeit his or her office and may be subject to  
172 criminal penalties. The board shall establish a code of conduct policy

173 for the board and for officers and employees and, at a minimum, the  
174 policy shall address conflicts of interest, prohibit the acceptance of  
175 items of value by the board or employees of the board from any current  
176 or prospective service provider in connection with any purchasing,  
177 hiring or firing decision made by the board or employees of the board,  
178 and require notice be provided to all external service providers that a  
179 violation of this policy may lead to termination of employment or  
180 prohibition from hiring.

181         21. No employee of the board shall have a business relationship  
182 with any service provider of the board until two years have expired  
183 after the date of his or her resignation or termination as an employee  
184 of the board.

185         22. Board financial statements shall be issued in accordance with  
186 generally accepted accounting principles covering the operations of the  
187 board for the fiscal year ending June thirtieth which shall each year be  
188 delivered to the governor and the board of each retirement system or  
189 plan for which assets are managed by the board.

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

197         24. The board shall arrange for annual audits in accordance with  
198 generally accepted auditing standards of the records and accounts of  
199 the board to be conducted by an independent auditor retained by the  
200 board. The state auditor may audit the board once every three years  
201 and report to the board and the governor.

202         25. The board may select and employ service providers including  
203 but not limited to legal counsel, auditors, and actuaries as it deems  
204 appropriate to properly carry out the purposes of the board.

205         26. The board may sue and be sued in its official name, but the  
206 officers and employees of the board shall not be personally liable for  
207 acts of the board. The board may indemnify, protect, defend, and hold  
208 harmless the members of the board, and the officers and employees of  
209 the board, against all claims and suits for negligent or wrongful acts

210 alleged to have been committed in the scope of their service or  
211 employment or under the direction of the members of the board or the  
212 chief executive officer, provided that the members of the board, and the  
213 officers and employees of the board, shall not be indemnified for willful  
214 misconduct. The board is authorized to insure against loss or liability  
215 of the members of the board, and the officers and employees of the  
216 board, that may result from claims and suits for negligent or wrongful  
217 acts alleged to have been committed in the scope of their service or  
218 employment or under the direction of the members of the board or the  
219 chief executive officer. This insurance shall be carried through a  
220 company that is licensed to write such coverage in this state. The  
221 service of all legal process and of all notices which may be required to  
222 be in writing, whether in legal proceedings or otherwise, shall be made  
223 on the chief executive officer or, in his or her absence, on the chief  
224 executive officer's designee at his or her office. Nothing in this  
225 subsection shall be construed to waive sovereign immunity to the  
226 extent provided by law.

227         27. In the event the Internal Revenue Service determines that  
228 any retirement system or plan is not a qualified plan within the  
229 meaning of Section 401(a) of the Internal Revenue Code, and if such  
230 retirement system or plan is not amended so as to qualify under such  
231 section within the period of time permitted by law for retroactive  
232 amendment of such plan, then the board may segregate the assets of  
233 such plan and withdraw the assets from the trust and hold such assets  
234 in a separate trust under all of the terms of sections 104.1500 to  
235 104.1506.

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.

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.

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 to judges covered under this section, and  
105 any other provision of sections 476.515 to 476.565 with regard to judges  
106 covered under this section may be altered, amended, increased,  
107 decreased, or repealed, but only with respect to services rendered by  
108 the judge after the effective date of such alteration, amendment,  
109 increase, decrease, or repeal, or, with respect to interest credits, for  
110 periods of time after the effective date of such alteration, amendment,  
111 increase, decrease, or repeal.

112 8. Any judge who is receiving retirement compensation under  
113 section 476.529 or 476.530 who becomes employed as an employee  
114 eligible to participate in the closed plan or in the year 2000 plan under  
115 chapter 104, shall not receive such retirement compensation for any  
116 calendar month in which the retired judge is so employed. Any judge  
117 who is receiving retirement compensation under section 476.529 or  
118 section 476.530 who subsequently serves as a judge as defined pursuant  
119 to subdivision (4) of subsection 1 of section 476.515 shall not receive  
120 such retirement compensation for any calendar month in which the  
121 retired judge is serving as a judge; except that upon retirement such  
122 judge's annuity shall be recalculated to include any additional service  
123 or salary accrued based on the judge's subsequent service. A judge who  
124 is receiving compensation under section 476.529 or 476.530 may  
125 continue to receive such retirement compensation while serving as a  
126 senior judge or senior commissioner and shall receive additional credit  
127 and salary for such 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.

✓

Bill

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