

SECOND REGULAR SESSION

HOUSE BILL NO. 1674

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KENDRICK.

4621H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 105.915, RSMo, and to enact in lieu thereof one new section relating to the state of Missouri deferred compensation plan.

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

Section A. Section 105.915, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.915, to read as follows:

105.915. 1. The board of trustees of the Missouri state employees' retirement system shall administer the deferred compensation fund for the employees of the state of Missouri that was previously administered by the deferred compensation commission, as established in section 105.910, prior to August 28, 2007. The board shall be vested with the same powers that it has under chapter 104 to enable it and its officers, employees, and agents to administer the fund under sections 105.900 to 105.927.

2. Except as provided in this subsection, participation in such plan shall be by a specific written agreement between state employees and the state, which shall provide for the deferral of such amounts of compensation as requested by the employee subject to any limitations imposed under federal law. Participating employees must authorize that such deferrals be made from their wages for the purpose of participation in such program. An election to defer compensation shall be made before the beginning of the month in which the compensation is paid. Contributions shall be made for payroll periods occurring on or after the first day of the month after the election is made. Each employee eligible to participate in the plan hired **or rehired** on or after July 1, 2012, shall be enrolled in the plan automatically and his or her employer shall, in accordance with the plan document, withhold and contribute to the plan an amount equal to one percent of eligible compensation received on and after the date of hire, unless the employee elects not to

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.

18 participate in the plan within the first thirty days of employment, and in that event, any amounts
19 contributed and earnings thereon will be refunded by the plan to the employee pursuant to the
20 procedure contained in the plan documents. Employees who are employed by a state college or
21 university shall not be automatically enrolled but may elect to participate in the plan and make
22 contributions in accordance with the terms of the plan. Employees who are enrolled
23 automatically may elect to change the contribution rate in accordance with the terms of the plan.
24 Employees who elect not to participate in the plan may at a later date elect to participate in the
25 plan and make contributions in accordance with the terms of the plan.

26 **3. Effective July 1, 2019, the plan shall offer employees the option to automatically**
27 **increase the amount of compensation deferred under subsection 2 of this section, subject**
28 **to any limitations imposed under federal law. Each employee hired or rehired on or after**
29 **such date shall automatically be enrolled in the automatic increase feature of the plan.**
30 **Automatic increases shall commence during a period ending no later than sixty days after**
31 **the beginning of the fiscal year following the employee's one-year anniversary of**
32 **employment or reemployment. Deferrals shall increase annually in the default amount of**
33 **one-half of one percent and continue increasing by one-half of one percent each period**
34 **thereafter until reaching three percent of salary. Employees enrolled in the automatic**
35 **increase feature may elect to make an adjustment to increase or decrease the default**
36 **automatic escalation amount in one-tenth of one percent increments. Notwithstanding the**
37 **foregoing, employees may elect to terminate participation in the automatic increase feature**
38 **of the plan at any time. Employees enrolled in the automatic increase feature shall be**
39 **provided annual notice prior to the beginning of each fiscal year of the elections provided**
40 **under this subsection.** All assets and income of such fund shall be held in trust by the board
41 for the exclusive benefit of participants and their beneficiaries. Assets of such trust, and the trust
42 established pursuant to section 105.927, may be pooled solely for investment management
43 purposes with assets of the trust established under section 104.320.

44 ~~[3-]~~ **4.** Notwithstanding any other provision of sections 105.900 to 105.927, funds held
45 for the state by the board in accordance with written deferred compensation agreements between
46 the state and participating employees may be invested in such investments as are deemed
47 appropriate by the board. All administrative costs of the program described in this section,
48 including staffing and overhead expenses, may be paid out of assets of the fund, which may
49 reduce the amount due participants in the fund. Such investments shall not be construed to be
50 a prohibited use of the general assets of the state.

51 ~~[4-]~~ **5.** Investments offered under the deferred compensation fund for the employees of
52 the state of Missouri shall be made available at the discretion of the board.

53 ~~[5-]~~ **6.** The board and employees of the Missouri state employees' retirement system
54 shall be immune from suit and shall not be subject to any claim or liability associated with any
55 administrative actions or decisions made by the commission with regard to the deferred
56 compensation program prior to the transfer made to the board under section 105.910.

57 ~~[6-]~~ **7.** The board and employees of the system shall not be liable for the investment
58 decisions made or not made by participating employees as long as the board acts with the same
59 skill, prudence, and diligence in the selection and monitoring of providers of investment
60 products, education, advice, or any default investment option, under the circumstances then
61 prevailing that a prudent person acting in a similar capacity and familiar with those matters
62 would use in the conduct of a similar enterprise with similar aims.

63 ~~[7-]~~ **8.** The system shall be immune from suit and shall not be subject to any claim or
64 liability associated with the administration of the deferred compensation fund by the board and
65 employees of the system.

66 ~~[8-]~~ **9.** Beginning on or after September 1, 2011, if a participant under the deferred
67 compensation plan or the plan established under section 105.927 is married on the date of his or
68 her death, the participant's surviving spouse shall be automatically designated as the primary
69 beneficiary under both plans, unless the surviving spouse consented in writing, witnessed by a
70 notary public, to allow the participant to designate a nonspouse beneficiary. As used in this
71 subsection, "surviving spouse" means the spouse as defined pursuant to section 104.012 to whom
72 the participant is lawfully married on the date of death of the participant, provided that a former
73 spouse shall be treated as the surviving spouse of the participant to the extent provided under a
74 judgment, decree, or order that relates to child support, alimony payments, or marital property
75 rights made under Missouri domestic relations law that creates or recognizes the existence of
76 such former spouse's right to receive all or a portion expressed as a stated dollar amount or
77 specific percentage stated in integers of the benefits payable from such plan upon the death of
78 the participant. This subsection shall not apply to beneficiary designations made prior to
79 September 1, 2011.

80 ~~[9-]~~ **10.** The board may adopt and amend plan documents to change the terms and
81 conditions of the deferred compensation plan and the plan established under section 105.927 that
82 are consistent with federal law.

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