

SENATE BILL NO. 228

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

Pre-filed December 20, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0505S.02I

AN ACT

To repeal section 104.1003, RSMo, and to enact in lieu thereof two new sections relating to state employee retirement systems.

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

Section A. Section 104.1003, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 104.1003 and 104.1094, to read
3 as follows:

104.1003. 1. Unless a different meaning is plainly required by the
2 context, the following words and phrases as used in sections 104.1003 to
3 [104.1093] **104.1094** shall mean:

4 (1) "Act", the year 2000 plan created by sections 104.1003 to [104.1093]
5 **104.1094**;

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

9 (3) "Annuity", annual benefit amounts, paid in equal monthly
10 installments, from funds provided for in, or authorized by, sections 104.1003 to
11 [104.1093] **104.1094**;

12 (4) "Annuity starting date" means the first day of the first month with
13 respect to which an amount is paid as an annuity pursuant to sections 104.1003
14 to [104.1093] **104.1094**;

15 (5) "Beneficiary", any persons or entities entitled to receive an annuity or
16 other benefit pursuant to sections 104.1003 to [104.1093] **104.1094** based upon
17 the employment record of another person;

18 (6) "Board of trustees", "board", or "trustees", a governing body or bodies
19 established for the year 2000 plan pursuant to sections 104.1003 to [104.1093]

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

20 **104.1094;**

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

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

30 (9) "Credited service", the total credited service to a member's credit as
31 provided in sections 104.1003 to [104.1093] **104.1094**; except that in no case shall
32 more than one day of credited service be credited to any member or vested former
33 member for any one calendar day of eligible credit as provided by law;

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

39 (11) "Early retirement eligibility", a member's attainment of fifty-seven
40 years of age and the completion of at least five years of credited service;

41 (12) "Effective date", July 1, 2000;

42 (13) "Employee" shall be any person who is employed by a department and
43 is paid a salary or wage by a department in a position normally requiring the
44 performance of duties of not less than one thousand forty hours per year,
45 provided:

46 (a) The term "employee" shall not include any patient or inmate of any
47 state, charitable, penal or correctional institution, or any person who is employed
48 by a department in a position that is covered by a state-sponsored defined benefit
49 retirement plan not created by this chapter;

50 (b) The term "employee" shall be modified as provided by other provisions
51 of sections 104.1003 to [104.1093] **104.1094**;

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

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

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

62 (14) "Employer", a department;

63 (15) "Executive director", the executive director employed by a board
64 established pursuant to the provisions of sections 104.1003 to [104.1093]
65 **104.1094**;

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

77 (17) "Fund", a fund of the year 2000 plan established pursuant to sections
78 104.1003 to [104.1093] **104.1094**;

79 (18) "Investment return", or "interest", rates as shall be determined and
80 prescribed from time to time by a board;

81 (19) "Member", a person who is included in the membership of the system,
82 as set forth in section 104.1009;

83 (20) "Normal retirement eligibility", a member's attainment of at least
84 sixty-two years of age and the completion of at least five or more years of credited
85 service or, the attainment of at least forty-eight years of age with a total of years
86 of age and years of credited service which is at least eighty or, in the case of a
87 member of the highway patrol who shall be subject to the mandatory retirement
88 provisions of section 104.080, the mandatory retirement age and completion of
89 five years of credited service or, the attainment of at least forty-eight years of age
90 with a total of years of age and years of credited service which is at least eighty;

91 (21) "Pay" shall include:

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

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

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

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

103 d. Any nonrecurring single sum payments; and

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

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

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

113 (d) For purposes of members of the general assembly, pay shall be the
114 annual salary provided to each senator and representative pursuant to section
115 21.140, plus any salary adjustment pursuant to section 21.140;

116 (22) "Retiree", a person receiving an annuity from the year 2000 plan
117 based upon the person's employment record;

118 (23) "State", the state of Missouri;

119 (24) "System" or "retirement system", the Missouri state employees'
120 retirement system or the Missouri department of transportation and highway
121 patrol employees' retirement system, as the case may be;

122 (25) "Vested former member", a person entitled to receive a deferred
123 annuity pursuant to section 104.1036;

124 (26) "Year 2000 plan", the benefit plan created by sections 104.1003 to
125 ~~[104.1093]~~ **104.1094**.

126 2. Benefits paid under the provisions of this chapter shall not exceed the
127 limitations of Internal Revenue Code Section 415, the provisions of which are

128 hereby incorporated by reference. Notwithstanding any other law to the contrary,
129 the board of trustees may establish a benefit plan under Section 415(m) of the
130 Internal Revenue Code of 1986, as amended. Such plan shall be created solely
131 for the purposes described in Section 415(m)(3)(A) of the Internal Revenue Code
132 of 1986, as amended. The board of trustees may promulgate regulations
133 necessary to implement the provisions of this subsection and to create and
134 administer such benefit plan.

**104.1094. 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, 2018, shall be a member of the year 2000 plan subject to the
4 provisions of subsections 1 to 15 of this section. The provisions of
5 section 104.1091 shall not apply to such member. Notwithstanding any
6 provision of the law to the contrary, each person who becomes an
7 employee on or after January 1, 2018, who was previously employed
8 and covered by section 104.1091 but terminated employment shall be a
9 member of the year 2000 plan subject to the provisions of subsections
10 1 to 15 of this section if the former employee either is not entitled to
11 receive a deferred annuity or has received a refund of the former
12 employee's contributions. The provisions of section 104.1091 shall no
13 longer apply to such member.**

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

**15 (1) The member's attainment of at least age sixty-seven and the
16 completion of at least ten years of credited service; or the member's
17 attainment of at least age fifty-five with the sum of the member's age
18 and credited service equaling at least ninety;**

**19 (2) For members of the general assembly, the member's
20 attainment of at least age sixty-two and the completion of at least three
21 full biennial assemblies; or the member's attainment of at least age
22 fifty-five with the sum of the member's age and credited service
23 equaling at least ninety; or**

**24 (3) For statewide elected officials, the official's attainment of at
25 least age sixty-two and the completion of at least four years of credited
26 service; or the official's attainment of at least age fifty-five with the
27 sum of the official's age and credited service equaling at least ninety.**

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

31 4. For purposes of calculating the life annuity provided under
32 subsection 2 of section 104.1024 for members covered by this section,
33 such life annuity shall be an amount for life equal to one percent of the
34 final average pay of the member multiplied by the member's years of
35 credited service.

36 5. For purposes of calculating the normal retirement annuity
37 provided under subsection 2 of section 104.1084 for members of the
38 general assembly covered by this section, such normal retirement
39 annuity shall be an amount for life equal to one forty-eighth of the
40 monthly pay for a senator or representative on the annuity starting
41 date multiplied by the years of credited service as a member of the
42 general assembly. In no event shall any such member or eligible
43 beneficiary receive annuity amounts in excess of fifty percent of pay.

44 6. For purposes of calculating the normal retirement annuity
45 provided under subsection 5 of section 104.1084 for statewide elected
46 officials covered by this section, such normal retirement annuity shall
47 be an amount for life equal to one forty-eighth of the monthly pay in
48 the highest office held by such member on the annuity starting date
49 multiplied by the years of credited service as a statewide elected
50 official. In no event shall any such member or eligible beneficiary
51 receive annuity amounts in excess of twenty-five percent of pay.

52 7. For purposes of calculating the cost of living adjustment
53 (COLA) provided under section 104.1045 for members covered by this
54 section, such COLA shall not be more than two percent rather than the
55 five percent limitation otherwise stipulated under section 104.1045.

56 8. A temporary annuity paid under subsection 4 of section
57 104.1024 shall be payable if the member has attained at least age fifty-
58 five with the sum of the member's age and credited service equaling at
59 least ninety.

60 9. A member shall be eligible for an early retirement annuity
61 upon the attainment of at least age sixty-two and the completion of at
62 least ten years of credited service. A vested former member shall not
63 be eligible for early retirement.

64 10. The provisions of subsection 6 of section 104.1021, section
65 104.344 as applied under subsection 7 of section 104.1021, and sections
66 104.1090 and 105.691 shall not apply to members covered by subsections
67 1 to 13 of this section.

68 11. A member shall be required to contribute four percent of the
69 member's pay to the retirement system, which shall stand to the
70 member's credit in his or her individual account with the system,
71 together with investment credits thereon, for purposes of funding
72 retirement benefits payable under the year 2000 plan, subject to the
73 following provisions:

74 (1) The state of Missouri employer, under the provisions of 26
75 U.S.C. Section 414(h)(2), shall pick up and pay the contributions that
76 would otherwise be payable by the member under this subsection. The
77 contributions so picked up shall be treated as employer contributions
78 for purposes of determining the member's pay that is includable in the
79 member's gross income for federal income tax purposes;

80 (2) Member contributions picked up by the employer shall be
81 paid from the same source of funds used for the payment of pay to a
82 member. A deduction shall be made from each member's pay equal to
83 the amount of the member's contributions picked up by the
84 employer. This deduction, however, shall not reduce the member's pay
85 for purposes of computing benefits under the retirement system under
86 this chapter;

87 (3) Member contributions so picked up shall be credited to a
88 separate account within the member's individual account so that the
89 amounts contributed under this subsection may be distinguished from
90 the amounts contributed on an after-tax basis;

91 (4) The contributions, although designated as employee
92 contributions, shall be paid by the employer in lieu of the contributions
93 by the member. The member shall not have the option of choosing to
94 receive the contributed amounts directly instead of having them paid
95 by the employer to the retirement system;

96 (5) Interest shall be credited annually on June thirtieth based on
97 the value in the account as of July first of the immediately preceding
98 year at a rate equal to the investment rate that is published by the
99 United States Department of Treasury, or its successor agency, for fifty-
100 two week treasury bills for the relevant auction that is nearest to the
101 preceding July first or a successor treasury bill investment rate as
102 approved by the board if the fifty-two week treasury bill is no longer
103 issued. Interest credits shall cease upon termination of employment if
104 the member is not a vested former member. Otherwise, interest credits

105 shall cease upon retirement or death;

106 (6) A vested former member or a former member who is not
107 vested may request a refund of his or her contributions and interest
108 credited thereon. If such member is married at the time of such
109 request, the request shall not be processed without consent from the
110 spouse. Such member is not eligible to request a refund if such
111 member's retirement benefit is subject to a division of benefit order
112 under section 104.1051. Such refund shall be paid by the system after
113 ninety days from the date of termination of employment or the request,
114 whichever is later, and shall include all contributions made to any
115 retirement plan administered by the system and interest credited
116 thereon. A vested former member shall not request a refund after such
117 member becomes eligible for normal retirement. A former member,
118 vested or not vested, who receives a refund shall forfeit all the
119 member's credited service and future rights to receive benefits from
120 the system and shall not be eligible to receive any long-term disability
121 benefits, provided that any member or vested former member receiving
122 long-term disability benefits shall not be eligible for a refund. If such
123 member subsequently becomes an employee and works continuously for
124 at least one year, the credited service previously forfeited shall be
125 restored if the member returns to the system the amount previously
126 refunded plus interest at a rate established by the board; and

127 (7) The beneficiary of any member who made contributions shall
128 receive a refund upon the member's death equal to the amount, if any,
129 of such contributions and interest credited thereon less any retirement
130 benefits received by the member unless an annuity is payable to a
131 survivor or beneficiary as a result of the member's death. In that
132 event, the beneficiary of the survivor or beneficiary who received the
133 annuity shall receive a refund upon the survivor's or beneficiary's
134 death equal to the amount, if any, of the member's contributions less
135 any annuity amounts received by the member and the survivor or
136 beneficiary.

137 12. The employee contribution rate, the benefits provided under
138 the year 2000 plan to members covered under subsections 1 to 13 of this
139 section, and any other provision of the year 2000 plan with regard to
140 members covered by this section may be altered, amended, increased,
141 decreased, or repealed, but only with respect to services rendered by

142 the member after the effective date of such alteration, amendment,
143 increase, decrease, or repeal, or, with respect to interest credits, for
144 periods of time after the effective date of such alteration, amendment,
145 increase, decrease, or repeal.

146 13. For purposes of members covered under subsections 1 to 13
147 of this section, the options under section 104.1027 shall be as follows:

148 Option 1. A retiree's life annuity shall be reduced to a certain
149 percentage of the annuity otherwise payable. Such percent shall be
150 eighty-eight and one-half percent adjusted as follows:

151 (1) If the retiree's age on the annuity starting date is younger
152 than sixty-seven years, an increase of three-tenths of one percent for
153 each year the retiree's age is younger than age sixty-seven years;

154 (2) If the beneficiary's age is younger than the retiree's age on
155 the annuity starting date, a decrease of three-tenths of one percent for
156 each year of age difference; and

157 (3) If the retiree's age is younger than the beneficiary's age on
158 the annuity starting date, an increase of three-tenths of one percent for
159 each year of age difference;

160 provided, after all adjustments, the option 1 percentage cannot exceed
161 ninety-four and one-quarter percent. Upon the retiree's death, fifty
162 percent of the retiree's reduced annuity shall be paid to such
163 beneficiary who was the retiree's spouse on the annuity starting date
164 or as otherwise provided under subsection 5 of this section.

165 Option 2. A retiree's life annuity shall be reduced to a certain
166 percentage of the annuity otherwise payable. Such percentage shall be
167 eighty-one percent adjusted as follows:

168 (1) If the retiree's age on the annuity starting date is younger
169 than sixty-seven years, an increase of four-tenths of one percent for
170 each year the retiree's age is younger than sixty-seven years;

171 (2) If the beneficiary's age is younger than the retiree's age on
172 the annuity starting date, a decrease of five-tenths of one percent for
173 each year of age difference; and

174 (3) If the retiree's age is younger than the beneficiary's age on
175 the annuity starting date, an increase of five-tenths of one percent for
176 each year of age difference;

177 provided, after all adjustments, the option 2 percentage cannot exceed
178 eighty-seven and three-quarters percent. Upon the retiree's death, one

179 hundred percent of the retiree's reduced annuity shall be paid to such
180 beneficiary who was the retiree's spouse on the annuity starting date
181 or as otherwise provided under subsection 5 of this section.

182 **Option 3.** A retiree's life annuity shall be reduced to ninety-three
183 percent of the annuity otherwise payable. If the retiree dies before
184 having received one hundred twenty monthly payments, the reduced
185 annuity shall be continued for the remainder of the one-hundred-
186 twenty-month period to the retiree's designated beneficiary provided
187 that if there is no beneficiary surviving the retiree, the present value
188 of the remaining annuity payments shall be paid as provided under
189 subsection 3 of section 104.620. If the beneficiary survives the retiree
190 but dies before receiving the remainder of such one hundred twenty
191 monthly payments, the present value of the remaining annuity
192 payments shall be paid as provided under subsection 3 of section
193 104.620.

194 **Option 4.** A retiree's life annuity shall be reduced to eighty-six
195 percent of the annuity otherwise payable. If the retiree dies before
196 having received one hundred eighty monthly payments, the reduced
197 annuity shall be continued for the remainder of the one-hundred-
198 eighty-month period to the retiree's designated beneficiary, provided
199 that if there is no beneficiary surviving the retiree, the present value
200 of the remaining annuity payments shall be paid as provided under
201 subsection 3 of section 104.620. If the beneficiary survives the retiree
202 but dies before receiving the remainder of such one hundred eighty
203 monthly payments, the present value of the remaining annuity
204 payments shall be paid as provided under subsection 3 of section
205 104.620.

206 **14.** In any plan year that the plan's actuary determines that the
207 funded ratio of the most recent periodic actuarial valuation is at least
208 ninety percent, beginning January first of the following plan year and
209 all plan years thereafter, the credited service requirement for
210 retirement eligibility in subdivision (1) of subsection 2 and subsections
211 3 and 9 of this section shall decrease from ten years to five years for
212 current members employed on that date or new members employed on
213 or after that date.

214 **15.** The provisions under subsection 6 of section 104.1024 shall
215 not apply to members covered by subsections 1 to 15 of this

216 section. The normal and early retirement eligibility requirements
217 under this section shall apply for purposes of administering section
218 104.1087.

219 16. Notwithstanding any provision of law to the contrary and in
220 addition to the benefits provided under the year 2000 plan as modified
221 by this section, members covered under subsections 1 to 15 of this
222 section shall participate in the deferred compensation program
223 established under section 105.927, subject to the additional provisions
224 of this subsection. In addition to any contribution on behalf of such
225 participants under section 105.927, the contribution rate for such plan
226 shall be as follows:

227 (1) The employer contribution rate shall be equal to three
228 percent of payroll;

229 (2) The participant contribution rate shall be equal to one
230 percent of the participant's pay;

231 (3) Employers, under the provisions of 26 U.S.C. Section
232 414(h)(2), shall pick up and pay the contributions that would otherwise
233 be payable by a participant under this subsection. The contributions
234 so picked up shall be treated as employer contributions for purposes of
235 determining the participant's pay that is includable in the participant's
236 gross income for federal income tax purposes;

237 (4) Participant contributions picked up by the employer shall be
238 paid from the same source of funds used for the payment of pay to a
239 participant. A deduction shall be made from each participant's pay
240 equal to the amount of the participant's contributions picked up by the
241 employer;

242 (5) Participant contributions so picked up shall be credited to a
243 separate account within the participant's individual account; and

244 (6) The contributions so picked up, although designated as
245 participant contributions, shall be paid by the employer in lieu of the
246 contributions by the participant. The participant shall not have the
247 option of choosing to receive the contributed amounts directly instead
248 of having them paid by the employer to the deferred compensation
249 program.

250 17. The provisions of this section shall not apply to uniformed
251 members of the highway patrol.