

SECOND REGULAR SESSION

HOUSE BILL NO. 2376

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HIGDON.

6327H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 104.110, RSMo, and to enact in lieu thereof one new section relating to disability benefits.

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

Section A. Section 104.110, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 104.110, to read as follows:

104.110. 1. Any employee, regardless of the length of time of creditable service, who is affirmatively found by the board to be wholly incapable of performing the duties of the employee's or any other position in the employee's department for which the employee is suited, shall be entitled to receive disability benefits. The disability benefit provided by this subsection shall equal one and six-tenths percent of the employee's average compensation multiplied by the number of years of creditable service of the member. Effective September 1, 2003, no employee is eligible for or shall request or apply for the disability benefit provided pursuant to this subsection.

2. Any uniformed member of the highway patrol, highway patrol employee or department of transportation employee, regardless of the length of time of creditable service, who is found by the board to be disabled as a result of injuries incurred in the performance of the employee's duties, shall be entitled to receive an initial disability benefit in an amount equal to seventy percent of the compensation that the employee was receiving on the date preceding the date of disability; provided, however, that the amount of the disability benefit, plus any primary Social Security disability benefits received by such member shall not exceed ninety percent of the monthly compensation such member was receiving on the date preceding the date of disability.

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 3. Any disability benefits payable pursuant to this section shall be decreased by any
19 amount paid to such member for periodic disability benefits by reason of the workers'
20 compensation laws of this state. After termination of payment under workers' compensation,
21 however, disability benefits shall be paid in the amount required by subsections 1, 2, 7, and 9 of
22 this section.

23 4. The board of trustees may require a medical examination of a disabled member at any
24 time by a designated physician, and benefits shall be discontinued if the board finds that such
25 member is able to perform the duties of the member's former position or if such member refuses
26 to submit to a medical examination. Any employee who applies for disability benefits provided
27 pursuant to this section shall provide medical certification acceptable to the board which shall
28 include the date the disability commenced and the expected duration of the disability.

29 5. Any employee who applies for disability benefits pursuant to subsections 2 and 7 of
30 this section shall provide proof of application for Social Security disability benefits. If Social
31 Security disability benefits are denied, the employee shall also provide proof that the employee
32 has requested reconsideration, and upon denial of the reconsideration, that an appeal process is
33 prosecuted.

34 6. The disability benefits provided in this section shall not be paid to any member who
35 retains or regains earning capacity as determined by the board. If a member who has been
36 receiving disability benefits again becomes an employee, the member's disability benefits shall
37 be discontinued.

38 7. The board shall also provide or contract for long-term disability benefits for those
39 members whose disability exists or is diagnosed as being of such nature as to exist for more than
40 one year. The benefits provided or contracted for pursuant to this subsection shall be in lieu of
41 any other benefit provided in this section. The eligibility requirements, benefit period and
42 amount of the disability benefits provided pursuant to this subsection shall be established by the
43 board.

44 8. Definitions of disability and other rules and procedures necessary for administration
45 of the disability benefits provided pursuant to this section shall be established by the board.

46 9. Any member receiving disability benefits pursuant to subsections 1 and 2 of this
47 section shall receive the same cost-of-living increases as granted to retired members pursuant to
48 section 104.103.

49 10. The state highways and transportation commission shall contribute the same amount
50 as provided for all state employees for any person receiving disability benefits pursuant to
51 subsection 2 of this section for medical insurance provided pursuant to section 104.270.

52 11. Any member who qualified for disability benefits pursuant to subsection 2 or
53 subsection 7 of this section shall continue to accrue normal annuity benefits based on the

54 member's rate of pay immediately prior to the date the member became disabled in accordance
55 with sections 104.090 and 104.615 as in effect on the earlier of the date the member reaches
56 normal retirement age or the date normal annuity payments commence.

57 12. A member who continues to be disabled as provided in subsection 2 or subsection
58 7 of this section shall continue to accrue creditable service until the member reaches normal
59 retirement age. The maximum benefits period for benefits pursuant to subsections 2 and 7 of this
60 section shall be established by the board. A member who is eligible to retire and does retire
61 while receiving disability benefits pursuant to subsections 2 and 7 of this section shall receive
62 the greater of the normal annuity or the minimum annuity determined pursuant to sections
63 104.090 and 104.615, as if the member had continued in the active employ of the employer until
64 the member's normal retirement age and the member's compensation for such period had been
65 the member's rate of pay immediately preceding the date the member became disabled.

66 13. Any member who was receiving disability benefits from the board prior to August
67 28, 1997, or any member who has submitted an application for disability benefits before August
68 28, 1997, and would have been eligible to receive benefits pursuant to the eligibility
69 requirements which were applicable at the time of application shall be eligible to receive or shall
70 continue to receive benefits in accordance with such prior eligibility requirements until the
71 member again becomes an employee.

72 14. Any member receiving disability benefits pursuant to subsection 1, subsection 2 or
73 subsection 7 of this section shall be eligible to receive death benefits pursuant to the provisions
74 of subsection 1 of section 104.140. The death benefits provided pursuant to this subsection shall
75 be in lieu of the death benefits available to the member pursuant to subsection 2 of section
76 104.140.

77 15. The board is authorized to contract for benefits in lieu of the benefits provided
78 pursuant to this section.

79 16. To the extent that the board enters or has entered into any contract with any insurer
80 or service organization to provide the disability benefits provided for pursuant to this section:

81 (1) The obligation to provide such disability benefits shall be primarily that of the insurer
82 or service organization and secondarily that of the board;

83 (2) Any employee who has been denied disability benefits by the insurer or service
84 organization and has exhausted all appeal procedures provided by the insurer or service
85 organization may appeal such decision by filing a petition against the insurer or service
86 organization in a court of law in the employee's county of residence; and

87 (3) The board and the system shall not be liable for the disability benefits provided by
88 an insurer or service organization pursuant to this section and shall not be subject to any cause
89 of action with regard to disability benefits or the denial of disability benefits by the insurer or

90 service organization unless the employee has obtained judgment against the insurer or service
91 organization for disability benefits and the insurer or service organization is unable to satisfy that
92 judgment.

93 17. An employee may elect to waive the receipt of any disability benefit provided for
94 pursuant to this section at any time.

95 18. Any member receiving disability benefits pursuant to subsections 1 and 2 of this
96 section shall be eligible for a death benefit of five thousand dollars in addition to any benefits
97 under subsection 14 of this section.

98 **19. Notwithstanding any provision to the contrary, any member receiving disability**
99 **benefits under this section on or after August 28, 2018, who became disabled on or after**
100 **August 28, 1999, shall continue to accrue creditable service, and such member's rate of pay**
101 **for purposes of calculating an annuity under sections 104.090 and 104.615 shall be the**
102 **member's regular monthly pay received at the time of disablement, increased thereafter**
103 **for any increases in the consumer price index. Such increases in the member's monthly**
104 **pay shall be made annually beginning twelve months after disablement and shall be equal**
105 **to eighty percent of the increase in the consumer price index during the calendar year prior**
106 **to the adjustment, but no more than five percent of the member's monthly pay immediately**
107 **before the increase. Such accruals shall continue until the earliest of receipt of an early**
108 **retirement annuity, attainment of normal retirement eligibility, or termination of disability**
109 **benefits.**

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