

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1305
93RD GENERAL ASSEMBLY

Reported from the Committee on Retirement February 16, 2006 with recommendation that House Committee Substitute for House Bill No. 1305 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

3971L.03C

AN ACT

To repeal sections 32.051, 70.615, 105.268, 105.660, 105.665, and 320.320, RSMo, and to enact in lieu thereof nine new sections relating to retirement plans.

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

Section A. Sections 32.051, 70.615, 105.268, 105.660, 105.665, and 320.320, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 70.615, 104.1095, 105.660, 105.665, 105.666, 105.667, 105.684, 320.320, and 321.696, to read as follows:

70.615. After October 13, 1967, a political subdivision shall not commence coverage of its employees [who are neither policemen nor firemen] under another plan similar in purpose to this system, other than under this system, except the federal Social Security Old Age, Survivors, and Disability Insurance Program, as amended; except that, any political corporation or subdivision of this state, now having or which may hereafter have an assessed valuation of [one] **five** hundred million dollars or more, which does not now have a pension system for its officers and employees adopted pursuant to state law, may provide by proper legislative action of its governing body for the pensioning of its officers and employees and the widows and minor children of deceased officers and employees under a plan separate and apart from that provided in sections 70.600 to 70.670 and appropriate and utilize its revenues and other available funds for such purposes, and except that the board of hospital trustees of any hospital which is owned by any political corporation or subdivision of this state, may provide for the pensioning of its

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 employees and the widows and minor children of deceased employees under a plan separate and
14 apart from that provided in sections 70.600 to 70.670, and utilize its revenues and other funds
15 for such purposes.

**104.1095. Notwithstanding any law to the contrary, if the actuary for a system
2 under the year 2000 plan determines that such system has a funded ratio below fifty
3 percent for three consecutive plan years or determines that the system has a funded ratio
4 below sixty percent and is not meeting the contribution requirements under subsection 5
5 of section 105.684, RSMo, the plan administered by such system shall be closed to new
6 members effective January first of the year following such determination. If any changes
7 in actuarial assumptions are made that result in a change in the funded ratio of a system,
8 written justification for the changes, attested to by a representative of the system's retained
9 actuarial firm, shall be on file at the office of the system and provided to the joint
10 committee on public employee retirement.**

105.660. The following words and phrases as used in sections 105.660 to 105.685,
2 unless a different meaning is plainly required by the context, shall mean:

3 (1) "Actuarial valuation", a mathematical process which determines plan financial
4 condition and plan benefit cost;

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

8 (3) **"Board", the governing board or decision-making body of a plan that is
9 authorized by law to administer the plan;**

10 (4) **"Defined benefit plan", a plan providing a definite benefit formula for
11 calculating retirement benefit amounts;**

12 (5) **"Defined contribution plan", a plan in which the contributions are made to an
13 individual retirement account for each employee;**

14 (6) **"Funded ratio", the ratio of the actuarial value of assets over its actuarial
15 accrued liability;**

16 (7) **"Lump sum benefit plan", payment within one taxable year of the entire
17 balance to the participant from a plan;**

18 [(3)] (8) "Plan", any retirement system established by the state of Missouri or any
19 political subdivision or instrumentality of the state for the purpose of providing plan benefits for
20 elected or appointed public officials or employees of the state of Missouri or any political
21 subdivision or instrumentality of the state;

22 [(4)] (9) "Plan benefit", the benefit amount payable from a plan together with any
23 supplemental payments from public funds;

24 [(5)] (10) "Substantial proposed change", a proposed change in future plan benefits
25 which would increase or decrease the total contribution percent by at least one-quarter of one
26 percent of active employee payroll, or would increase or decrease a plan benefit by five percent
27 or more, or would materially affect the actuarial soundness of the plan. In testing for such
28 one-quarter of one percent of payroll contribution increase, the proposed change in plan benefits
29 shall be added to all actual changes in plan benefits since the last date that an actuarial valuation
30 was prepared.

105.665. 1. The legislative body or committee thereof which determines the amount and
2 type of plan benefits to be paid shall, before taking final action on any substantial proposed
3 change in plan benefits, cause to be prepared a statement regarding the cost of such change.

4 2. The cost statement shall be prepared by an actuary using the methods used in
5 preparing the most recent periodic actuarial valuation for the plan and shall, without limitation
6 by enumeration, include the following:

7 (1) The level normal cost of plan benefits currently in effect, which cost is expressed as
8 a percent of active employee payroll;

9 (2) The contribution for unfunded accrued liabilities currently payable by the plan, which
10 cost is expressed as a percent of active employee payroll and shall be over a period not to exceed
11 [forty] **thirty** years;

12 (3) The total contribution rate expressed as a percent of active employees payroll, which
13 contribution rate shall be the total of the normal cost percent plus the contribution percent for
14 unfunded accrued liabilities;

15 (4) A statement as to whether the legislative body is currently paying the total
16 contribution rate as defined in subdivision (3) of this subsection;

17 (5) The total contribution rate expressed as a percent of active employee payroll which
18 would be sufficient to adequately fund the proposed change in benefits;

19 (6) A statement as to whether such additional contributions are mandated by the
20 proposed change;

21 (7) A statement as to whether or not the proposed change would in any way impair the
22 ability of the plan to meet the obligations thereof in effect at the time the proposal is made;

23 (8) All assumptions relied upon to evaluate the present financial condition of the plan
24 and all assumptions relied upon to evaluate the impact of the proposed change upon the financial
25 condition of the plan, which shall be those assumptions used in preparing the most recent
26 periodic actuarial valuation for the plan, unless the nature of the proposed change is such that
27 alternative assumptions are clearly warranted, and shall be made and stated with respect to at
28 least the following:

29 (a) Investment return;

- 30 (b) Pay increase;
- 31 (c) Mortality of employees and officials, and other persons who may receive benefits
- 32 under the plan;
- 33 (d) Withdrawal (turnover);
- 34 (e) Disability;
- 35 (f) Retirement ages;
- 36 (g) Change in active employee group size;
- 37 (9) The actuary shall certify that in the actuary's opinion the assumptions used for the
- 38 valuation produce results which, in the aggregate, are reasonable;
- 39 (10) A description of the actuarial funding method used in preparing the valuation
- 40 including a description of the method used and period applied in amortizing unfunded actuarial
- 41 accrued liabilities;
- 42 (11) The increase in the total contribution amount required to adequately fund the
- 43 proposed change in benefits, expressed in annual dollars as determined by multiplying the
- 44 increase in total contribution rate by the active employee annual payroll used for this valuation.

105.666. Each plan shall, in conjunction with its staff and advisors, establish a

2 **board member education program, which shall be in effect on or after January 1, 2007.**

3 **The curriculum shall include, at a minimum, education in the areas of duties and**

4 **responsibilities of board members as trustees, ethics, governance process and procedures,**

5 **pension plan design and administration of benefits, investments including but not limited**

6 **to the fiduciary duties as defined under section 105.688, legal liability and risks associated**

7 **with the administration of a plan, sunshine law requirements under chapter 610, RSMo,**

8 **actuarial principles and methods related to plan administration, and the role of staff and**

9 **consultants in plan administration. Board members appointed or elected on a board on**

10 **or after January 1, 2007, shall complete a board member education program designated**

11 **to orient new board members in the areas described in this section within ninety days of**

12 **becoming a new board member. Board members who have served one or more years shall**

13 **attend at least two continuing education programs each year in the areas described in this**

14 **section.**

105.667. 1. Any appointing authority, board member, or employee shall be

2 **prohibited from receiving any gain or profit from any funds or transaction of the plan,**

3 **except benefits from interest in investments common to all members of the plan, if entitled**

4 **thereto.**

5 **2. Any appointing authority, board member, or employee accepting any political**

6 **contribution, gratuity, or compensation for the purpose of influencing his or her action**

7 with respect to the investment of the funds of the system shall thereby forfeit his or her
8 office and in addition thereto be subject to the penalties prescribed for bribery.

9 3. Any trustee, employee, or participant of a plan convicted of a plan-related felony
10 after August 28, 2006, that is determined by a court of law to have been directly committed
11 in connection with the member's duties as either a trustee, employee, or participant of a
12 plan shall not be eligible to receive any retirement benefits from the respective plan.

105.684. 1. Notwithstanding any law to the contrary, no plan shall adopt or
2 implement any additional benefit increase, supplement, enhancement, lump sum benefit
3 payments to participants, or cost-of-living adjustment beyond current plan provisions in
4 effect prior to August 28, 2006, unless the plan's actuary determines that the funded ratio
5 prior to such adoption or implementation is at least eighty percent and will not be less than
6 seventy-five percent after such adoption or implementation.

7 2. The unfunded actuarial accrued liabilities associated with benefit changes
8 described in this section shall be amortized over a period not to exceed fifteen years for
9 purposes of determining the contributions associated with the adoption or implementation
10 of any such benefit increase, supplement, or enhancement.

11 3. Any plan with a funded ratio below sixty percent shall have the actuary prepare
12 an accelerated contribution schedule based on a descending amortization period for
13 inclusion in the actuarial valuation.

14 4. Any plan whose actuary determines that the plan has a funded ratio below fifty
15 percent for three consecutive plan years shall be closed to any new members effective
16 January first of the year following such determination if both the employer and the
17 employee bargaining agent agree. In the event the members of a plan are not represented
18 by a bargaining agent a majority of the active members shall agree with the employer in
19 order to close the plan to new members. If any changes in actuarial assumptions are made
20 that result in a change in the funded ratio of a system, written justification for the changes,
21 attested to by a representative of the system's retained actuarial firm, shall be on file at the
22 office of the system and provided to the joint committee on public employee retirement.

23 5. Any plan whose actuary determines that the plan has a funded ratio below sixty
24 percent and is not meeting one hundred percent of the actuarially required contribution
25 payment shall be closed to any new members effective January first following such
26 determination if both the employer and employee bargaining agent agree. In the event the
27 members of a plan are not represented by a bargaining agent a majority of the active
28 members shall agree with the employer in order to close the plan to new members.

29 6. Nothing in this section shall apply to any plan established under chapter 70 or
30 476, RSMo.

320.320. 1. A volunteer firefighter serving a rural, volunteer or subscription fire department or organization is serving the state of Missouri in an official capacity as a fire protection volunteer and is hereby declared to be a public safety officer of the state of Missouri serving without wages, salary or certain other employee-type fringe benefits described in subsection 3 of this section.

2. The designation of a volunteer firefighter as a public safety officer of the state of Missouri in subsection 1 of this section does not entitle a volunteer firefighter to any rights, privileges or benefits provided to an employee or official of the state of Missouri, including retirement benefits and participation in the state legal defense fund, except as provided in subsection 3 of this section.

3. Notwithstanding the provisions of subsection 2 of this section, any rural, volunteer or subscription fire department or organization, or volunteer fire protection association as defined in section 320.300, may provide life insurance, accident, sickness, health, disability, annuity, [length of service, retirement, pension] **defined contribution benefit** and other employee-type fringe benefits, subject to the provisions of section 70.615, RSMo, for volunteer firefighters who are members of any such department, organization or association and such other benefits for their spouses and eligible unemancipated children as the governing board deems appropriate, either through a contributory or noncontributory plan, or both. For purposes of this section, "eligible unemancipated child" means a natural or adopted child of an insured, or a stepchild of an insured who is domiciled with the insured, who is less than twenty-three years of age, who is not married, not employed on a full-time basis, not maintaining a separate residence except for full-time students in an accredited school or institution of higher learning, and who is dependent on parents or guardians for at least fifty percent of his or her support. The type and extent of such benefits shall be determined by the governing board of the department, organization or association, whichever is applicable. The provision and receipt of such benefits shall not make the recipient an employee of the district, association or organization. Directors or board members who are also volunteer firefighters may receive such benefits while serving as a director or board member of the district, association or organization.

321.696. Notwithstanding any other provision of law, effective January 1, 2007, defined benefit pension plans shall not be established by any district for volunteer members or district board of directors except under the provisions of chapter 70, RSMo, unless the new plan is a result of consolidating the plans of two or more fire protection districts that existed prior to January 1, 2006.

[32.051. The director of the department of revenue shall make an estimate of the amount of tax revenues generated under the provisions of this section and section 143.072, RSMo, and section 144.800, RSMo. The director of the department of revenue shall also make a separate accounting of the amount

5 of income tax refunds and reduced individual income tax revenues necessitated
6 by decisions of the Supreme Courts of the United States and the state of
7 Missouri, relating to taxation of pension benefits. If the director of the
8 department of revenue determines the amount of revenues finally generated under
9 the provisions of this section and section 143.072, RSMo, and section 144.800,
10 RSMo, exceeds the amount of individual income taxes collected on United States
11 government retirement benefits and any interest accruing thereon, which the state
12 is obligated to refund and the amount of reduced individual income tax revenues
13 pursuant to the decisions of the Supreme Courts of the United States and the state
14 of Missouri, he shall deposit the excess amount into the budget stabilization fund
15 created pursuant to section 33.285, RSMo. The director of the department of
16 revenue shall quarterly submit in writing a report to the senate and the house of
17 representatives, and the commissioner of administration, describing the
18 methodology used in arriving at the estimate of the amount of tax revenues
19 generated under the provisions of this section and section 143.072, RSMo, and
20 section 144.800, RSMo, and the amount of income tax refunds and reduced
21 individual income tax revenues issued to taxpayers pursuant to the Supreme
22 Courts' decisions.]
23

2 [105.268. 1. During school years 1999-2000 through 2001-02 any
3 employee of the state of Missouri who works in a metropolitan school district or
4 an urban school district containing the greater part of the population of a city
5 which has more than three hundred thousand inhabitants and who is a volunteer
6 tutor in a formal tutoring or mentoring pilot program in language arts at a public
7 elementary school in such district may be granted leave from the employee's
8 duties, without loss of time, pay, regular leave, impairment of efficiency rating
9 or any other rights or benefits to which such person would otherwise be entitled
10 for periods during which such person is engaged in such volunteer tutoring
11 activities at a public elementary school. Leave for such volunteer tutoring
12 activities shall not be granted in excess of one-half of the hours spent tutoring,
13 for activities conducted at times outside of the employee's normal work day, for
14 more than forty hours in any one calendar year, or more than two hours in any
15 one day. The principal of the school shall give such an employee a signed
16 statement by such principal verifying the time such employee was engaged in
17 such tutoring activities.

18 2. To be eligible to participate in a volunteer tutoring program as
19 provided in subsection 1 of this section, the employee shall:

20 (1) Be a full-time state employee with a performance appraisal of highly
21 successful or outstanding;

22 (2) Have the approval of the employee's supervisor or supervisors;

23 (3) Not be absent during heavy workload periods or create scheduling
24 conflicts with other state employees or result in any overtime hours for the
employee or other state employees;

25 (4) Establish a set schedule, including traveling time to the school, which
26 shall not be for more than two hours per day or more than one day per week; and

27 (5) Submit the statement issued by the principal verifying the time the
28 employee was engaged in volunteer tutoring activities.

29 3. Every state agency that has state employees participating in a formal
30 tutoring or mentoring program as provided in subsection 1 of this section shall
31 submit a summary of the statements received pursuant to subdivision (5) of
32 subsection 2 of this section to the Missouri community service commission,
33 created in section 26.605, RSMo. Such summary shall include the number of
34 employees participating, the number of hours that all participants engaged in
35 volunteer tutoring and a list of the schools where the employees volunteered.

36 4. The Missouri community service commission shall submit an annual
37 report to the general assembly with the names of the state agencies submitting the
38 summaries required by subsection 3 of this section and a compilation of all the
39 information contained on such summaries.

40 5. The school board of a participating district shall evaluate the programs
41 and make recommendations to the general assembly by December 15, 2001, on
42 the continuance, expansion or termination of the programs and any recommended
43 changes to the programs.

44 6. The provisions of this section shall expire on June 30, 2002.]

✓