

SECOND REGULAR SESSION

[CORRECTED]

[TRULY AGREED TO AND FINALLY PASSED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1467 AND

HOUSE BILL NO. 1934

100TH GENERAL ASSEMBLY

3862S.06T

2020

AN ACT

To repeal sections 70.705, 104.010, 104.090, 104.395, 104.1027, and 169.020, RSMo, and to enact in lieu thereof seven new sections relating to public employee retirement systems.

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

Section A. Sections 70.705, 104.010, 104.090, 104.395, 104.1027, and 169.020, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 70.705, 104.010, 104.090, 104.395, 104.1027, 104.1089, and 169.020, to read as follows:

70.705. 1. The "Members Deposit Fund" is hereby created. It shall be the fund in which shall be accumulated the contributions made by members to the system, and from which shall be made transfers and refunds of members' contributions as provided in sections 70.600 to 70.755.

2. Except as provided otherwise in this section, the contributions of a member to the system shall be four percent of his compensations after the date he has completed sufficient employment for six months of credited service. Such contributions shall be made notwithstanding that the minimum salary or wages provided by law for any member shall thereby be changed. Each member shall be deemed to consent and agree to the deductions made and

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.

10 provided for herein. Payment of a member's compensation less such deductions shall be a full
11 and complete discharge and acquittance of all claims and demands whatsoever for services
12 rendered by him to a political subdivision, except as to benefits provided by this system.

13 3. The officer or officers responsible for making up the payrolls for each political
14 subdivision shall cause the contributions provided for in this section to be deducted from the
15 compensation of each member in the employ of the political subdivision, on each and every
16 payroll, for each and every payroll period after the date he has completed sufficient employment
17 for six months of credited service to the date his membership terminates. When deducted, each
18 of these amounts shall be paid by the political subdivision to the system; the payments shall be
19 made in the manner and shall be accompanied by such supporting data as the board shall from
20 time to time prescribe. When paid to the system, each of the amounts shall be credited to the
21 members deposit fund account of the member from whose compensations the contributions were
22 deducted.

23 4. In addition to the contributions deducted from the compensations of a member, as
24 heretofore provided, a member shall deposit in the members deposit fund, by a single
25 contribution or by an increased rate of contributions, as approved by the board, the amount or
26 amounts he may have withdrawn therefrom and not repaid thereto, together with regular interest
27 from the date of withdrawal to the date of repayment. In no case shall a member be given credit
28 for service rendered prior to the date he withdrew his accumulated contributions until he returns
29 to the members deposit fund all amounts due the fund by him.

30 5. Upon the retirement of a member, or upon his death if an allowance becomes payable
31 on account of his death, his accumulated contributions shall be transferred to the benefit reserve
32 fund.

33 6. Each political subdivision, by majority vote of its governing body, may elect with
34 respect to its members **an alternate contribution amount of two percent or six percent of**
35 **compensation or** to eliminate future member contributions otherwise provided for in this
36 section. **Should a political subdivision elect one benefit program for members whose**
37 **political subdivision employment is concurrently covered by federal Social Security and**
38 **a different benefit program for members whose political subdivision employment is not**
39 **concurrently covered by federal Social Security, as provided in section 70.655, the political**
40 **subdivision may also, by majority vote of its governing body, make one election concerning**
41 **member contributions provided for in this section for members whose political subdivision**
42 **employment is concurrently covered by federal Social Security and one election concerning**
43 **member contributions provided for in this section for members whose political subdivision**
44 **employment is not concurrently covered by federal Social Security.** The clerk or secretary
45 of the political subdivision shall certify the election concerning member contributions to the

46 board within ten days after such vote. The effective date of the political subdivision's member
47 contribution election is the first day of the calendar month specified by such governing body, or
48 the first day of the calendar month next following receipt by the board of the certification of such
49 election, or the effective date of the political subdivision's becoming an employer, whichever is
50 the latest. Such election concerning member contributions may be changed from time to time
51 by such vote, but not more often than once in two years. Except as provided in section 70.707,
52 if such election is to eliminate member contributions, then such election shall apply only to
53 future member compensations and shall not change the status of any member contributions made
54 before such election. If the effect of such election is to require member contributions, then such
55 election shall apply only to future member compensations and shall not change any member
56 contribution requirements existing before such election. Should an employer change its member
57 contribution requirements as provided in this section, the employer contribution requirements
58 shall be correspondingly changed effective the same date as the member contribution change.
59 The limitation on increases in an employer's contribution provided by subsection 6 of section
60 70.730 shall not apply to any contribution increase resulting from an employer electing to
61 eliminate member contributions.

104.010. 1. The following words and phrases as used in sections 104.010 to 104.800,
2 unless a different meaning is plainly required by the context, shall mean:

3 (1) "Accumulated contributions", the sum of all deductions for retirement benefit
4 purposes from a member's compensation which shall be credited to the member's individual
5 account and interest allowed thereon;

6 (2) "Active armed warfare", any declared war, or the Korean or Vietnamese Conflict;

7 (3) "Actuarial equivalent", a benefit which, when computed upon the basis of [actuarial
8 tables and interest] **specified actuarial assumptions approved by the board**, is equal in value
9 to a certain amount or other benefit;

10 (4) "Actuarial tables", the actuarial tables approved and in use by a board at any given
11 time;

12 (5) "Actuary", the actuary who is a member of the American Academy of Actuaries or
13 who is an enrolled actuary under the Employee Retirement Income Security Act of 1974 and who
14 is employed by a board at any given time;

15 (6) "Annuity", annual payments, made in equal monthly installments, to a retired
16 member from funds provided for in, or authorized by, this chapter;

17 (7) "Annuity starting date", the first day of the first month with respect to which an
18 amount is paid as an annuity under sections 104.010 to 104.800, and the terms retirement, time
19 of retirement, and date of retirement shall mean annuity starting date as defined in this
20 subdivision unless the context in which the term is used indicates otherwise;

21 (8) "Average compensation", the average compensation of a member for the thirty-six
22 consecutive months of service prior to retirement when the member's compensation was greatest;
23 or if the member is on workers' compensation leave of absence or a medical leave of absence due
24 to an employee illness, the amount of compensation the member would have received may be
25 used, as reported and verified by the employing department; or if the member had less than
26 thirty-six months of service, the average annual compensation paid to the member during the
27 period up to thirty-six months for which the member received creditable service when the
28 member's compensation was the greatest; or if the member is on military leave, the amount of
29 compensation the member would have received may be used as reported and verified by the
30 employing department or, if such amount is not determinable, the amount of the employee's
31 average rate of compensation during the twelve-month period immediately preceding such period
32 of leave, or if shorter, the period of employment immediately preceding such period of leave.
33 The board of each system may promulgate rules for purposes of calculating average
34 compensation and other retirement provisions to accommodate for any state payroll system in
35 which compensation is received on a monthly, semimonthly, biweekly, or other basis;

36 (9) "Beneficiary", any persons or entities entitled to or nominated by a member or retiree
37 who may be legally entitled to receive benefits pursuant to this chapter;

38 (10) "Biennial assembly", the completion of no less than two years of creditable service
39 or creditable prior service by a member of the general assembly;

40 (11) "Board of trustees", "board", or "trustees", a board of trustees as established for the
41 applicable system pursuant to this chapter;

42 (12) "Chapter", sections 104.010 to 104.800;

43 (13) "Compensation":

44 (a) All salary and wages payable out of any state, federal, trust, or other funds to an
45 employee for personal services performed for a department; but including only amounts for
46 which contributions have been made in accordance with section 104.436, or section 104.070,
47 whichever is applicable, and excluding any nonrecurring single sum payments or amounts paid
48 after the member's termination of employment unless such amounts paid after such termination
49 are a final installment of salary or wages at the same rate as in effect immediately prior to
50 termination of employment in accordance with a state payroll system adopted on or after January
51 1, 2000, or any other one-time payments made as a result of such payroll system;

52 (b) All salary and wages which would have been payable out of any state, federal, trust
53 or other funds to an employee on workers' compensation leave of absence during the period the
54 employee is receiving a weekly workers' compensation benefit, as reported and verified by the
55 employing department;

56 (c) Effective December 31, 1995, compensation in excess of the limitations set forth in
57 Internal Revenue Code Section 401(a)(17) shall be disregarded. The limitation on compensation
58 for eligible employees shall not be less than the amount which was allowed to be taken into
59 account under the system as in effect on July 1, 1993. For this purpose, an "eligible employee"
60 is an individual who was a member of the system before the first plan year beginning after
61 December 31, 1995;

62 (14) "Consumer price index", the Consumer Price Index for All Urban Consumers for
63 the United States, or its successor index, as approved by a board, as such index is defined and
64 officially reported by the United States Department of Labor, or its successor agency;

65 (15) "Creditable prior service", the service of an employee which was either rendered
66 prior to the establishment of a system, or prior to the date the employee last became a member
67 of a system, and which is recognized in determining the member's eligibility and for the amount
68 of the member's benefits under a system;

69 (16) "Creditable service", the sum of membership service and creditable prior service,
70 to the extent such service is standing to a member's credit as provided in this chapter; except that
71 in no case shall more than one day of creditable service or creditable prior service be credited any
72 member for any one calendar day of eligible service credit as provided by law;

73 (17) "Deferred normal annuity", the annuity payable to any former employee who
74 terminated employment as an employee or otherwise withdrew from service with a vested right
75 to a normal annuity, payable at a future date;

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

81 (19) "Disability benefits", benefits paid to any employee while totally disabled as
82 provided in this chapter;

83 (20) "Early retirement age", a member's attainment of fifty-five years of age and the
84 completion of ten or more years of creditable service, except for uniformed members of the water
85 patrol;

86 (21) "Employee":

87 (a) Effective August 28, 2007, any elective or appointive officer or person employed by
88 the state who is employed, promoted or transferred by a department into a new or existing
89 position and earns a salary or wage in a position normally requiring the performance by the
90 person of duties during not less than one thousand forty hours per year, including each member
91 of the general assembly but not including any patient or inmate of any state, charitable, penal or

92 correctional institution. However, persons who are members of the public school retirement
93 system and who are employed by a state agency other than an institution of higher learning shall
94 be deemed employees for purposes of participating in all insurance programs administered by
95 a board established pursuant to section 104.450. This definition shall not exclude any employee
96 as defined in this subdivision who is covered only under the federal Old Age and Survivors'
97 Insurance Act, as amended. As used in this chapter, the term "employee" shall include:

98 a. Persons who are currently receiving annuities or other retirement benefits from some
99 other retirement or benefit fund, so long as they are not simultaneously accumulating creditable
100 service in another retirement or benefit system which will be used to determine eligibility for or
101 the amount of a future retirement benefit;

102 b. Persons who have elected to become or who have been made members of a system
103 pursuant to section 104.342;

104 (b) Any person who is not a retiree and has performed services in the employ of the
105 general assembly or either house thereof, or any employee of any member of the general
106 assembly while acting in the person's official capacity as a member, and whose position does not
107 normally require the person to perform duties during at least one thousand forty hours per year,
108 with a month of service being any monthly pay period in which the employee was paid for
109 full-time employment for that monthly period; except that persons described in this paragraph
110 shall not include any such persons who are employed on or after August 28, 2007, and who have
111 not previously been employed in such positions;

112 (c) "Employee" does not include special consultants employed pursuant to section
113 104.610;

114 (d) The system shall consider a person who is employed in multiple positions
115 simultaneously within a single agency to be working in a single position for purposes of
116 determining whether the person is an employee as defined in this subdivision;

117 (22) "Employer", a department of the state;

118 (23) "Executive director", the executive director employed by a board established
119 pursuant to the provisions of this chapter;

120 (24) "Fiscal year", the period beginning July first in any year and ending June thirtieth
121 the following year;

122 (25) "Full biennial assembly", the period of time beginning on the first day the general
123 assembly convenes for a first regular session until the last day of the following year;

124 (26) "Fund", the benefit fund of a system established pursuant to this chapter;

125 (27) "Interest", interest at such rate as shall be determined and prescribed from time to
126 time by a board;

127 (28) "Member", as used in sections 104.010 to 104.272 or 104.601 to 104.800 shall mean
128 an employee, retiree, or former employee entitled to a deferred annuity covered by the Missouri
129 department of transportation and highway patrol employees' retirement system. "Member", as
130 used in this section and sections 104.312 to 104.800, shall mean an employee, retiree, or former
131 employee entitled to deferred annuity covered by the Missouri state employees' retirement
132 system;

133 (29) "Membership service", the service after becoming a member that is recognized in
134 determining a member's eligibility for and the amount of a member's benefits under a system;

135 (30) "Military service", all active service performed in the United States Army, Air
136 Force, Navy, Marine Corps, Coast Guard, and members of the United States Public Health
137 Service or any women's auxiliary thereof; and service in the Army National Guard and Air
138 National Guard when engaged in active duty for training, inactive duty training or full-time
139 National Guard duty, and service by any other category of persons designated by the President
140 in time of war or emergency;

141 (31) "Normal annuity", the annuity provided to a member upon retirement at or after the
142 member's normal retirement age;

143 (32) "Normal retirement age", an employee's attainment of sixty-five years of age and
144 the completion of four years of creditable service or the attainment of age sixty-five years of age
145 and the completion of five years of creditable service by a member who has terminated
146 employment and is entitled to a deferred normal annuity or the member's attainment of age sixty
147 and the completion of fifteen years of creditable service, except that normal retirement age for
148 uniformed members of the highway patrol shall be fifty-five years of age and the completion of
149 four years of creditable service and uniformed employees of the water patrol shall be fifty-five
150 years of age and the completion of four years of creditable service or the attainment of age
151 fifty-five and the completion of five years of creditable service by a member of the water patrol
152 who has terminated employment and is entitled to a deferred normal annuity and members of the
153 general assembly shall be fifty-five years of age and the completion of three full biennial
154 assemblies. Notwithstanding any other provision of law to the contrary, a member of the
155 Missouri department of transportation and highway patrol employees' retirement system or a
156 member of the Missouri state employees' retirement system shall be entitled to retire with a
157 normal annuity and shall be entitled to elect any of the survivor benefit options and shall also be
158 entitled to any other provisions of this chapter that relate to retirement with a normal annuity if
159 the sum of the member's age and creditable service equals eighty years or more and if the
160 member is at least forty-eight years of age;

161 (33) "Payroll deduction", deductions made from an employee's compensation;

162 (34) "Prior service credit", the service of an employee rendered prior to the date the
163 employee became a member which service is recognized in determining the member's eligibility
164 for benefits from a system but not in determining the amount of the member's benefit;

165 (35) "Reduced annuity", an actuarial equivalent of a normal annuity;

166 (36) "Retiree", a member who is not an employee and who is receiving an annuity from
167 a system pursuant to this chapter;

168 (37) "System" or "retirement system", the Missouri department of transportation and
169 highway patrol employees' retirement system, as created by sections 104.010 to 104.270, or
170 sections 104.601 to 104.800, or the Missouri state employees' retirement system as created by
171 sections 104.320 to 104.800;

172 (38) "Uniformed members of the highway patrol", the superintendent, lieutenant colonel,
173 majors, captains, director of radio, lieutenants, sergeants, corporals, and patrolmen of the
174 Missouri state highway patrol who normally appear in uniform;

175 (39) "Uniformed members of the water patrol", employees of the Missouri state water
176 patrol of the department of public safety who are classified as water patrol officers who have
177 taken the oath of office prescribed by the provisions of chapter 306 and who have those peace
178 officer powers given by the provisions of chapter 306;

179 (40) "Vesting service", the sum of a member's prior service credit and creditable service
180 which is recognized in determining the member's eligibility for benefits under the system.

181 2. Benefits paid pursuant to the provisions of this chapter shall not exceed the limitations
182 of Internal Revenue Code Section 415, the provisions of which are hereby incorporated by
183 reference. Notwithstanding any other law to the contrary, the board of trustees may establish a
184 benefit plan under Section 415(m) of the Internal Revenue Code of 1986, as amended. Such plan
185 shall be created solely for the purposes described in Section 415(m)(3)(A) of the Internal
186 Revenue Code of 1986, as amended. The board of trustees may promulgate regulations
187 necessary to implement the provisions of this subsection and to create and administer such
188 benefit plan.

104.090. 1. The normal annuity of a member shall equal one and six-tenths percent of
2 the average compensation of the member multiplied by the number of years of creditable service
3 of such member. In addition, the normal annuity of a uniformed member of the patrol shall be
4 increased by thirty-three and one-third percent.

5 2. In addition, a uniformed member of the highway patrol who is retiring with a normal
6 annuity after attaining normal retirement age shall receive an additional sum of ninety dollars per
7 month as a contribution by the system until such member attains the age of sixty-five years, when
8 such contribution shall cease. To qualify for the contribution provided in this subsection by the
9 system, the retired uniformed member of the highway patrol is made, constituted, appointed and

10 employed by the board as a special consultant on the problems of retirement, aging and other
11 state matters. Such additional contribution shall be reduced each month by such amount earned
12 by the retired uniformed member of the highway patrol in gainful employment. In order to
13 qualify for the additional contribution provided in this subsection, the retired uniformed member
14 of the highway patrol shall have been:

15 (1) Hired by the Missouri state highway patrol prior to January 1, 1995; and

16 (2) Employed by the Missouri state highway patrol or receiving long-term disability or
17 work-related disability benefits on the day before the effective date of the member's retirement.

18 3. In lieu of the annuity payable to the member pursuant to section 104.100, a member
19 whose age at retirement is forty-eight or more may elect in the member's application for
20 retirement to receive one of the following:

21 Option 1.

22 An actuarial reduction approved by the board of the member's annuity in reduced monthly
23 payments for life during retirement with the provision that upon the member's death the reduced
24 annuity at date of death shall be continued throughout the life of, and be paid to, the member's
25 spouse; or

26 Option 2.

27 The member's normal annuity in regular monthly payments for life during retirement with
28 the provision that upon the member's death a survivor's benefit equal to one-half the member's
29 normal annuity at date of death shall be paid to the member's spouse in regular monthly
30 payments for life; or

31 Option 3.

32 An actuarial reduction approved by the board of the member's normal annuity in reduced
33 monthly payments for the member's life with the provision that if the member dies prior to the
34 member's having received one hundred twenty monthly payments of the member's reduced
35 annuity, the member's reduced allowance to which the member would have been entitled had the
36 member lived shall be paid for the remainder of the one hundred twenty-month period to such
37 beneficiary as the member shall have nominated by written designation duly executed and filed
38 with the board. If there is no beneficiary surviving the retiree, the reserve for such allowance for
39 the remainder of such one hundred twenty-month period shall be paid to the retiree's estate; or

40 Option 4.

41 An actuarial reduction approved by the board of the member's normal annuity in reduced
42 monthly payments for the member's life with the provision that if the member dies prior to the
43 member having received sixty monthly payments of the member's reduced annuity, the member's
44 reduced allowance to which the member would have been entitled had the member lived shall
45 be paid for the remainder of the sixty-month period to such beneficiary as the member shall have

46 nominated by written designation duly executed and filed with the board. If there is no
47 beneficiary surviving the retiree, the reserve for such allowance for the remainder of such
48 sixty-month period shall be paid to the retiree's estate.

49 4. The election may be made only in the application for retirement, and such application
50 shall be filed at least thirty days but not more than ninety days prior to the date on which the
51 retirement of the member is to be effective, provided that if either the member or the spouse
52 nominated to receive the survivorship payment dies before the effective date of retirement, the
53 election shall not be effective. If after the reduced annuity commences, the spouse predeceases
54 the retired member, the reduced annuity continues to the retired member during the member's
55 lifetime.

56 5. Effective July 1, 2000, a member may make an election under option 1 or 2 after the
57 date retirement benefits are initiated if the member makes the election within one year from the
58 date of marriage or July 1, 2000, whichever is later, under any of the following circumstances:

59 (1) The member elected to receive a normal annuity and was not eligible to elect option
60 1 or 2 on the date retirement benefits were initiated; or

61 (2) The member's annuity reverted to a normal annuity pursuant to subsection **7 of this**
62 **section or subsection 7 or 8** of section 104.103 and the member remarried; or

63 (3) The member elected option 1 or 2 but the member's spouse at the time of retirement
64 has died and the member has remarried.

65 6. Any person who terminates employment or retires prior to July 1, 2000, shall be made,
66 constituted, appointed and employed by the board as a special consultant on the problems of
67 retirement, aging and other state matters, and for such services shall be eligible to elect to receive
68 the benefits described in subsection 5 of this section.

69 7. For retirement applications filed on or after August 28, 2004, the beneficiary for either
70 option 1 or option 2 of subsection 3 of this section shall be the member's spouse at the time of
71 retirement. If the member's marriage ends after retirement as a result of a dissolution of
72 marriage, such dissolution shall not affect the option election and the former spouse shall
73 continue to be eligible to receive survivor benefits upon death of the member, **except a member**
74 **may cancel his or her election if:**

75 (1) **The dissolution of marriage of the member and former spouse occurred on or**
76 **after January 1, 2021, and the dissolution decree provides for sole retention by the member**
77 **of all rights in the annuity and provides that the former spouse shall not be entitled to any**
78 **survivor benefits pursuant to this chapter; or**

79 (2) **The dissolution of marriage of the member and former spouse occurred prior**
80 **to January 1, 2021, and:**

81 **(a) The dissolution decree provided for the sole retention by the member of all**
82 **rights in the annuity pursuant to this chapter, and the parties obtained an amended or**
83 **modified dissolution decree after January 1, 2021, providing for immediate removal of the**
84 **former spouse as the beneficiary entitled to survivor benefits to the satisfaction of the**
85 **system; or**

86 **(b) The dissolution decree does not provide for the sole retention by the member**
87 **of all rights in the annuity and the parties obtained an amended or modified dissolution**
88 **decree after January 1, 2021, which provides for the sole retention by the member of all**
89 **rights in the annuity and provides that the former spouse shall not be entitled to any**
90 **survivor benefits pursuant to this chapter.**

91

92 **Upon meeting the requirements of subdivision (1) or (2) of this subsection, the monthly**
93 **benefit payable for the lifetime of the member shall be the actuarial equivalent of the**
94 **annuity payable pursuant to the provisions of option 1 or option 2 of subsection 3 of this**
95 **section, as adjusted for early retirement if applicable. In no event shall the monthly benefit**
96 **payable for the lifetime of the member be greater than the amount that would have been**
97 **payable to the member under subsection 7 or 8 of section 104.103, whichever is applicable,**
98 **had the former spouse died on the date of the dissolution of marriage. Any increase in the**
99 **annuity amount pursuant to this subsection shall be prospective and effective the first of**
100 **the month following the date of receipt by the system of a certified copy of the dissolution**
101 **decree that meets the requirements of this subsection.**

102 **8. Any application for retirement shall only become effective on the first day of the**
103 **month.**

104.395. 1. In lieu of the normal annuity otherwise payable to a member pursuant to
2 sections 104.335, 104.370, 104.371, 104.374, or 104.400, and prior to the last business day of
3 the month before the annuity starting date pursuant to section 104.401, a member shall elect
4 whether or not to have such member's normal annuity reduced as provided by the options set
5 forth in this section; provided that if such election has not been made within such time, annuity
6 payments due beginning on and after such annuity starting date shall be made the month
7 following the receipt by the system of such election, and further provided, that if such person
8 dies after such annuity starting date but before making such election, no benefits shall be paid
9 except as required pursuant to section 104.420:

10

Option 1.

11 An actuarial reduction approved by the board of the member's annuity in reduced monthly
12 payments for life during retirement with the provision that upon the member's death the reduced
13 annuity at the date of the member's death shall be continued throughout the life of, and be paid

14 to, the member's spouse to whom the member was married at the date of retirement and who was
15 nominated by the member to receive such payments in the member's application for retirement
16 or as otherwise provided pursuant to subsection 5 of this section. Such annuity shall be reduced
17 in the same manner as an annuity under option 2 as in effect immediately prior to August 28,
18 1997. The surviving spouse shall designate a beneficiary to receive any final monthly payment
19 due after the death of the surviving spouse; or

20 Option 2.

21 The member's normal annuity in regular monthly payments for life during the member's
22 retirement with the provision that upon the member's death a survivor's benefit equal to one-half
23 the member's annuity at the date of the member's death shall be paid to the member's spouse to
24 whom the member was married at the date of retirement and who was nominated by the member
25 to receive such payments in the member's application for retirement or as otherwise provided
26 pursuant to subsection 5 of this section, in regular monthly payments for life. The surviving
27 spouse shall designate a beneficiary to receive any final monthly payment due after the death of
28 the surviving spouse; or

29 Option 3.

30 An actuarial reduction approved by the board of the member's normal annuity in reduced
31 monthly payments for the member's life with the provision that if the member dies prior to the
32 member having received one hundred twenty monthly payments of the member's reduced
33 annuity, the member's reduced annuity to which the member would have been entitled had the
34 member lived shall be paid for the remainder of the one hundred twenty months' period to such
35 beneficiary as the member shall have nominated by written designation duly executed and filed
36 with the board. If there is no such beneficiary surviving the retirant, the reserve for such annuity
37 for the remainder of such one hundred twenty months' period shall be paid as provided under
38 subsection 3 of section 104.620. If such beneficiary dies after the member's date of death but
39 before having received the remainder of the one hundred twenty monthly payments of the
40 retiree's reduced annuity, the reserve for such annuity for the remainder of such one hundred
41 twenty-month period shall be paid as provided under subsection 3 of section 104.620; or

42 Option 4.

43 An actuarial reduction approved by the board of the member's normal annuity in reduced
44 monthly payments for the member's life with the provision that if the member dies prior to the
45 member having received sixty monthly payments of the member's reduced annuity, the member's
46 reduced annuity to which the member would have been entitled had the member lived shall be
47 paid for the remainder of the sixty months' period to such beneficiary as the member shall have
48 nominated by written designation duly executed and filed with the board. If there be no such
49 beneficiary surviving the retirant, the reserve for such annuity for the remainder of such sixty

50 months' period shall be paid as provided under subsection 3 of section 104.620. If such
51 beneficiary dies after the member's date of death but before having received the remainder of the
52 sixty monthly payments of the retiree's reduced annuity, the reserve for such annuity for the
53 remainder of the sixty-month period shall be paid as provided under subsection 3 of section
54 104.620.

55 2. Effective July 1, 2000, if a member is married as of the annuity starting date to a
56 person who has been the member's spouse, the member's annuity shall be paid pursuant to the
57 provisions of either option 1 or option 2 as set forth in subsection 1 of this section, at the
58 member's choice, with the spouse as the member's designated beneficiary unless the spouse
59 consents in writing to the member electing another available form of payment.

60 3. For members who retire on or after August 28, 1995, in the event such member
61 elected a joint and survivor option pursuant to the provisions of this section and the member's
62 eligible spouse or eligible former spouse precedes the member in death, the member's annuity
63 shall revert effective the first of the month following the death of the spouse or eligible former
64 spouse regardless of when the board receives the member's written application for the benefit
65 provided in this subsection, to an amount equal to the member's normal annuity, as adjusted for
66 early retirement if applicable; such benefit shall include any increases the member would have
67 received since the date of retirement had the member elected a normal annuity. If a member dies
68 prior to notifying the system of the spouse's death, the benefit will not revert to a normal annuity
69 and no retroactive payments shall be made.

70 4. Effective on or after August 28, 1995, any retired member who had elected a joint and
71 survivor option and whose spouse or eligible former spouse precedes or preceded the member
72 in death shall upon application to the board be made, constituted, appointed and employed by
73 the board as a special consultant on the problems of retirement, aging and other state matters.
74 As a special consultant pursuant to the provisions of this section, the member's reduced annuity
75 shall revert to a normal annuity as adjusted for early retirement, if applicable, effective the first
76 of the month following the death of the spouse or eligible former spouse or August 28, 1995,
77 whichever is later, if the member cancels the member's original joint and survivor election; such
78 annuity shall include any increases the retired member would have received since the date of
79 retirement had the member elected a normal annuity.

80 5. Effective July 1, 2000, a member may make an election under option 1 or 2 after the
81 date retirement benefits are initiated if the member makes such election within one year from the
82 date of marriage or July 1, 2000, whichever is later, under any of the following circumstances:

83 (1) The member elected to receive a normal annuity and was not eligible to elect option
84 1 or 2 on the date retirement benefits were initiated; or

85 (2) The member's annuity reverted to a normal annuity pursuant to subsection 3 [or] , 4,
86 **or 9** of this section and the member remarried.

87 6. Any person who terminates employment or retires prior to July 1, 2000, shall be made,
88 constituted, appointed and employed by the board as a special consultant on the problems of
89 retirement, aging and other state matters, and for such services shall be eligible to elect to receive
90 the benefits described in subsection 5 of this section.

91 7. Effective September 1, 2001, the retirement application of any member who fails to
92 make an election pursuant to subsection 1 of this section within ninety days of the annuity
93 starting date contained in such retirement application shall be nullified. Any member whose
94 retirement application is nullified shall not receive retirement benefits until the member files a
95 new application for retirement pursuant to section 104.401 and makes the election pursuant to
96 subsection 1 of this section. In no event shall any retroactive retirement benefits be paid.

97 8. A member may change a member's election made under this section at any time prior
98 to the system mailing or electronically transferring the first annuity payment to such member.

99 **9. If a member designates a spouse as a beneficiary pursuant to option 1 or option**
100 **2 of subsection 1 of this section and subsequently that marriage ends as a result of a**
101 **dissolution of marriage, such dissolution shall not affect the option election pursuant to this**
102 **section and the former spouse shall continue to be eligible to receive survivor benefits upon**
103 **the death of the member, except a member may cancel his or her election if:**

104 (1) **The dissolution of marriage of the member and former spouse occurred on or**
105 **after January 1, 2021, and the dissolution decree provides for sole retention by the member**
106 **of all rights in the annuity and provides that the former spouse shall not be entitled to any**
107 **survivor benefits pursuant to this chapter; or**

108 (2) **The dissolution of marriage of the member and former spouse occurred prior**
109 **to January 1, 2021, and:**

110 (a) **The dissolution decree provided for the sole retention by the member of all**
111 **rights in the annuity pursuant to this chapter and the parties obtained an amended or**
112 **modified dissolution decree after January 1, 2021, providing for immediate removal of the**
113 **former spouse as the beneficiary entitled to survivor benefits to the satisfaction of the**
114 **system; or**

115 (b) **The dissolution decree does not provide for the sole retention by the member**
116 **of all rights in the annuity and the parties obtain an amended or modified dissolution**
117 **decree after January 1, 2021, which provides for the sole retention by the member of all**
118 **rights in the annuity and provides that the former spouse shall not be entitled to any**
119 **survivor benefits pursuant to this chapter.**

120

121 **Upon meeting the requirements of subdivision (1) or (2) of this subsection, the monthly**
122 **benefit payable for the lifetime of the member shall be the actuarial equivalent of the**
123 **annuity payable pursuant to the provisions of option 1 or option 2 of subsection 1 of this**
124 **section, as adjusted for early retirement if applicable. In no event shall the monthly benefit**
125 **payable for the lifetime of the member be greater than the amount that would have been**
126 **payable to the member under subsection 3 or 4 of this section, whichever is applicable, had**
127 **the former spouse died on the date of the dissolution of marriage. Any increase in the**
128 **annuity amount shall be prospective and effective the first of the month following the date**
129 **of receipt by the system of a certified copy of the dissolution decree that meets the**
130 **requirements of this subsection.**

104.1027. 1. Prior to the last business day of the month before the annuity starting date,
2 a member or a vested former member shall elect whether or not to have such member's or such
3 vested former member's life annuity reduced, but not any temporary annuity which may be
4 payable, and designate a beneficiary, as provided by the options set forth in this section; provided
5 that if such election has not been made within such time, annuity payments due beginning on and
6 after the month of the annuity starting date shall be made the month following the receipt by the
7 appropriate system of such election and any other information required by the year 2000 plan
8 created by sections 104.1003 to 104.1093, and further provided, that if such person dies after the
9 annuity starting date but before making such election and providing such other information, no
10 benefits shall be paid except as required pursuant to section 104.1030:

11 **Option 1.**

12 A retiree's life annuity shall be reduced to a certain percent of the annuity otherwise
13 payable. Such percent shall be ninety percent adjusted as follows: if the retiree's age on the
14 annuity starting date is younger than sixty-two years, an increase of three-tenths of one percent
15 for each year the retiree's age is younger than age sixty-two years; and if the beneficiary's age is
16 younger than the retiree's age on the annuity starting date, a decrease of three-tenths of one
17 percent for each year of age difference; and if the retiree's age is younger than the beneficiary's
18 age on the annuity starting date, an increase of three-tenths of one percent for each year of age
19 difference; provided, after all adjustments the option 1 percent cannot exceed ninety-five percent.
20 Upon the retiree's death, fifty percent of the retiree's reduced annuity shall be paid to such
21 beneficiary who was the retiree's spouse on the annuity starting date or as otherwise provided by
22 subsection 5 of this section.

23 **Option 2.**

24 A retiree's life annuity shall be reduced to a certain percent of the annuity otherwise
25 payable. Such percent shall be eighty-three percent adjusted as follows: if the retiree's age on
26 the annuity starting date is younger than sixty-two years, an increase of four-tenths of one percent

27 for each year the retiree's age is younger than sixty-two years; and if the beneficiary's age is
28 younger than the retiree's age on the annuity starting date, a decrease of five-tenths of one percent
29 for each year of age difference; and if the retiree's age is younger than the beneficiary's age on
30 the annuity starting date, an increase of five-tenths of one percent for each year of age difference;
31 provided, after all adjustments the option 2 percent cannot exceed ninety percent. Upon the
32 retiree's death one hundred percent of the retiree's reduced annuity shall be paid to such
33 beneficiary who was the retiree's spouse on the annuity starting date or as otherwise provided by
34 subsection 5 of this section.

35

Option 3.

36 A retiree's life annuity shall be reduced to ninety-five percent of the annuity otherwise
37 payable. If the retiree dies before having received one hundred twenty monthly payments, the
38 reduced annuity shall be continued for the remainder of the one hundred twenty-month period
39 to the retiree's designated beneficiary provided that if there is no beneficiary surviving the retiree,
40 the present value of the remaining annuity payments shall be paid as provided under subsection
41 3 of section 104.620. If the beneficiary survives the retiree but dies before receiving the
42 remainder of such one hundred twenty monthly payments, the present value of the remaining
43 annuity payments shall be paid as provided under subsection 3 of section 104.620.

44

Option 4.

45 A retiree's life annuity shall be reduced to ninety percent of the annuity otherwise
46 payable. If the retiree dies before having received one hundred eighty monthly payments, the
47 reduced annuity shall be continued for the remainder of the one hundred eighty-month period to
48 the retiree's designated beneficiary provided that if there is no beneficiary surviving the retiree,
49 the present value of the remaining annuity payments shall be paid as provided under subsection
50 3 of section 104.620. If the beneficiary survives the retiree but dies before receiving the
51 remainder of such one hundred eighty monthly payments, the present value of the remaining
52 annuity payments shall be paid as provided under subsection 3 of section 104.620.

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

57 3. If a member has elected at the annuity starting date option 1 or 2 pursuant to this
58 section and if the member's spouse or eligible former spouse dies after the annuity starting date
59 but before the member dies, then the member may cancel the member's election and return to the
60 life annuity form of payment and annuity amount, effective the first of the month following the
61 date of such spouse's or eligible former spouse's death. If a member dies prior to notifying the

62 system of the spouse's death, the benefit will not revert to a life annuity and no retroactive
63 payments shall be made.

64 4. If a member designates a spouse as a beneficiary pursuant to **option 1 or option 2 of**
65 **subsection 1 of** this section and subsequently that marriage ends as a result of a dissolution of
66 marriage, such dissolution shall not affect the option election pursuant to this section and the
67 former spouse shall continue to be eligible to receive survivor benefits upon the death of the
68 member, **except a member may cancel his or her election if:**

69 **(1) The dissolution of marriage of the member and former spouse occurred on or**
70 **after January 1, 2021, and the dissolution decree provides for sole retention by the member**
71 **of all rights in the annuity and provides that the former spouse shall not be entitled to any**
72 **survivor benefits pursuant to this chapter; or**

73 **(2) The dissolution of marriage of the member and former spouse occurred prior**
74 **to January 1, 2021, and:**

75 **(a) The dissolution decree provided for the sole retention by the member of all**
76 **rights in the annuity pursuant to this chapter, and the parties obtained an amended or**
77 **modified dissolution decree after January 1, 2021, providing for immediate removal of the**
78 **former spouse as the beneficiary entitled to survivor benefits to the satisfaction of the**
79 **system; or**

80 **(b) The dissolution decree does not provide for the sole retention by the member**
81 **of all rights in the annuity and the parties obtained an amended or modified dissolution**
82 **decree after January 1, 2021, which provides for the sole retention by the**
83 **member of all rights in the annuity and provides that the former spouse shall not be**
84 **entitled to any survivor benefits pursuant to this chapter.**

85

86 **Upon meeting the requirements of subdivision (1) or (2) of this subsection, the monthly**
87 **benefit payable for the lifetime of the member shall be the actuarial equivalent of the**
88 **annuity payable pursuant to the provisions of option 1 or option 2 of subsection 1 of this**
89 **section, as adjusted for early retirement if applicable. In no event shall the monthly benefit**
90 **payable for the lifetime of the member be greater than the amount that would have been**
91 **payable to the member under subsection 3 of this section, whichever is applicable, had the**
92 **former spouse died on the date of the dissolution of marriage. Any increase in the annuity**
93 **amount pursuant to this subsection shall be prospective and effective the first of the month**
94 **following the date of receipt by the system of a certified copy of the dissolution decree that**
95 **meets the requirements of this subsection. For purposes of this subsection, "actuarial**
96 **equivalent" shall mean a benefit which, when computed upon the basis of specified**

97 **actuarial assumptions approved by the board, is equal in value to a certain amount or**
98 **other benefit.**

99 5. Effective July 1, 2000, a member may make an election under option 1 or 2 after the
100 annuity starting date as described in this section if the member makes such election within one
101 year from the date of marriage or July 1, 2000, whichever is later, pursuant to any of the
102 following circumstances:

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

105 (2) The member's annuity reverted to a normal or early retirement annuity pursuant to
106 subsection 3 **or 4** of this section, and the member remarried.

107 6. Effective September 1, 2001, the retirement application of any member who fails to
108 make an election pursuant to subsection 1 of this section within ninety days of the annuity
109 starting date contained in such retirement application shall be nullified. Any member whose
110 retirement application is nullified shall not receive retirement benefits until the member files a
111 new application for retirement pursuant to section 104.1024 and makes the election pursuant to
112 subsection 1 of this section. In no event shall any retroactive retirement benefits be paid.

113 7. A member may change a member's election made under this section at any time prior
114 to the system mailing or electronically transferring the first annuity payment to such member.

104.1089. 1. Subject to the provisions of the Internal Revenue Code, in lieu of
2 **retirement annuity benefits otherwise payable under the closed plan or year 2000 plan by**
3 **the Missouri state employees' retirement system, any member who is no longer an**
4 **employee covered by the closed plan or year 2000 plan, is entitled to a deferred annuity**
5 **from either such plan, and is employed in a position covered by a retirement plan provided**
6 **in chapter 476 may make a one-time election to receive a lump sum payment equal to sixty**
7 **percent, or a greater percentage determined by the board pursuant to section 104.1063, of**
8 **the present value of such member's deferred annuity.**

9 2. Any such member making such election under subsection 1 of this section shall
10 **forfeit all such member's creditable or credited service and future rights to receive**
11 **retirement annuity benefits or long term disability benefits from the Missouri state**
12 **employees' retirement system under the closed plan or year 2000 plan. If such member**
13 **subsequently becomes an employee in a position covered by the Missouri state employees'**
14 **retirement system, such member shall be considered a new employee with no prior credited**
15 **service and shall be subject to the provisions of section 104.1091.**

169.020. 1. For the purpose of providing retirement allowances and other benefits for
2 public school teachers, there is hereby created and established a retirement system which shall
3 be a body corporate, shall be under the management of a board of trustees herein described, and

4 shall be known as "The Public School Retirement System of Missouri". Such system shall, by
5 and in such name, sue and be sued, transact all of its business, invest all of its funds, and hold
6 all of its cash, securities, and other property. The system so created shall include all school
7 districts in this state, except those in cities that had populations of four hundred thousand or more
8 according to the latest United States decennial census, and such others as are or hereafter may
9 be included in a similar system or in similar systems established by law and made operative;
10 provided, that teachers in school districts of more than four hundred thousand inhabitants who
11 are or may become members of a local retirement system may become members of this system
12 with the same legal benefits as accrue to present members of such state system on the terms and
13 under the conditions provided for in section 169.021. The system hereby established shall begin
14 operations on the first day of July next following the date upon which sections 169.010 to
15 169.130 shall take effect.

16 2. The general administration and the responsibility for the proper operation of the
17 retirement system and for making effective the provisions of sections 169.010 to 169.141 are
18 hereby vested in a board of trustees of seven persons as follows: four persons to be elected as
19 trustees by the members and retired members of the public school retirement system created by
20 sections 169.010 to 169.141 and the public education employee retirement system created by
21 sections 169.600 to 169.715; and three members appointed by the governor with the advice and
22 consent of the senate. The first member appointed by the governor shall replace the
23 commissioner of education for a term beginning August 28, 1998. The other two members shall
24 be appointed by the governor at the time each member's, who was appointed by the state board
25 of education, term expires.

26 3. Trustees appointed and elected shall be chosen for terms of four years from the first
27 day of July next following their appointment or election, except that one of the elected trustees
28 shall be a member of the public education employee retirement system and shall be initially
29 elected for a term of three years from July 1, 1991. The initial term of one other elected trustee
30 shall commence on July 1, 1992.

31 4. Trustees appointed by the governor shall be residents of school districts included in
32 the retirement system, but not employees of such districts or a state employee or a state elected
33 official. At least one trustee so appointed shall be a retired member of the public school
34 retirement system or the public education employee retirement system. Three elected trustees
35 shall be members of the public school retirement system and one elected trustee shall be a
36 member of the public education employee retirement system.

37 5. The elections of the trustees shall be arranged for, managed and conducted by the
38 board of trustees of the retirement system.

39 6. If a vacancy occurs in the office of trustee, the vacancy shall be filled for the
40 unexpired term in the same manner as the office was previously filled.

41 7. Trustees of the retirement system shall serve without compensation but they shall be
42 reimbursed for expenses necessarily incurred through service on the board of trustees.

43 8. Each trustee shall be commissioned by the governor, and before entering upon the
44 duties of the trustee's office, shall take and subscribe to an oath or affirmation to support the
45 Constitution of the United States, and of the state of Missouri and to demean himself or herself
46 faithfully in the trustee's office. Such oath as subscribed to shall be filed in the office of secretary
47 of state of this state.

48 9. Each trustee shall be entitled to one vote in the board of trustees. Four votes shall be
49 necessary for a decision by the trustees at any meeting of the board of trustees. Unless otherwise
50 expressly provided herein, a meeting need not be called or held to make any decision on a matter
51 before the board. Each member must be sent by the executive director a copy of the matter to
52 be decided with full information from the files of the board of trustees. The unanimous decision
53 of four trustees may decide the issue by signing a document declaring their decision and sending
54 such written instrument to the executive director of the board, provided that no other member
55 of the board of trustees shall send a dissenting decision to the executive director of the board
56 within fifteen days after such document and information was mailed to the trustee. If any
57 member is not in agreement with four members the matter is to be passed on at a regular board
58 meeting or a special meeting called for the purpose.

59 10. The board of trustees shall elect one of their number as chairman, and shall employ
60 a full-time executive director, not one of their number, who shall be the executive officer of the
61 board. Other employees of the board shall be chosen only upon the recommendation of the
62 executive director.

63 11. The board of trustees shall employ an actuary who shall be its technical advisor on
64 matters regarding the operation of the retirement system, and shall perform such duties as are
65 essential in connection therewith, including the recommendation for adoption by the board of
66 mortality and other necessary tables, and the recommendation of the level rate of contributions
67 required for operation of the system.

68 12. As soon as practicable after the establishment of the retirement system, and annually
69 thereafter, the actuary shall make a valuation of the system's assets and liabilities on the basis of
70 such tables as have been adopted.

71 13. At least once in the three-year period following the establishment of the retirement
72 system, and in each five-year period thereafter, the board of trustees shall cause to be made an
73 actuarial investigation into the mortality, service, and compensation experience of the members

74 and beneficiaries of the system, and shall make any changes in the mortality, service, and other
75 tables then in use which the results of the investigation show to be necessary.

76 14. Subject to the limitations of sections 169.010 to 169.141 and 169.600 to 169.715,
77 the board of trustees shall formulate and adopt rules and regulations for the government of its
78 own proceedings and for the administration of the retirement system.

79 15. The board of trustees shall determine and decide all questions of doubt as to what
80 constitutes employment within the meaning of sections 169.010 to 169.141 and 169.600 to
81 169.715, the amount of benefits to be paid to members, retired members, beneficiaries and
82 survivors and the amount of contributions to be paid by employer and employee. The executive
83 director shall notify by certified mail both employer and member, retired member, beneficiary
84 or survivor interested in such determination. Any member, retired member, beneficiary or
85 survivor, district or employer adversely affected by such determination, at any time within thirty
86 days after being notified of such determination, may appeal to the circuit court of Cole County.
87 Such appeal shall be tried and determined anew in the circuit court and such court shall hear and
88 consider any and all competent testimony relative to the issues in the case, which may be offered
89 by either party thereto. The circuit court shall determine the rights of the parties under sections
90 169.010 to 169.141 and 169.600 to 169.715 using the same standard provided in section
91 536.150, and the judgment or order of such circuit court shall be binding upon the parties and
92 the board shall carry out such judgment or order unless an appeal is taken from such decision of
93 the circuit court. Appeals may be had from the circuit court by the employer, member, retired
94 member, beneficiary, survivor or the board, in the manner provided by the civil code.

95 16. The board of trustees shall keep a record of all its proceedings, which shall be open
96 to public inspection. It shall prepare annually a comprehensive annual financial report, the
97 financial section of which shall be prepared in accordance with applicable accounting standards
98 and shall include the independent auditor's opinion letter. The report shall also include
99 information on the actuarial status and the investments of the system. The reports shall be
100 preserved by the executive director and made available for public inspection.

101 17. The board of trustees shall provide for the maintenance of an individual account with
102 each member, setting forth such data as may be necessary for a ready determination of the
103 member's earnings, contributions, and interest accumulations. It shall also collect and keep in
104 convenient form such data as shall be necessary for the preparation of the required mortality and
105 service tables and for the compilation of such other information as shall be required for the
106 valuation of the system's assets and liabilities. **Except for information pertaining to the**
107 **salaries and benefits of the executive director and other employees of the board described**
108 **under subsection 10 of this section,** all individually identifiable information pertaining to
109 members, retirees, beneficiaries and survivors shall be confidential.

110 18. The board of trustees shall meet regularly at least twice each year, with the dates of
111 such meetings to be designated in the rules and regulations adopted by the board. Such other
112 meetings as are deemed necessary may be called by the chairman of the board or by any four
113 members acting jointly.

114 19. The headquarters of the retirement system shall be in Jefferson City, where suitable
115 office space, utilities and other services and equipment necessary for the operation of the system
116 shall be provided by the board of trustees and all costs shall be paid from funds of the system.
117 All suits or proceedings directly or indirectly against the board of trustees, the board's members
118 or employees or the retirement system established by sections 169.010 to 169.141 or 169.600 to
119 169.715 shall be brought in Cole County.

120 20. The board may appoint an attorney or firm of attorneys to be the legal advisor to the
121 board and to represent the board in legal proceedings, however, if the board does not make such
122 an appointment, the attorney general shall be the legal advisor of the board of trustees, and shall
123 represent the board in all legal proceedings.

124 21. The board of trustees shall arrange for adequate surety bonds covering the executive
125 director. When approved by the board, such bonds shall be deposited in the office of the
126 secretary of state of this state.

127 22. The board shall arrange for annual audits of the records and accounts of the system
128 by a firm of certified public accountants.

129 23. The board by its rules may establish an interest charge to be paid by the employer
130 on any payments of contributions which are delinquent. The rate charged shall not exceed the
131 actuarially assumed rate of return on invested funds of the pertinent system.

✓