

SECOND REGULAR SESSION

HOUSE BILL NO. 2670

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BLACK (7).

5666H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 104.370, 104.380, 104.1039, 104.1092, and 476.521, RSMo, and to enact in lieu thereof five new sections relating to lump sum elections for state employees.

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

Section A. Sections 104.370, 104.380, 104.1039, 104.1092, and 476.521, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 104.370, 104.380, 104.1039, 104.1092, and 476.521, to read as follows:

104.370. 1. Any member of the general assembly who has served at least three full biennial assemblies as a member of the general assembly and who meets the conditions for retirement at or after the member's normal retirement age shall be entitled to a normal annuity in a monthly amount equal to one hundred fifty dollars multiplied by the number of biennial assemblies in which such member has served. For the purpose of calculating benefits due under this subsection:

(1) Service in any portion of a biennial assembly after service in at least three biennial assemblies shall be credited as service in a full biennial assembly; and

(2) Any person who is elected as a member of the general assembly at a special election and who serves the remainder of that term to which he was elected at such special election shall receive credit for a full biennial assembly for such service.

2. If a member of either retirement system established by this chapter, who has served at least three full biennial assemblies as a member of the general assembly, is elected to a state office, appointed to a state office, or employed by the state before, after, or before and after his service as a member of the general assembly, the member may, at the end of such employment, receive upon retirement, at or after the member's normal retirement age, the amount which shall

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 be due the member for creditable service as a member of the general assembly. If he has not
18 fully vested as a result of his employment as other than a member of the general assembly, he
19 shall be credited with additional service as a legislator just as though all of the service combined
20 had in fact been rendered as a member of the general assembly and receive a normal annuity.
21 If the member retires before normal retirement age, the member shall receive the actuarial
22 reduction approved by the board. Nothing in this section shall allow any member to
23 simultaneously accumulate service in more than one state retirement system as a member of the
24 general assembly and an employee or state officer; provided that, any member who otherwise
25 would accrue simultaneous creditable service as a member of the general assembly and as an
26 employee or state officer may elect prior to retirement to receive such simultaneous creditable
27 service in the state retirement plan that covered the member's service as an employee or state
28 officer in lieu of receiving such creditable service as a member of the general assembly pursuant
29 to subdivision (1) of subsection 1 of this section. Any member who makes such election shall
30 receive creditable service for the member's remaining legislative service equal to the pro rata
31 portion of the biennial assembly actually served by such member. The provisions of this
32 subsection providing an election with regard to simultaneous creditable service shall apply to any
33 member of the general assembly who is employed on or after August 28, 2003, or any former
34 member of the general assembly who is employed as an employee or state officer on or after
35 August 28, 2003. The term "state officer" as used in this subsection includes a statewide elected
36 official as described in section 104.371, an administrative law judge or legal advisor as defined
37 in section 287.812, or a judge as defined in section 476.515.

38 3. A member who has fully vested as a state officer or employee and has service as a
39 member of the general assembly of less than three full biennial assemblies, upon retirement, at
40 or after the member's normal retirement age, shall be credited with additional service as a state
41 officer or employee for the time he served as a member of the general assembly. If the member
42 retires before normal retirement age, he shall receive the actuarial reduction approved by the
43 board.

44 4. Any member of the general assembly who has served at least three full biennial
45 assemblies and whose service as such terminates on or after October 1, 1984, and who served
46 as an employee, as that term is defined in section 104.010, prior to the respective dates on which
47 the retirement systems to which such sections apply originally became effective, but was not
48 such an employee on such dates, shall be entitled to the creditable prior service that such
49 employee would have been entitled to in either or both systems had such employee become a
50 member on the date of inception of either or both systems. The maximum number of years of
51 creditable prior service to which a member may become entitled pursuant to this section is less

52 than ten years. The benefits attributable to such service shall be calculated as if all service was
53 rendered as a member of the general assembly.

54 5. Any former member of the general assembly who is receiving benefits under the
55 provisions of this section shall, upon written request to the board, be made, constituted,
56 appointed and employed by the board as a special consultant on the problems of retirement and
57 other related matters and shall upon request of the board give opinions in writing or orally in
58 response to such requests. As compensation for such services, the retired member shall have his
59 retirement benefits recalculated the first of the month next following his application under this
60 subsection to reflect that any portion of a year of creditable service shall be counted as one full
61 biennial session.

62 6. Any retired member who is receiving benefits from the system and is elected to the
63 general assembly but does not serve at least three biennial sessions shall receive creditable
64 service for the time he served in the general assembly and upon leaving the general assembly
65 shall have an additional benefit calculated using such service.

66 7. Benefits paid for service credited to legislative service shall be funded as provided in
67 section 104.436.

68 8. Any former member of the general assembly not retired on August 28, 1994, who is
69 fifty-five years of age or more and who has creditable service in the general assembly of at least
70 three full biennial assemblies and has not used such services as creditable services in any other
71 retirement system shall be made and employed by the board as a special consultant on the
72 problems related to retirement and shall, when requested by the board, give opinions either
73 written or orally on such problems. As compensation for such duties the former member of the
74 general assembly shall be entitled to retire with a normal annuity effective the first of the month
75 following receipt by the board of a written application.

76 9. Notwithstanding any other law to the contrary, any active member of the Missouri
77 state employees' retirement system who is vested, on August 28, 1994, under the provisions of
78 subsection 1 of this section, and who has served as an elected county official and who, by virtue
79 of such service was a member of a retirement system other than the Missouri state employees'
80 retirement system but was not vested in such other retirement system, or was not a member of
81 any retirement system, shall receive creditable prior service in the Missouri state employees'
82 retirement system for such previous service as an elected county official.

83 **10. Notwithstanding any other provision of law to the contrary, a member of a**
84 **system established by this chapter may receive upon retirement the amount which shall be**
85 **due to the member for creditable service earned under this chapter, if the member is**
86 **servng in a position covered by chapter 476.**

104.380. 1. If a retired member is elected to any state office or is appointed to any state office or is employed by a department in a position normally requiring the performance by the person of duties during not less than one thousand forty hours per year, the member shall not receive an annuity for any month or part of a month for which the member serves as an officer or employee, but the member shall be considered to be a new employee with no previous creditable service and must accrue creditable service continuously for at least one year in order to receive any additional annuity. Any retired member who again becomes an employee and who accrues additional creditable service and later retires shall receive an additional amount of monthly annuity calculated to include only the creditable service and the average compensation earned by the member since such employment or creditable service earned as a member of the general assembly. Years of membership service and twelfths of a year are to be used in calculating any additional annuity except for creditable service earned as a member of the general assembly, and such additional annuity shall be based on the type of service accrued. In either event, the original annuity and the additional annuity, if any, shall be paid commencing with the end of the first month after the month during which the member's term of office has been completed, or the member's employment terminated. If a retired member is employed by a department in a position that does not normally require the person to perform duties during at least one thousand forty hours per year, the member shall not be considered an employee as defined pursuant to section 104.010. A retired member who becomes reemployed as an employee on or after August 28, 2001, in a position covered by the Missouri department of transportation and highway patrol employees' retirement system shall not be eligible to receive retirement benefits or additional creditable service from the state employees' retirement system. Annual benefit increases paid under section 104.415 shall not accrue while a retired member is employed as described in this section. Any future annual benefit increases paid after the member terminates such employment will be paid in the same month as the member's original annual benefit increases were paid. Benefits paid under subsection 3 of section 104.374 are not applicable to any additional annuity paid under this section.

2. Notwithstanding any other provision of law to the contrary, a retired member of a system established by this chapter may receive an annuity payment for any calendar month in which the member is serving in a position covered by chapter 476.

104.1039. 1. If a retiree is employed as an employee by a department, the retiree shall not receive an annuity payment for any calendar month in which the retiree is so employed. While reemployed the retiree shall be considered to be a new employee with no previous credited service and must accrue credited service continuously for at least one year in order to receive any additional annuity. Such retiree shall receive an additional annuity in addition to the original annuity, calculated based only on the credited service and the pay earned by such retiree during

7 reemployment and paid in accordance with the annuity option originally elected; provided such
8 retiree who ceases to receive an annuity pursuant to this section shall not receive such additional
9 annuity if such retiree is employed by a department in a position that is covered by a
10 state-sponsored defined benefit retirement plan not created pursuant to this chapter. The original
11 annuity and any additional annuity shall be paid commencing as of the end of the first month
12 after the month during which the retiree's reemployment terminates. Cost-of-living adjustments
13 paid under section 104.1045 shall not accrue while a retiree is employed as described in this
14 section. Any future cost-of-living adjustments paid after the retiree terminates such employment
15 will be paid in the same month as the retiree's original annual benefit increases were paid.

16 **2. Notwithstanding any other provision of law to the contrary, a retired member**
17 **of a system established by this chapter may receive an annuity payment for any calendar**
18 **month in which the member is serving in a position covered by chapter 476.**

104.1092. 1. In lieu of retirement annuity benefits otherwise payable under the closed
2 plan or year 2000 plan, any member who has terminated employment, is entitled to a deferred
3 annuity, and has not yet reached normal retirement age or eligibility may make a one-time
4 election to receive a lump sum payment equal to a percentage of the present value of such
5 member's deferred annuity should a board choose to establish such a program by board rule
6 pursuant to section 104.1063.

7 2. Any such election under subsection 1 of this section may be made by the member
8 beginning on a date as established by the board under such program but not after May 31,
9 [2018] **2022**. After May 31, [2018] **2022**, no such election shall be made and retirement annuity
10 benefits shall only be paid as otherwise provided by law under this chapter.

11 3. Any such member making such election under subsection 1 of this section shall forfeit
12 all such member's creditable or credited service and future rights to receive retirement annuity
13 benefits from the system under this chapter and shall not be eligible to receive any long-term
14 disability benefits. If such member subsequently becomes an employee, such member shall be
15 considered a new employee with no prior credited service and shall be subject to the provisions
16 of section 104.1091.

476.521. 1. Notwithstanding any provision of chapter 476 to the contrary, each person
2 who first becomes a judge on or after January 1, 2011, and continues to be a judge may receive
3 benefits as provided in sections 476.445 to 476.688 subject to the provisions of this section.

4 2. Any person who is at least sixty-seven years of age, has served in this state an
5 aggregate of at least twelve years, continuously or otherwise, as a judge, and ceases to hold office
6 by reason of the expiration of the judge's term, voluntary resignation, or retirement pursuant to
7 the provisions of Subsection 2 of Section 24 of Article V of the Constitution of Missouri may
8 receive benefits as provided in sections 476.515 to 476.565. The twelve-year requirement of this

9 subsection may be fulfilled by service as judge in any of the courts covered, or by service in any
10 combination as judge of such courts, totaling an aggregate of twelve years. Any judge who is
11 at least sixty-seven years of age and who has served less than twelve years and is otherwise
12 qualified under sections 476.515 to 476.565 may retire after reaching age sixty-seven, or
13 thereafter, at a reduced retirement compensation in a sum equal to the proportion of the
14 retirement compensation provided in section 476.530 that his or her period of judicial service
15 bears to twelve years.

16 3. Any person who is at least sixty-two years of age or older, has served in this state an
17 aggregate of at least twenty years, continuously or otherwise, as a judge, and ceases to hold office
18 by reason of the expiration of the judge's term, voluntary resignation, or retirement pursuant to
19 the provisions of Subsection 2 of Section 24 of Article V of the Constitution of Missouri may
20 receive benefits as provided in sections 476.515 to 476.565. The twenty-year requirement of this
21 subsection may be fulfilled by service as a judge in any of the courts covered, or by service in
22 any combination as judge of such courts, totaling an aggregate of twenty years. Any judge who
23 is at least sixty-two years of age and who has served less than twenty years and is otherwise
24 qualified under sections 476.515 to 476.565 may retire after reaching age sixty-two, at a reduced
25 retirement compensation in a sum equal to the proportion of the retirement compensation
26 provided in section 476.530 that his or her period of judicial service bears to twenty years.

27 4. All judges under this section required by the provisions of Section 26 of Article V of
28 the Constitution of Missouri to retire at the age of seventy years shall retire upon reaching that
29 age.

30 5. The provisions of sections 104.344, 476.524, and 476.690 shall not apply to judges
31 covered by this section.

32 6. A judge shall be required to contribute four percent of the judge's compensation to the
33 retirement system, which shall stand to the judge's credit in his or her individual account with
34 the system, together with investment credits thereon, for purposes of funding retirement benefits
35 payable as provided in sections 476.515 to 476.565, subject to the following provisions:

36 (1) The state of Missouri employer, pursuant to the provisions of 26 U.S.C. Section
37 414(h)(2), shall pick up and pay the contributions that would otherwise be payable by the judge
38 under this section. The contributions so picked up shall be treated as employer contributions for
39 purposes of determining the judge's compensation that is includable in the judge's gross income
40 for federal income tax purposes;

41 (2) Judge contributions picked up by the employer shall be paid from the same source
42 of funds used for the payment of compensation to a judge. A deduction shall be made from each
43 judge's compensation equal to the amount of the judge's contributions picked up by the employer.

44 This deduction, however, shall not reduce the judge's compensation for purposes of computing
45 benefits under the retirement system pursuant to this chapter;

46 (3) Judge contributions so picked up shall be credited to a separate account within the
47 judge's individual account so that the amounts contributed pursuant to this section may be
48 distinguished from the amounts contributed on an after-tax basis;

49 (4) The contributions, although designated as employee contributions, are being paid by
50 the employer in lieu of the contributions by the judge. The judge shall not have the option of
51 choosing to receive the contributed amounts directly instead of having them paid by the employer
52 to the retirement system;

53 (5) Interest shall be credited annually on June thirtieth based on the value in the account
54 as of July first of the immediately preceding year at a rate of four percent. Interest credits shall
55 cease upon retirement of the judge;

56 (6) A judge whose employment is terminated may request a refund of his or her
57 contributions and interest credited thereon. If such judge is married at the time of such request,
58 such request shall not be processed without consent from the spouse. A judge is not eligible to
59 request a refund if the judge's retirement benefit is subject to a division of benefit order pursuant
60 to section 104.312. Such refund shall be paid by the system after ninety days from the date of
61 termination of employment or the request, whichever is later and shall include all contributions
62 made to any retirement plan administered by the system and interest credited thereon. A judge
63 may not request a refund after such judge becomes eligible for retirement benefits under sections
64 476.515 to 476.565. A judge who receives a refund shall forfeit all the judge's service and future
65 rights to receive benefits from the system and shall not be eligible to receive any long-term
66 disability benefits; provided that any judge or former judge receiving long-term disability
67 benefits shall not be eligible for a refund. If such judge subsequently becomes a judge and works
68 continuously for at least one year, the service previously forfeited shall be restored if the judge
69 returns to the system the amount previously refunded plus interest at a rate established by the
70 board;

71 (7) The beneficiary of any judge who made contributions shall receive a refund upon the
72 judge's death equal to the amount, if any, of such contributions less any retirement benefits
73 received by the judge unless an annuity is payable to a survivor or beneficiary as a result of the
74 judge's death. In that event, the beneficiary of the survivor or beneficiary who received the
75 annuity shall receive a refund upon the survivor's or beneficiary's death equal to the amount, if
76 any, of the judge's contributions less any annuity amounts received by the judge and the survivor
77 or beneficiary.

78 7. The employee contribution rate, the benefits provided under sections 476.515 to
79 476.565 to judges covered under this section, and any other provision of sections 476.515 to

80 476.565 with regard to judges covered under this section may be altered, amended, increased,
81 decreased, or repealed, but only with respect to services rendered by the judge after the effective
82 date of such alteration, amendment, increase, decrease, or repeal, or, with respect to interest
83 credits, for periods of time after the effective date of such alteration, amendment, increase,
84 decrease, or repeal.

85 8. ~~[Any judge who is receiving retirement compensation under section 476.529 or~~
86 ~~476.530 who becomes employed as an employee eligible to participate in the closed plan or in~~
87 ~~the year 2000 plan under chapter 104, shall not receive such retirement compensation for any~~
88 ~~calendar month in which the retired judge is so employed.]~~ Any judge who is receiving
89 retirement compensation under section 476.529 or section 476.530 who subsequently serves as
90 a judge as defined pursuant to subdivision (4) of subsection 1 of section 476.515 shall not
91 receive such retirement compensation for any calendar month in which the retired judge is
92 serving as a judge; except that upon retirement such judge's annuity shall be recalculated to
93 include any additional service or salary accrued based on the judge's subsequent service. A judge
94 who is receiving compensation under section 476.529 or 476.530 may continue to receive such
95 retirement compensation while serving as a senior judge or senior commissioner and shall
96 receive additional credit and salary for such service pursuant to section 476.682.

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