

SECOND REGULAR SESSION

SENATE BILL NO. 1049

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Read 1st time March 1, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

5097S.011

AN ACT

To repeal sections 104.081, 476.520, 476.535, 476.545, and 476.690, RSMo, and to enact in lieu thereof eight new sections relating to retirement plans for certain state employees, state officials, and judges.

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

Section A. Sections 104.081, 476.520, 476.535, 476.545, and 476.690, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 104.081, 104.1091, 476.520, 476.521, 476.535, 476.545, 476.562, and 476.690, to read as follows:

104.081. [Notwithstanding any other provision of law to the contrary,] Any uniformed member of the highway patrol may retire at age fifty-five with four years of creditable service with a normal annuity and shall retire at age sixty. **Except, any uniformed member of the highway patrol who first becomes an employee on or after January 1, 2011, shall retire no later than the month in which the member reaches age sixty-two.**

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

2. A member's or vested former member's normal retirement eligibility shall be as follows:

(1) The member's attainment of at least age sixty-two and the completion of at least five years of credited service;

(2) For members of the general assembly, the member's attainment of at least age sixty-two and the completion of at least three

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

11 full biennial assemblies; and

12 (3) For statewide elected officials, the official's attainment of at
13 least age sixty-two and the completion of at least four years of credited
14 service.

15 3. A member or vested former member shall not be eligible for
16 any early retirement annuity under section 104.1033.

17 4. A member shall be required to contribute five percent of the
18 member's compensation to the retirement system, which shall stand to
19 the member's credit in his or her individual account with the system,
20 together with investment credits thereon, for purposes of funding
21 retirement benefits payable under the year 2000 plan, subject to the
22 following provisions:

23 (1) The state of Missouri, employer, under the provisions of 26
24 U.S.C. Section 414(h)(2), shall pick up and pay the contributions that
25 would otherwise be payable by the member under this section. The
26 contributions so picked up shall be treated as employer contributions
27 for purposes of determining the member's compensation that is
28 includable in the member's gross income for federal income tax
29 purposes;

30 (2) Member contributions picked up by the employer shall be
31 paid from the same source of funds used for the payment of
32 compensation to a member. A deduction shall be made from each
33 member's compensation equal to the amount of the member's
34 contributions picked up by the employer. This deduction, however,
35 shall not reduce the member's compensation for purposes of computing
36 benefits under the retirement system under this chapter;

37 (3) Member contributions so picked up shall be credited to a
38 separate account within the member's individual account so that the
39 amounts contributed under this section may be distinguished from the
40 amounts contributed on an after-tax basis;

41 (4) The contributions, although designated as employee
42 contributions, shall be paid by the employer in lieu of the contributions
43 by the member. The member shall not have the option of choosing to
44 receive the contributed amounts directly instead of having them paid
45 by the employer to the retirement system;

46 (5) Interest shall be credited annually on June thirtieth based on
47 the value in the account as of July first of the immediately preceding

48 year at a rate of four percent. Interest credits shall cease upon
49 termination of employment if the member is not a vested former
50 member. Otherwise, interest credits shall cease upon retirement;

51 (6) A vested former member or a former member who is not
52 vested may request a refund of his or her contributions and interest
53 credited thereon. Such refund shall be paid by the system within
54 ninety days from the date of termination of employment or the request,
55 whichever is later. A vested former member may not request a refund
56 after such member becomes eligible for normal retirement. A member
57 who receives a refund shall forfeit all the member's credited service
58 and future rights to receive benefits from the system. If such member
59 subsequently becomes an employee and works continuously for at least
60 one year, the credited service previously forfeited will be restored if
61 the member returns to the system the amount previously refunded, plus
62 interest, at a rate established by the board; and

63 (7) The beneficiary of any member who made contributions shall
64 receive a refund upon the member's death equal to the amount, if any,
65 of such contributions less any retirement benefits received by the
66 member unless an annuity is payable to a survivor or beneficiary as a
67 result of the member's death. In that event, the beneficiary of the
68 survivor or beneficiary who received the annuity shall receive a refund
69 upon the survivor's or beneficiary's death equal to the amount, if any,
70 of the member's contributions less any annuity amounts received by the
71 member and the survivor or beneficiary.

72 5. Any alteration, amendment, increase, decrease, or repeal of
73 the contribution rate, benefits, or any other provision of the year 2000
74 plan shall only apply to services rendered by the member or, with
75 respect to interest credits, periods of time, after the effective date of
76 such change.

476.520. 1. Any person, sixty-two years of age or older, who has served
2 in this state an aggregate of at least twelve years, continuously or otherwise, as
3 a judge, and who, after September 3, 1970, ceased or ceases to hold office by
4 reason of the expiration of the judge's term, voluntary resignation, or retirement
5 pursuant to the provisions of subsection 2 of section 24 of article V of the
6 Constitution of Missouri may receive benefits as provided in sections 476.515 to
7 476.565. All judges required by the provisions of section 30 of article V of the
8 constitution to retire at the age of seventy years shall retire upon reaching that

9 age, and if they have served in this state an aggregate of at least twelve years,
10 continuously or otherwise, as a judge, shall receive benefits as provided in
11 sections 476.515 to 476.565. The twelve-year requirement of this subsection may
12 be fulfilled by service as judge in any of the courts covered, or by service in any
13 combination as judge of such courts, totaling an aggregate of twelve years.

14 2. Any person sixty years of age or older, who has served in this state an
15 aggregate of at least fifteen years, continuously or otherwise, as a judge, and who
16 ceased or ceases to hold office by reason of the expiration of the judge's term,
17 voluntary resignation, or retirement pursuant to the provisions of subsection 2
18 of section 24 of article V of the Constitution of Missouri may receive benefits as
19 provided in sections 476.515 to 476.565. The fifteen-year requirement of this
20 subsection may be fulfilled by service as judge in any of the courts covered, or by
21 service in any combination as judge of such courts, totaling an aggregate of at
22 least fifteen years.

23 3. Any person fifty-five years of age or older, who has served in this state
24 an aggregate of at least twenty years, continuously or otherwise, as a judge, and
25 who ceases to hold office by reason of the expiration of his or her term, voluntary
26 resignation or retirement pursuant to the provisions of subsection 2 of section 24
27 of article V of the Constitution of Missouri may receive benefits as provided in
28 sections 476.515 to 476.565. The twenty-year requirement of this subsection may
29 be fulfilled by service as judge in any of the courts covered, or by service in any
30 combination as judge of such courts, totaling an aggregate of at least twenty
31 years. Any judge who terminated employment prior to August 28, 1999, and who
32 otherwise would qualify for benefits pursuant to this subsection shall upon
33 application to the board of trustees be made, constituted and appointed and
34 employed by the board as a special consultant on the problems of retirement for
35 the remainder of the person's life. As compensation for such services, the
36 consultant shall be eligible to retire pursuant to this subsection upon completing
37 a retirement application. In no event shall the system pay retirement benefits
38 for any period prior to the date such application is processed by the system. Any
39 judge who elects not to retire pursuant to this subsection and continues to serve
40 beyond age fifty-five shall not be eligible to receive the increases described in
41 section 476.690 for any time served prior to age sixty.

42 4. Any person who terminated employment prior to August 13, 1988, shall
43 upon application to the board of trustees of the Missouri state employees'
44 retirement system, be made, constituted and appointed and employed by the

45 board as a special consultant on the problems of retirement, aging and other state
46 matters for the remainder of the person's life. Upon request of the board or the
47 court from which the person retired, the consultant shall give opinions or be
48 available to give opinions in writing or orally in response to such request. As
49 compensation for such services, the consultant shall be eligible to retire pursuant
50 to the provisions of this section or section 476.545.

51 **5. Any person who first becomes a judge on or after January 1,**
52 **2011, shall not be eligible to receive benefits as authorized by**
53 **subsections 2 and 3 of this section.**

476.521. 1. Any person who first becomes a judge on or after
2 January 1, 2011, shall be required to contribute five percent of the
3 judge's compensation to the retirement system, which shall stand to the
4 judge's credit in his or her individual account with the system, together
5 with investment credits thereon, for purposes of funding retirement
6 benefits payable as provided in sections 476.515 to 476.565, subject to
7 the following provisions:

8 (1) The state of Missouri, employer, under the provisions of 26
9 U.S.C. Section 414(h)(2), shall pick up and pay the contributions that
10 would otherwise be payable by the judge under this section. The
11 contributions so picked up shall be treated as employer contributions
12 for purposes of determining the judge's compensation that is includable
13 in the judge's gross income for federal income tax purposes;

14 (2) Judge contributions picked up by the employer shall be paid
15 from the same source of funds used for the payment of compensation
16 to a judge. A deduction shall be made from each judge's compensation
17 equal to the amount of the judge's contributions picked up by the
18 employer. This deduction, however, shall not reduce the judge's
19 compensation for purposes of computing benefits under the retirement
20 system under this chapter;

21 (3) Judge contributions so picked up shall be credited to a
22 separate account within the judge's individual account so that the
23 amounts contributed under this section may be distinguished from the
24 amounts contributed on an after tax basis;

25 (4) The contributions, although designated as employee
26 contributions, are being paid by the employer in lieu of the
27 contributions by the judge. The judge shall not have the option of
28 choosing to receive the contributed amounts directly instead of having

29 them paid by the employer to the retirement system;

30 (5) Interest shall be credited annually on June thirtieth based on
31 the value in the account as of July first of the immediately preceding
32 year at a rate of four percent. Interest credits will cease upon
33 retirement of the judge;

34 (6) A judge whose employment is terminated may request a
35 refund of his or her contributions and interest credited thereon. Such
36 refund shall be paid by the system within ninety days from the date of
37 termination of employment or the request, whichever is later. A judge
38 may not request a refund after such judge becomes eligible for
39 retirement benefits under sections 476.515 to 476.565. A judge who
40 receives a refund shall forfeit all the judge's service and future rights
41 to receive benefits from the system. If such judge subsequently
42 becomes a judge and works continuously for at least one year, the
43 service previously forfeited will be restored if the judge returns to the
44 system the amount previously refunded plus interest at a rate
45 established by the board; and

46 (7) The beneficiary of any judge who made contributions shall
47 receive a refund upon the judge's death equal to the amount, if any, of
48 such contributions less any retirement benefits received by the judge
49 unless an annuity is payable to a survivor or beneficiary as a result of
50 the judge's death. In that event, the beneficiary of the survivor or
51 beneficiary who received the annuity shall receive a refund upon the
52 survivor's or beneficiary's death equal to the amount, if any, of the
53 judge's contributions less any annuity amounts received by the judge
54 and the survivor or beneficiary.

55 2. Any alteration, amendment, increase, decrease, or repeal of
56 the contribution rate, benefits, or any other provision of sections
57 476.515 to 476.565 shall only apply to services rendered by the judge or,
58 with respect to service credit, periods of time, after the effective date
59 of such change.

476.535. 1. On and after August 28, 1995, if a person who is serving as
2 a judge as defined in section 476.515, or a person had served as a judge and who
3 has been approved for long-term disability benefits, dies, retirement compensation
4 shall be paid in monthly installments to such person's beneficiary in the amount
5 equal to fifty percent of the amount of the retirement compensation provided in
6 section 476.530 regardless of the period of the person's judicial service; except

7 that where the period of service could not have been twelve years or more because
8 of the mandatory retirement provisions of article V, section 30, of the Missouri
9 Constitution, the retirement compensation provided by this subsection shall be
10 reduced by the proportion that the number of years that he would have lacked
11 serving twelve years had he been able to serve until mandatory retirement bears
12 to twelve years.

13 2. If a person dies who has served in this state an aggregate of twelve
14 years, continuously or otherwise, as a judge, and who, after September 28, 1971,
15 ceased or ceases to hold office by reason of the expiration of the person's term or
16 voluntary resignation, but who was not retired under the provisions of this
17 section, nor withdrawn the person's contributions except as provided in section
18 476.585, retirement compensation shall be paid in monthly installments to the
19 person's beneficiary in the amount equal to fifty percent of the amount of
20 retirement compensation provided in section 476.530.

21 3. If a person who has retired under the provisions of sections 476.515 to
22 **[476.570] 476.565 dies and the person first became a judge prior to**
23 **January 1, 2011**, the person's beneficiary shall receive an amount equal to fifty
24 percent of the amount of the retirement compensation that person was receiving
25 at the person's date of death, paid in monthly installments to the person's
26 beneficiary.

27 4. This section shall not increase, decrease or eliminate any benefits
28 which were being paid to or to which a beneficiary was entitled on or before
29 August 12, 1974.

30 5. **Any person who first becomes a judge on or after January 1,**
31 **2011, may elect at the time of application for retirement whether not to**
32 **have such judge's life annuity reduced, but not any temporary annuity**
33 **which may be payable, and designate a beneficiary, as provided by the**
34 **options set forth in this section:**

35 **Option 1. A retiree's life annuity shall be reduced to a certain**
36 **percent of the annuity otherwise payable. Such percent shall be ninety**
37 **percent adjusted as follows: if the beneficiary's age is younger than the**
38 **retiree's age on the annuity starting date, a decrease of three-tenths of**
39 **one percent for each year of age difference; and if the retiree's age is**
40 **younger than the beneficiary's age on the annuity starting date, an**
41 **increase of three-tenths of one percent for each year of age difference;**
42 **provided, after all adjustments the option 1 percent cannot exceed**

43 ninety-five percent. Upon the retiree's death, fifty percent of the
44 retiree's reduced annuity shall be paid to such beneficiary who was the
45 retiree's spouse on the annuity starting date or as otherwise provided
46 by subsection 5 of this section.

47 **Option 2.** A retiree's life annuity shall be reduced to a certain
48 percent of the annuity otherwise payable. Such percent shall be
49 eighty-three percent adjusted as follows: if the beneficiary's age is
50 younger than the retiree's age on the annuity starting date, a decrease
51 of five-tenths of one percent for each year of age difference; and if the
52 retiree's age is younger than the beneficiary's age on the annuity
53 starting date, an increase of five-tenths of one percent for each year of
54 age difference; provided, after all adjustments the option 2 percent
55 cannot exceed ninety percent. Upon the retiree's death one hundred
56 percent of the retiree's reduced annuity shall be paid to such
57 beneficiary who was the retiree's spouse on the annuity starting date
58 or as otherwise provided by subsection 5 of this section.

59 **Option 3.** A retiree's life annuity shall be reduced to ninety-five
60 percent of the annuity otherwise payable. If the retiree dies before
61 having received one hundred twenty monthly payments, the reduced
62 annuity shall be continued for the remainder of the one hundred
63 twenty-month period to the retiree's designated beneficiary provided
64 that if there is no beneficiary surviving the retiree, the present value
65 of the remaining annuity payments shall be paid to the surviving
66 spouse married to the deceased member, survivor, or beneficiary at the
67 time of death. If no surviving spouse exists, such amount shall be paid
68 to the surviving children or their descendants of such member,
69 survivor, or beneficiary in equal parts. If no surviving children or any
70 of their descendants exist, such amount shall be paid to the surviving
71 parents of such member, survivor, or beneficiary in equal parts. If no
72 surviving parents exist, such amount shall be paid to the surviving
73 brothers, sisters, or their descendants of such member, survivor, or
74 beneficiary in equal parts. If no surviving brothers, sisters, or their
75 descendants exist, payment may be made as otherwise permitted by
76 law. If the beneficiary survives the retiree but dies before receiving
77 the remainder of such one hundred twenty monthly payments, the
78 present value of the remaining annuity payments shall be paid to the
79 surviving spouse married to the deceased member, survivor, or

80 beneficiary at the time of death. If no surviving spouse exists, such
81 amount shall be paid to the surviving children or their descendants of
82 such member, survivor, or beneficiary in equal parts. If no surviving
83 children or any of their descendants exist, such amount shall be paid
84 to the surviving parents of such member, survivor, or beneficiary in
85 equal parts. If no surviving parents exist, such amount shall be paid to
86 the surviving brothers, sisters, or their descendants of such member,
87 survivor, or beneficiary in equal parts. If no surviving brothers,
88 sisters, or their descendants exist, payment may be made as otherwise
89 permitted by law.

90 Option 4. A retiree's life annuity shall be reduced to ninety
91 percent of the annuity otherwise payable. If the retiree dies before
92 having received one hundred eighty monthly payments, the reduced
93 annuity shall be continued for the remainder of the one hundred
94 eighty-month period to the retiree's designated beneficiary provided
95 that if there is no beneficiary surviving the retiree, the present value
96 of the remaining annuity payments shall be paid as described in option
97 3. If the beneficiary survives the retiree but dies before receiving the
98 remainder of such one hundred eighty monthly payments, the present
99 value of the remaining annuity payments shall be paid as described in
100 option 3.

101 6. If a member is married as of the annuity starting date, the
102 member's annuity shall be paid under the provisions of either option
103 1 or option 2 as set forth in subsection 1 of this section, at the member's
104 choice, with the spouse as the member's designated beneficiary unless
105 the spouse consents in writing to the member electing another
106 available form of payment.

107 7. If a member has elected at the annuity starting date option 1
108 or 2 under this section and if the member's spouse or eligible former
109 spouse dies after the annuity starting date but before the member dies,
110 then the member may cancel the member's election and return to the
111 life annuity form of payment and annuity amount, effective the first of
112 the month following the date of such spouse's or eligible former
113 spouse's death. If a member dies prior to notifying the system of the
114 spouse's death, the benefit will not revert to a life annuity and no
115 retroactive payments shall be made.

116 8. If a member designates a spouse as a beneficiary under this

117 section and subsequently that marriage ends as a result of a dissolution
118 of marriage, such dissolution shall not affect the option election under
119 this section and the former spouse shall continue to be eligible to
120 receive survivor benefits upon the death of the member.

121 **9. A member may make an election under option 1 or 2 after the**
122 **annuity starting date as described in this section if the member makes**
123 **such election within one year from the date of marriage under any of**
124 **the following circumstances:**

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

127 **(2) The member's annuity reverted to an annuity under**
128 **subsection 3 of this section, and the member remarried.**

129 **10. The retirement application of any member who fails to make**
130 **an election under subsection 1 of this section within ninety days of the**
131 **annuity starting date contained in such retirement application shall be**
132 **nullified. Any member whose retirement application is nullified shall**
133 **not receive retirement benefits until the member files a new**
134 **application for retirement and makes the election under subsection 1**
135 **of this section. In no event shall any retroactive retirement benefits be**
136 **paid.**

137 **11. A member may change a member's election made under this**
138 **section at any time prior to the system mailing or electronically**
139 **transferring the first annuity payment to such member.**

476.545. 1. Any judge subject to sections 476.515 to 476.565 who is at
2 least sixty-two years old and who has served less than twelve years and is
3 otherwise qualified under sections 476.515 to 476.565 may retire at age sixty-two,
4 or thereafter, at a reduced retirement compensation in a sum equal to the
5 proportion of the retirement compensation provided in section 476.530 that his
6 period of judicial service bears to twelve years.

7 2. Any judge subject to sections 476.515 to 476.565 who is at least sixty
8 years old and who has served less than fifteen years and is otherwise qualified
9 under sections 476.515 to 476.565 may retire at age sixty, or thereafter, at a
10 reduced retirement compensation in a sum equal to the proportion of the
11 retirement compensation provided in section 476.530 that his period of judicial
12 service bears to fifteen years.

13 **3. Any person who first becomes a judge on or after January 1,**
14 **2011, shall not be eligible to receive the reduced retirement**

15 **compensation authorized in subsection 2 of this section.**

476.562. Any judge who has retired, is receiving a retirement benefit under a plan created by this chapter, and on or after January 1, 2011, becomes an employee of any department or agency of the executive or legislative branch in a position normally requiring the performance of duties of not less than one thousand forty hours per year shall not receive a benefit for any calendar month in which the retiree is so employed.

476.690. 1. Any judge who has become eligible to receive retirement compensation pursuant to section 476.520 and who has elected not to retire and has continued to serve as a judge after August 28, 1995, shall have added to the retirement compensation when the judge retires or dies an amount equal to the total of all annual cost-of-living increases that retired judges received between the time the judge first became eligible to retire and the year the judge actually retires or dies. In no event shall the total increase in compensation granted pursuant to this section and section 476.601 exceed sixty-five percent of the judge's retirement compensation calculated at the time of retirement or death.

2. Any judge who was eligible to retire on August 28, 1995, and elected to continue to serve as a judge after such date, but who retired before August 28, 1996, shall, upon application to the board of trustees of the Missouri state employees' retirement system, be made, constituted and appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the person's life. Upon request of the board or the court from which the judge retired, the consultant shall give opinions or be available to give opinions in writing or orally in response to such request. As compensation for such services, the consultant shall have the retirement benefit recalculated from the date of the retirement, pursuant to the provisions of subsection 1 of this section.

3. Any judge who retired prior to August 28, 1995, and who is receiving judicial retirement compensation on September 1, 2000, shall upon application to the board of trustees of the Missouri state employees' retirement system be made, constituted and appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the judge's life. Upon request of the board or the court from which the judge retired, the consultant shall give opinions or be available to give opinions in writing or orally in response to such request. As compensation for

29 such services, the consultant shall have the consultant's retirement benefit
30 recalculated as if subsection 1 of this section was in effect on the consultant's
31 date of retirement. Any monthly benefit increases payable pursuant to this
32 subsection shall become effective September 1, 2000. In no event shall the system
33 make any retroactive compensation payments under this subsection.

34 **4. Any person who first becomes a judge on or after January 1,**
35 **2011, shall not receive the addition to their retirement compensation**
36 **authorized in subsection 1 of this section.**

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