

FIRST REGULAR SESSION

# HOUSE BILL NO. 1059

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SMITH (150).

0732L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 104.1015, 104.1021, 104.1051, 104.1084, and 104.1087, RSMo, and to enact in lieu thereof five new sections relating to retirement benefits.

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

Section A. Sections 104.1015, 104.1021, 104.1051, 104.1084, and 104.1087, RSMo, are  
2 repealed and five new sections enacted in lieu thereof, to be known as sections 104.1015,  
3 104.1021, 104.1051, 104.1084, and 104.1087, to read as follows:

104.1015. 1. Persons covered by a closed plan on July 1, 2000, shall elect whether or  
2 not to change to year 2000 plan coverage. Any such person who elects to be covered by the year  
3 2000 plan shall forfeit all rights to receive benefits under this chapter except as provided under  
4 the year 2000 plan and all creditable service of such person under the closed plan shall be  
5 credited under the year 2000 plan. Any such person who elects not to be covered by the year  
6 2000 plan shall waive all rights to receive benefits under the year 2000 plan. In no event shall  
7 any retroactive annuity be paid to such persons pursuant to sections 104.1003 to 104.1093 except  
8 as described in subsection 2 of this section.

9 2. Each retiree of the closed plan on July 1, 2000, shall be furnished by the appropriate  
10 system a written comparison of the retiree's closed plan coverage and the retiree's potential year  
11 2000 plan coverage. A retiree shall elect whether or not to change to year 2000 plan coverage  
12 by making a written election, on a form furnished by the appropriate board, and providing that  
13 form to the system by no later than twelve months after July 1, 2000, and any retiree who fails  
14 to make such election within such time period shall be deemed to have elected to remain covered  
15 under the closed plan; provided the election must be after the retiree has received from the  
16 appropriate system such written comparison. The retirement option elected under the year 2000

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.

17 plan shall be the same as the retirement option elected under the closed plan, except any retiree  
18 who is receiving one of the options providing for a continuing lifetime annuity to a surviving  
19 spouse under the closed plan may elect to receive an annuity under option 1 or 2 of section  
20 104.1027, or a life annuity under subsection 2 of section 104.1024, provided the person who was  
21 married to the member at the time of retirement, if any, consents in writing to such election made  
22 pursuant to section 104.1024, or to any election described in this section if the person was  
23 married to a member of the Missouri state employees' retirement system. The effective date of  
24 payment of an annuity under the year 2000 plan as provided in this subsection shall begin on July  
25 1, 2000. No adjustment shall be made to retirement benefits paid to the retiree prior to July 1,  
26 2000. In order to calculate a new monthly annuity for retirees electing coverage under the year  
27 2000 plan pursuant to this subsection, the following calculations shall be made:

28 (1) Except as otherwise provided in this subsection, the retiree's gross monthly  
29 retirement annuity in effect immediately prior to July 1, 2000, shall be multiplied by the  
30 percentage increase in the life annuity formula between the closed plan and the year 2000 plan.  
31 This amount shall be added to the retiree's gross monthly retirement annuity in effect  
32 immediately prior to July 1, 2000, to arrive at the retiree's new monthly retirement annuity in the  
33 year 2000 plan on July 1, 2000. The age of eligibility and reduction factors applicable to the  
34 retiree's original annuity under the closed plan shall remain the same in the annuity payable under  
35 the year 2000 plan, except as provided in subdivision (2) of this subsection;

36 (2) If option 1 or 2 pursuant to section 104.1027 is chosen by the retiree under the year  
37 2000 plan, the new monthly retirement annuity calculated pursuant to subdivision (1) of this  
38 subsection shall be recalculated using the reduction factors for the option chosen pursuant to  
39 section 104.1027;

40 (3) If a temporary annuity is payable pursuant to subsection 4 of section 104.1024 the  
41 additional temporary annuity shall be calculated by multiplying the retiree's credited service by  
42 the retiree's final average pay by eight-tenths of one percent;

43 (4) Cost-of-living adjustments paid pursuant to section 104.1045 will commence on the  
44 anniversary of the retiree's annuity starting date coincident with or next following July 1, 2000;

45 (5) **Subject to subsection 4 of section 104.1084**, any retiree or other person described  
46 in this section who elects coverage under the year 2000 plan based on service rendered as a  
47 member of the general assembly or as a statewide elected official shall receive an annuity under  
48 the year 2000 plan calculated pursuant to the provisions of section 104.1084 using the current  
49 monthly pay at the time of the election with future COLAs calculated pursuant to subsection 7  
50 of section 104.1084.

51 3. Each person who is an employee and covered by the closed plan and not a retiree of  
52 the closed plan on July 1, 2000, shall elect whether or not to change to year 2000 plan coverage

53 prior to the last business day of the month before the person's annuity starting date, and if such  
54 election has not been made within such time, annuity payments due beginning on and after the  
55 month of the annuity starting date shall be made the month following the receipt by the  
56 appropriate system of such election and any other information required by the year 2000 plan  
57 created by sections 104.1003 to 104.1093; provided, such election must be after the person has  
58 received from the year 2000 plan a written comparison of the person's closed plan coverage and  
59 the person's potential year 2000 plan coverage and the election must be made in writing on a  
60 form furnished by the appropriate board. If such person dies after the annuity starting date but  
61 before making such election and providing such other information, no benefits shall be paid  
62 except as required pursuant to section 104.420 or subsection 2 of section 104.372 for members  
63 of the general assembly.

64 4. Each person who is not an employee and not a retiree and is eligible for a deferred  
65 annuity from the closed plan on July 1, 2000, shall elect whether or not to change to the year  
66 2000 plan coverage prior to the last business day of the month before the person's annuity  
67 starting date, and if such election has not been made within such time, annuity payments due  
68 beginning on and after the month of the annuity starting date shall be made the month following  
69 the receipt by the appropriate system of such election and any other information required by the  
70 year 2000 plan created by sections 104.1003 to 104.1093; provided, the election must be after  
71 the person has received from the year 2000 plan a written comparison of the person's closed plan  
72 coverage and the person's potential year 2000 plan coverage and the election must be made in  
73 writing on a form furnished by the appropriate board. If such person dies after the annuity  
74 starting date but before making such election and providing such other information, no benefits  
75 shall be paid except as required pursuant to section 104.420 or subsection 2 of section 104.372  
76 for members of the general assembly.

77 5. Each person who is not an employee and not a retiree and is eligible for a deferred  
78 annuity from the closed plan and returns to covered employment on or after July 1, 2000, shall  
79 be covered under the closed plan; provided, such person shall elect whether or not to change to  
80 the year 2000 plan coverage prior to the last business day of the month before the person's  
81 annuity starting date, and if such election has not been made within such time, annuity payments  
82 due beginning on and after the month of the annuity starting date shall be made the month  
83 following the receipt by the appropriate system of such election and any other information  
84 required by the year 2000 plan created by sections 104.1003 to 104.1093 and the election must  
85 be after the person has received from the year 2000 plan a written comparison of the person's  
86 closed plan coverage and the person's potential year 2000 plan coverage and the election must  
87 be made in writing on a form furnished by the appropriate board. If such person dies after the  
88 annuity starting date but before making such election and providing such other information, no

89 benefits shall be paid except as required under section 104.420 or subsection 2 of section  
90 104.372 for members of the general assembly.

91           6. Each person who is not an employee and not a retiree and not eligible for a deferred  
92 annuity from the closed plan but has forfeited creditable service with the closed plan and  
93 becomes an employee on or after August 28, 2002, shall be changed to year 2000 plan coverage  
94 and upon receiving credited service continuously for one year shall receive credited service for  
95 all such forfeited creditable service under the closed plan.

96           7. Each person who was employed as a member of the general assembly through  
97 December 31, 2000, covered under the closed plan, and has served at least two full biennial  
98 assemblies as defined in subdivision (24) of subsection 1 of section 104.010 but who is not  
99 eligible for a deferred annuity under the closed plan shall be eligible to receive benefits under  
100 the new plan pursuant to subdivision (5) of subsection 2 of this section upon meeting the age  
101 requirements under the new plan.

102           8. The retirees and persons described in subsections 2 and 4 of this section shall be  
103 eligible for benefits under those subsections pursuant to subsection 8 of section 104.610.

104           9. A member may change a member's plan election made under this section at any time  
105 prior to the system mailing or electronically transferring the first annuity payment to such  
106 member.

104.1021. 1. The appropriate board shall determine how much credited service shall be  
2 given each member consistent with this section.

3           2. If a member terminates employment and is eligible to receive an annuity pursuant to  
4 the year 2000 plan, or becomes a vested former member at the time of termination, the member's  
5 or former member's unused sick leave as reported through the financial and human resources  
6 system maintained by the office of administration, or if a department's employees are not paid  
7 salaries or wages through such system, as reported directly by the department, for which the  
8 member has not been paid will be converted to credited service at the time of application for  
9 retirement benefits. The member shall receive one-twelfth of a year of credited service for each  
10 one hundred and sixty-eight hours of such unused sick leave. The employing department shall  
11 not certify unused sick leave unless such unused sick leave could have been used by the member  
12 for sickness or injury. The rate of accrual of sick leave for purposes of computing years of  
13 service pursuant to this section shall be no greater than ten hours per month. Such credited  
14 service shall not be used in determining the member's eligibility for retirement or final average  
15 pay. Such credited service shall be added to the credited service in the last position of  
16 employment held as a member of the system.

17           3. If a member is employed in a covered position and simultaneously employed in one  
18 or more other covered or noncovered positions, credited service shall be determined as if all such

19 employment were in one position, and covered pay shall be the total of pay for all such positions.

20           4. In calculating any annuity, "credited service" means a period expressed as whole years  
21 and any fraction of a year measured in twelfths that begins on the date an employee commences  
22 employment in a covered position and ends on the date such employee's membership terminates  
23 pursuant to section 104.1018 plus any additional period for which the employee is credited with  
24 service pursuant to this section.

25           5. A member shall be credited for all military service after membership commences as  
26 required by state and federal law.

27           6. Any member who had active military service in the United States Army, Air Force,  
28 Navy, Marine Corps, Army or Air National Guard, Coast Guard, or any reserve component  
29 thereof prior to last becoming a member, or who is otherwise ineligible to receive credited  
30 service pursuant to subsection 1 or 5 of this section, and who became a member after the person's  
31 discharge from military service under honorable conditions may elect, prior to retirement, to  
32 purchase credited service for all such military service, but not to exceed four years, provided the  
33 person is not receiving and is not eligible to receive retirement credits or benefits from any other  
34 public or private retirement plan, other than a United States military service retirement system,  
35 for the military service to be purchased along with the submission of appropriate documentation  
36 verifying the member's dates of active service. The purchase shall be effected by the member  
37 paying to the system an amount equal to the state's contributions that would have been made to  
38 the system on the member's behalf had the member been a member for the period for which the  
39 member is electing to purchase credit and had the member's pay during such period of  
40 membership been the same as the annual pay rate as of the date the member was initially  
41 employed as a member, with the calculations based on the contribution rate in effect on the date  
42 of such member's employment with simple interest calculated from the date of employment to  
43 the date of election pursuant to this subsection. The payment shall be made over a period of not  
44 longer than two years, measured from the date of election, and with simple interest on the unpaid  
45 balance. If a member who purchased credited service pursuant to this subsection dies prior to  
46 retirement, the surviving spouse may, upon written request, receive a refund of the amount  
47 contributed for such purchase of such credited service, provided the surviving spouse is not  
48 entitled to survivorship benefits payable pursuant to the provisions of section 104.1030.

49           7. Any member of the Missouri state employees' retirement system shall receive credited  
50 service for the creditable prior service that such employee would have been entitled to under the  
51 closed plan pursuant to section 104.339, subsections 2, and 6 to 9 of section 104.340, subsection  
52 12 of section 104.342, section 104.344, subsection 4 of section 104.345, subsection 4 of section  
53 104.372, section 178.640, RSMo, and section 211.393, RSMo, provided such service has not  
54 been credited under the closed plan.

55           8. Any member who has service in both systems and dies or terminates employment shall  
56 have the member's service in the other system transferred to the last system that covered such  
57 member and any annuity payable to such member shall be paid by that system. Any such  
58 member may elect to transfer service between systems prior to termination of employment,  
59 provided, any annuity payable to such member shall be paid by the last system that covered such  
60 member prior to the receipt of such annuity.

61           9. In no event shall any person or member receive credited service pursuant to the year  
62 2000 plan if that same service is credited for retirement benefits under any defined benefit  
63 retirement system not created pursuant to this chapter.

64           10. Any additional credited service as described in subsections 5 to 7 of this section shall  
65 be added to the credited service in the first position of employment held as a member of the  
66 system. Any additional creditable service received pursuant to section 105.691, RSMo, shall be  
67 added to the credited service in the position of employment held at the time the member  
68 completes the purchase or transfer pursuant to such section.

69           11. A member may not purchase any credited service described in this section unless the  
70 member has met the five-year minimum service requirement as provided in subdivisions (11) and  
71 (20) of subsection 1 of section 104.1003, the three full biennial assemblies minimum service  
72 requirement as provided in section 104.1084, **subject to the provisions of subsection 4 of such**  
73 **section**, or the four-year minimum service requirement as provided in section 104.1084.

74           12. Absences taken by an employee without compensation for sickness and injury of the  
75 employee of less than twelve months or for leave taken by such employee without compensation  
76 pursuant to the provisions of the Family and Medical Leave Act of 1993 shall be counted as  
77 years of credited service.

          104.1051. 1. Any annuity provided pursuant to the year 2000 plan is marital property  
2 and a court of competent jurisdiction may divide such annuity between the parties to any action  
3 for dissolution of marriage if at the time of the dissolution the member has at least five years of  
4 credited service pursuant to sections 104.1003 to 104.1093. A division of benefits order issued  
5 pursuant to this section:

6           (1) Shall not require the applicable retirement system to provide any form or type of  
7 annuity or retirement plan not selected by the member;

8           (2) Shall not require the applicable retirement system to commence payments until the  
9 member's annuity starting date;

10          (3) Shall identify the monthly amount to be paid to the former spouse, which shall be  
11 expressed as a percentage and which shall not exceed fifty percent of the amount of the member's  
12 annuity accrued during all or part of the period of the marriage of the member and former spouse  
13 and which shall be based on the member's vested annuity on the date of the dissolution of

14 marriage or an earlier date as specified in the order, which amount shall be adjusted  
15 proportionately upon the annuity starting date if the member's annuity is reduced due to the  
16 receipt of an early retirement annuity or the member's annuity is reduced pursuant to section  
17 104.1027 under an annuity option in which the member named the alternate payee as beneficiary  
18 prior to the dissolution of marriage;

19 (4) Shall not require the payment of an annuity amount to the member and former spouse  
20 which in total exceeds the amount which the member would have received without regard to the  
21 order;

22 (5) Shall provide that any annuity increases, additional years of credited service,  
23 increased final average pay, increased pay pursuant to subsections 2 and [5] 6 of section  
24 104.1084, or other type of increases accrued after the date of the dissolution of marriage and any  
25 temporary annuity received pursuant to subsection 4 of section 104.1024 shall accrue solely to  
26 the benefit of the member; except that on or after September 1, 2001, any cost-of-living  
27 adjustment (COLA) due after the annuity starting date shall not be considered to be an increase  
28 accrued after the date of termination of marriage and shall be part of the monthly amount subject  
29 to division pursuant to any order issued after September 1, 2001;

30 (6) Shall terminate upon the death of either the member or the former spouse, whichever  
31 occurs first;

32 (7) Shall not create an interest which is assignable or subject to any legal process;

33 (8) Shall include the name, address, date of birth, and Social Security number of both  
34 the member and the former spouse, and the identity of the retirement system to which it applies;

35 (9) Shall be consistent with any other division of benefits orders which are applicable  
36 to the same member.

37 2. A system shall provide the court having jurisdiction of a dissolution of a marriage  
38 proceeding or the parties to the proceeding with information necessary to issue a division of  
39 benefits order concerning a member of the system, upon written request from either the court,  
40 the member, or the member's spouse, citing this section and identifying the case number and  
41 parties.

42 3. A system shall have the discretionary authority to reject a division of benefits order  
43 for the following reasons:

44 (1) The order does not clearly state the rights of the member and the former spouse;

45 (2) The order is inconsistent with any law governing the retirement system.

46 4. Any member of the closed plan who elected the year 2000 plan pursuant to section  
47 104.1015 and then becomes divorced and subject to a division of benefits order shall have the  
48 division of benefits order calculated pursuant to the provisions of the year 2000 plan.

104.1084. 1. For members of the general assembly, the provisions of this section shall  
2 supplement or replace the indicated other provisions of the year 2000 plan. "Normal retirement  
3 eligibility" means attainment of age fifty-five for a member who has served at least three full  
4 biennial assemblies or the attainment of at least age fifty for a member who has served at least  
5 three full biennial assemblies with a total of years of age and years of credited service which is  
6 at least eighty. A member shall receive two years of credited service for every full biennial  
7 assembly served. A full biennial assembly shall be equal to the period of time beginning on the  
8 first day the general assembly convenes for a first regular session until the last day of the  
9 following year. If a member serves less than a full biennial assembly, the member shall receive  
10 credited service for the pro rata portion of the full biennial assembly served.

11 2. For the purposes of section 104.1024, the normal retirement annuity of a member of  
12 the general assembly shall be an amount for life equal to one twenty-fourth of the monthly pay  
13 for a senator or representative on the annuity starting date multiplied by the years of credited  
14 service as a member of the general assembly. In no event shall any such member or eligible  
15 beneficiary receive annuity amounts in excess of one hundred percent of pay.

16 3. To be covered by the provisions of section 104.1030, or section 104.1036, a member  
17 of the general assembly must have served at least three full biennial assemblies.

18 4. **Beginning January 1, 2011, no member of the general assembly shall accrue**  
19 **credited service under this chapter.**

20 5. For members who are statewide elected officials, the provisions of this section shall  
21 supplement or replace the indicated other provisions of the year 2000 plan. "Normal retirement  
22 eligibility" means attainment of age fifty-five for a member who has served at least four years  
23 as a statewide elected official, or the attainment of age fifty with a total of years of age and years  
24 of such credited service which is at least eighty.

25 [5.] 6. For the purposes of section 104.1024, the normal retirement annuity of a member  
26 who is a statewide elected official shall be an amount for life equal to one twenty-fourth of the  
27 monthly pay in the highest office held by such member on the annuity starting date multiplied  
28 by the years of credited service as a statewide elected official not to exceed twelve years.

29 [6.] 7. To be covered by the provisions of sections 104.1030 and 104.1036, a member  
30 who is a statewide elected official must have at least four years as a statewide elected official.

31 [7.] 8. The provisions of section 104.1045 shall not apply to persons covered by the  
32 general assembly and statewide elected official provisions of this section. Persons covered by  
33 the general assembly provisions and receiving a year 2000 plan annuity shall be entitled to a  
34 cost-of-living adjustment (COLA) when there are increases in pay for members of the general  
35 assembly. Persons covered by the statewide elected official provisions and receiving a year 2000  
36 plan annuity shall be entitled to COLAs when there are increases in the pay for statewide elected



37 officials in the highest office held by such person. The COLA described in this subsection shall  
38 be equal to and concurrent with the percentage increase in pay as described in section 105.005,  
39 RSMo. No COLA shall be less than zero.

40 [8.] 9. Any member who serves under this chapter as a member of the general assembly  
41 or as a statewide elected official on or after August 28, 1999, shall not be eligible to receive any  
42 retirement benefits from the system under either the closed plan or the year 2000 plan based on  
43 service rendered on or after August 28, 1999, as a member of the general assembly or as a  
44 statewide elected official if such member is convicted of a felony that is determined by a court  
45 of law to have been committed in connection with the member's duties either as a member of the  
46 general assembly or as a statewide elected official, unless such conviction is later reversed by  
47 a court of law.

48 [9.] 10. A member of the general assembly who has purchased or transferred creditable  
49 service shall not be subject to the cap on benefits pursuant to subsection 2 of this section for that  
50 portion of the benefit attributable to the purchased or transferred service.

104.1087. 1. If a member has credited service with more than one selected plan at time  
2 of separation of covered employment from all selected plans, then the annuity payable from each  
3 selected plan shall be based upon the annuity program, pay record and service record with that  
4 selected plan; provided, however, that the total of credited service with all selected plans shall  
5 be used for the sole purpose of determining whether or not the member has met the credited  
6 service requirement contained in subdivisions (11) and (20) of subsection 1 of section 104.1003  
7 and subsections 1 and [4] 5 of section 104.1084 for each selected plan.

8 2. The selected plans cited in this section are:

- 9 (1) Year 2000 plan - basic provisions;  
10 (2) Year 2000 plan - general assembly provisions;  
11 (3) Year 2000 plan - statewide elected official provisions.

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