

SECOND REGULAR SESSION

# SENATE BILL NO. 1048

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Read 1st time March 1, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

5283S.011

## AN ACT

To amend chapters 104 and 476, RSMo, by adding thereto six new sections relating to retirement plans for certain state employees, state officials, and judges.

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

Section A. Chapters 104 and 476, RSMo, are amended by adding thereto  
2 six new sections, to be known as sections 104.1091, 104.1092, 476.521, 476.527,  
3 476.528, and 476.529, to read as follows:

**104.1091. 1. Notwithstanding any provision of the year 2000 plan  
2 to the contrary, each person who first becomes an employee on or after  
3 January 1, 2011, shall be a member of the year 2000 plan subject to the  
4 provisions of this section.**

**5 2. A member's normal retirement eligibility shall be as follows:**

**6 (1) The member's attainment of at least age sixty-seven and the  
7 completion of at least ten years of credited service; or the member's  
8 attainment of at least age fifty-five with the sum of the member's age  
9 and credited service equaling at least ninety;**

**10 (2) For members of the general assembly, the member's  
11 attainment of at least age sixty-two and the completion of at least three  
12 full biennial assemblies; or the member's attainment of at least age  
13 fifty-five with the sum of the member's age and credited service  
14 equaling at least ninety;**

**15 (3) For statewide elected officials, the official's attainment of at  
16 least age sixty-two and the completion of at least four years of credited  
17 service; or the official's attainment of at least age fifty-five with the  
18 sum of the official's age and credited service equaling at least ninety.**

**19 3. A vested former member's normal retirement eligibility shall  
20 be based on the attainment of at least age sixty-seven and the**

21 completion of at least ten years of credited service.

22 4. A temporary annuity paid pursuant to subsection 4 of section  
23 104.1024 shall be payable if the member has attained at least age fifty-  
24 five with the sum of the member's age and credited service equaling at  
25 least ninety.

26 5. A member shall be eligible for an early retirement annuity  
27 upon the attainment of at least age sixty-two and the completion of at  
28 least ten years of credited service. A vested former member shall not  
29 be eligible for early retirement.

30 6. The provisions of subsection 6 of section 104.1021 and section  
31 104.344 as applied pursuant to subsection 7 of section 104.1021 and  
32 section 104.1090 shall not apply to members covered by this section.

33 7. The minimum credited service requirements of five years  
34 contained in sections 104.1018, 104.1030, 104.1036, and 104.1051 shall be  
35 ten years for members covered by this section. The normal and early  
36 retirement eligibility requirements in this section shall apply for  
37 purposes of administering section 104.1087.

38 8. A member shall be required to contribute four percent of the  
39 member's compensation to the retirement system, which shall stand to  
40 the member's credit in his or her individual account with the system,  
41 together with investment credits thereon, for purposes of funding  
42 retirement benefits payable under the year 2000 plan, subject to the  
43 following provisions:

44 (1) The state of Missouri employer, pursuant to the provisions of  
45 26 U.S.C. section 414(h)(2), shall pick up and pay the contributions that  
46 would otherwise be payable by the member under this section. The  
47 contributions so picked up shall be treated as employer contributions  
48 for purposes of determining the member's compensation that is  
49 includable in the member's gross income for federal income tax  
50 purposes;

51 (2) Member contributions picked up by the employer shall be  
52 paid from the same source of funds used for the payment of  
53 compensation to a member. A deduction shall be made from each  
54 member's compensation equal to the amount of the member's  
55 contributions picked up by the employer. This deduction, however,  
56 shall not reduce the member's compensation for purposes of computing  
57 benefits under the retirement system pursuant to this chapter;

58           **(3) Member contributions so picked up shall be credited to a**  
59 **separate account within the member's individual account so that the**  
60 **amounts contributed pursuant to this section may be distinguished**  
61 **from the amounts contributed on an after-tax basis;**

62           **(4) The contributions, although designated as employee**  
63 **contributions, shall be paid by the employer in lieu of the contributions**  
64 **by the member. The member shall not have the option of choosing to**  
65 **receive the contributed amounts directly instead of having them paid**  
66 **by the employer to the retirement system;**

67           **(5) Interest shall be credited annually on June 30 based on the**  
68 **value in the account as of July 1 of the immediately preceding year at**  
69 **a rate of four percent. Interest credits shall cease upon termination of**  
70 **employment if the member is not a vested former member. Otherwise,**  
71 **interest credits shall cease upon retirement;**

72           **(6) A vested former member or a former member who is not**  
73 **vested may request a refund of his or her contributions and interest**  
74 **credited thereon. Such refund shall be paid by the system within**  
75 **ninety days from the date of termination of employment or the request,**  
76 **whichever is later. A vested former member may not request a refund**  
77 **after such member becomes eligible for normal retirement. A member**  
78 **who receives a refund shall forfeit all the member's credited service**  
79 **and future rights to receive benefits from the system. If such member**  
80 **subsequently becomes an employee and works continuously for at least**  
81 **one year, the credited service previously forfeited shall be restored if**  
82 **the member returns to the system the amount previously refunded plus**  
83 **interest at a rate established by the board;**

84           **(7) The beneficiary of any member who made contributions shall**  
85 **receive a refund upon the member's death equal to the amount, if any,**  
86 **of such contributions less any retirement benefits received by the**  
87 **member unless an annuity is payable to a survivor or beneficiary as a**  
88 **result of the member's death. In that event, the beneficiary of the**  
89 **survivor or beneficiary who received the annuity shall receive a refund**  
90 **upon the survivor's or beneficiary's death equal to the amount, if any,**  
91 **of the member's contributions less any annuity amounts received by the**  
92 **member and the survivor or beneficiary.**

93           **9. The employee contribution rate, the benefits provided under**  
94 **the year 2000 plan, and any other provision of the year 2000 plan with**

95 regard to members covered under this section may be altered,  
96 amended, increased, decreased, or repealed, but only with respect to  
97 services rendered by the member, or, with respect to interest credits,  
98 for periods of time after the effective date of such alteration,  
99 amendment, increase, decrease, or repeal.

100       10. Notwithstanding any other provision of law to the contrary  
101 and effective on January 1, 2011, any employee who is a uniformed  
102 member of the highway patrol shall retire no later than the month in  
103 which the employee reaches age sixty-two.

104       11. For purposes of members covered by this section, the options  
105 under section 104.1027 shall be as follows:

106       Option 1. A retiree's life annuity shall be reduced to a certain  
107 percent of the annuity otherwise payable. Such percent shall be eighty-  
108 eight and one half percent adjusted as follows: if the retiree's age on  
109 the annuity starting date is younger than sixty-seven years, an increase  
110 of three-tenths of one percent for each year the retiree's age is younger  
111 than age sixty-seven years; and if the beneficiary's age is younger than  
112 the retiree's age on the annuity starting date, a decrease of three-tenths  
113 of one percent for each year of age difference; and if the retiree's age  
114 is younger than the beneficiary's age on the annuity starting date, an  
115 increase of three-tenths of one percent for each year of age difference;  
116 provided, after all adjustments the option 1 percent cannot exceed  
117 ninety-four and one quarter percent. Upon the retiree's death, fifty  
118 percent of the retiree's reduced annuity shall be paid to such  
119 beneficiary who was the retiree's spouse on the annuity starting date  
120 or as otherwise provided by subsection 5 of this section.

121       Option 2. A retiree's life annuity shall be reduced to a certain  
122 percent of the annuity otherwise payable. Such percent shall be eighty-  
123 one percent adjusted as follows: if the retiree's age on the annuity  
124 starting date is younger than sixty-seven years, an increase of four-  
125 tenths of one percent for each year the retiree's age is younger than  
126 sixty-seven years; and if the beneficiary's age is younger than the  
127 retiree's age on the annuity starting date, a decrease of five-tenths of  
128 one percent for each year of age difference; and if the retiree's age is  
129 younger than the beneficiary's age on the annuity starting date, an  
130 increase of five-tenths of one percent for each year of age difference;  
131 provided, after all adjustments the option 2 percent cannot exceed

132 **eighty-seven and three quarter percent. Upon the retiree's death one**  
133 **hundred percent of the retiree's reduced annuity shall be paid to such**  
134 **beneficiary who was the retiree's spouse on the annuity starting date**  
135 **or as otherwise provided by subsection 5 of this section.**

136 **Option 3. A retiree's life annuity shall be reduced to ninety-three**  
137 **percent of the annuity otherwise payable. If the retiree dies before**  
138 **having received one hundred twenty monthly payments, the reduced**  
139 **annuity shall be continued for the remainder of the one hundred**  
140 **twenty-month period to the retiree's designated beneficiary provided**  
141 **that if there is no beneficiary surviving the retiree, the present value**  
142 **of the remaining annuity payments shall be paid as provided under**  
143 **subsection 3 of section 104.620. If the beneficiary survives the retiree**  
144 **but dies before receiving the remainder of such one hundred twenty**  
145 **monthly payments, the present value of the remaining annuity**  
146 **payments shall be paid as provided under subsection 3 of section**  
147 **104.620.**

148 **Option 4. A retiree's life annuity shall be reduced to eighty-six**  
149 **percent of the annuity otherwise payable. If the retiree dies before**  
150 **having received one hundred eighty monthly payments, the reduced**  
151 **annuity shall be continued for the remainder of the one hundred**  
152 **eighty-month period to the retiree's designated beneficiary provided**  
153 **that if there is no beneficiary surviving the retiree, the present value**  
154 **of the remaining annuity payments shall be paid as provided under**  
155 **subsection 3 of section 104.620. If the beneficiary survives the retiree**  
156 **but dies before receiving the remainder of such one hundred eighty**  
157 **monthly payments, the present value of the remaining annuity**  
158 **payments shall be paid as provided under subsection 3 of section**  
159 **104.620.**

**104.1092. A member who first became an employee prior to**  
2 **January 1, 2011, and is employed on or after January 1, 2011, whose**  
3 **gross monthly pay is equal to or greater than eight thousand three**  
4 **hundred and thirty-four dollars on or after January 1, 2011, shall be**  
5 **required beginning on January 1, 2011, or the date the member's gross**  
6 **monthly pay becomes equal to or greater than eight thousand three**  
7 **hundred and thirty-four dollars, whichever is later, to contribute four**  
8 **percent of such member's compensation to the retirement system**  
9 **subject to the requirements contained in subsection 8 of section**

10 104.1091 so long as such member's gross monthly pay is equal to or  
11 greater than eight thousand three hundred and thirty-four dollars. The  
12 system is authorized to audit payroll to determine if a member's gross  
13 monthly pay is or has been adjusted to avoid the contribution  
14 requirement contained in this section.

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

5 2. Any person who is at least sixty-seven years of age, has served  
6 in this state an aggregate of at least twelve years, continuously or  
7 otherwise, as a judge, and ceases to hold office by reason of the  
8 expiration of the judge's term, voluntary resignation, or retirement  
9 pursuant to the provisions of subsection 2 of section 24 of article V of  
10 the Constitution of Missouri may receive benefits as provided in  
11 sections 476.515 to 476.565. The twelve-year requirement of this  
12 subsection may be fulfilled by service as judge in any of the courts  
13 covered, or by service in any combination as judge of such courts,  
14 totaling an aggregate of twelve years. Any judge who is at least sixty-  
15 seven years of age and who has served less than twelve years and is  
16 otherwise qualified under sections 476.515 to 476.565 may retire after  
17 reaching age sixty-seven, or thereafter, at a reduced retirement  
18 compensation in a sum equal to the proportion of the retirement  
19 compensation provided in section 476.530 that his or her period of  
20 judicial service bears to twelve years.

21 3. Any person who is at least sixty-two years of age or older, has  
22 served in this state an aggregate of at least twenty years, continuously  
23 or otherwise, as a judge, and ceases to hold office by reason of the  
24 expiration of the judge's term, voluntary resignation, or retirement  
25 pursuant to the provisions of subsection 2 of section 24 of article V of  
26 the Constitution of Missouri may receive benefits as provided in  
27 sections 476.515 to 476.565. The twenty-year requirement of this  
28 subsection may be fulfilled by service as a judge in any of the courts  
29 covered, or by service in any combination as judge of such courts,  
30 totaling an aggregate of twenty years. Any judge who is at least sixty-  
31 two years of age and who has served less than twenty years and is  
32 otherwise qualified under sections 476.515 to 476.565 may retire after

33 reaching age sixty-two, at a reduced retirement compensation in a sum  
34 equal to the proportion of the retirement compensation provided in  
35 section 476.530 that his or her period of judicial service bears to twenty  
36 years.

37 4. All judges under this section required by the provisions of  
38 section 26 of article V of the Constitution of Missouri to retire at the  
39 age of seventy years shall retire upon reaching that age.

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

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

48 (1) The state of Missouri employer, pursuant to the provisions of  
49 26 U.S.C. section 414(h)(2), shall pick up and pay the contributions that  
50 would otherwise be payable by the judge under this section. The  
51 contributions so picked up shall be treated as employer contributions  
52 for purposes of determining the judge's compensation that is includable  
53 in the judge's gross income for federal income tax purposes;

54 (2) Judge contributions picked up by the employer shall be paid  
55 from the same source of funds used for the payment of compensation  
56 to a judge. A deduction shall be made from each judge's compensation  
57 equal to the amount of the judge's contributions picked up by the  
58 employer. This deduction, however, shall not reduce the judge's  
59 compensation for purposes of computing benefits under the retirement  
60 system pursuant to this chapter;

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

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

70           (5) Interest shall be credited annually on June 30 based on the  
71 value in the account as of July 1 of the immediately preceding year at  
72 a rate of four percent. Interest credits shall cease upon retirement of  
73 the judge;

74           (6) A judge whose employment is terminated may request a  
75 refund of his or her contributions and interest credited thereon. Such  
76 refund shall be paid by the system within ninety days from the date of  
77 termination of employment or the request, whichever is later. A judge  
78 may not request a refund after such judge becomes eligible for  
79 retirement benefits under sections 476.515 to 476.565. A judge who  
80 receives a refund shall forfeit all the judge's service and future rights  
81 to receive benefits from the system. If such judge subsequently  
82 becomes a judge and works continuously for at least one year, the  
83 service previously forfeited shall be restored if the judge returns to the  
84 system the amount previously refunded plus interest at a rate  
85 established by the board;

86           (7) The beneficiary of any judge who made contributions shall  
87 receive a refund upon the judge's death equal to the amount, if any, of  
88 such contributions less any retirement benefits received by the judge  
89 unless an annuity is payable to a survivor or beneficiary as a result of  
90 the judge's death. In that event, the beneficiary of the survivor or  
91 beneficiary who received the annuity shall receive a refund upon the  
92 survivor's or beneficiary's death equal to the amount, if any, of the  
93 judge's contributions less any annuity amounts received by the judge  
94 and the survivor or beneficiary.

95           7. The employee contribution rate, the benefits provided under  
96 sections 476.515 to 476.565, and any other provision of sections 476.515  
97 to 476.565 with regard to judges covered under this section may be  
98 altered, amended, increased, decreased, or repealed, but only with  
99 respect to services rendered by the judge, or, with respect to interest  
100 credits, for periods of time after the effective date of such alteration,  
101 amendment, increase, decrease, or repeal.

          476.527. Any judge who is receiving retirement compensation  
2 under section 476.530 who becomes employed on or after January 1,  
3 2011, as an employee eligible to participate in the year 2000 plan under  
4 chapter 104, shall not receive such retirement compensation for any  
5 calendar month in which the retired judge is so employed. Any judge



6 who is receiving retirement compensation under section 476.530 who  
7 subsequently serves as a judge as defined pursuant to subdivision (4)  
8 of subsection 1 of section 476.515 shall not receive such retirement  
9 compensation for any calendar month in which the retired judge is  
10 serving as a judge; except that upon retirement such judge's annuity  
11 shall be recalculated to include any additional service or salary  
12 accrued based on the judge's subsequent service. A judge who is  
13 receiving compensation under section 476.530 may continue to receive  
14 such retirement compensation while serving as a senior judge or senior  
15 commissioner and shall receive additional credit and salary for such  
16 service pursuant to section 476.682.

476.528. A judge who first became a judge prior to January 1,  
2 2011, and is serving as a judge on or after January 1, 2011, whose gross  
3 monthly pay is equal to or greater than eight thousand three hundred  
4 and thirty-four dollars on or after January 1, 2011, shall be required  
5 beginning on January 1, 2011, or the date the judge's gross monthly pay  
6 becomes equal to or greater than eight thousand three hundred and  
7 thirty-four dollars, whichever is later, to contribute four percent of the  
8 judge's compensation to the retirement system subject to the  
9 requirements contained in subsection 6 of section 476.521 so long as  
10 such judge's gross monthly pay is equal to or greater than eight  
11 thousand three hundred and thirty-four dollars. The system is  
12 authorized to audit payroll to determine if a member's gross monthly  
13 pay is or has been adjusted to avoid the contribution requirement  
14 contained in this section.

476.529. 1. In lieu of the retirement compensation provided in  
2 section 476.530, a judge employed for the first time on or after January  
3 1, 2011, may elect in the judge's application for retirement whether or  
4 not to have such judge's annuity reduced, and designate a beneficiary,  
5 as provided by the options set forth in this subsection prior to the  
6 judge's annuity starting date:

7 Option 1. A judge's annuity shall be reduced to a certain percent  
8 of the annuity otherwise payable. Such percent shall be eighty-eight  
9 and one half percent adjusted as follows: if the judge's age on the  
10 annuity starting date is younger than sixty-seven years, an increase of  
11 three-tenths of one percent for each year the judge's age is younger  
12 than age sixty-seven years; and if the beneficiary's age is younger than

13 the judge's age on the annuity starting date, a decrease of three-tenths  
14 of one percent for each year of age difference; and if the judge's age is  
15 younger than the beneficiary's age on the annuity starting date, an  
16 increase of three-tenths of one percent for each year of age difference;  
17 provided, after all adjustments the option 1 percent cannot exceed  
18 ninety-four and one quarter percent. Upon the judge's death, fifty  
19 percent of the judge's reduced annuity shall be paid to such beneficiary  
20 who was the judge's spouse on the annuity starting date or as otherwise  
21 provided by subsection 5 of this section.

22       Option 2. A judge's life annuity shall be reduced to a certain  
23 percent of the annuity otherwise payable. Such percent shall be eighty-  
24 one percent adjusted as follows: if the judge's age on the annuity  
25 starting date is younger than sixty-seven years, an increase of four-  
26 tenths of one percent for each year the judge's age is younger than  
27 sixty-seven years; and if the beneficiary's age is younger than the  
28 judge's age on the annuity starting date, a decrease of five-tenths of one  
29 percent for each year of age difference; and if the judge's age is  
30 younger than the beneficiary's age on the annuity starting date, an  
31 increase of five-tenths of one percent for each year of age difference;  
32 provided, after all adjustments the option 2 percent cannot exceed  
33 eighty-seven and three quarter percent. Upon the judge's death one  
34 hundred percent of the judge's reduced annuity shall be paid to such  
35 beneficiary who was the judge's spouse on the annuity starting date or  
36 as otherwise provided by subsection 5 of this section.

37       Option 3. A judge's life annuity shall be reduced to ninety-three  
38 percent of the annuity otherwise payable. If the judge dies before  
39 having received one hundred twenty monthly payments, the reduced  
40 annuity shall be continued for the remainder of the one hundred  
41 twenty-month period to the judge's designated beneficiary provided  
42 that if there is no beneficiary surviving the judge, the present value of  
43 the remaining annuity payments shall be paid as provided under  
44 subsection 4 of section 104.1054 as if the judge was a deceased member  
45 under that section. If the beneficiary survives the judge but dies before  
46 receiving the remainder of such one hundred twenty monthly  
47 payments, the present value of the remaining annuity payments shall  
48 be paid as provided under subsection 4 of section 104.1054 for a  
49 deceased beneficiary under that section.

50           **Option 4.** A judge's life annuity shall be reduced to eighty-six  
51 percent of the annuity otherwise payable. If the judge dies before  
52 having received one hundred eighty monthly payments, the reduced  
53 annuity shall be continued for the remainder of the one hundred  
54 eighty-month period to the judge's designated beneficiary provided that  
55 if there is no beneficiary surviving the judge, the present value of the  
56 remaining annuity payments shall be paid as provided under  
57 subsection 4 of section 104.1054 as if the judge was a deceased member  
58 under that section. If the beneficiary survives the judge but dies before  
59 receiving the remainder of such one hundred twenty monthly  
60 payments, the present value of the remaining annuity payments shall  
61 be paid as provided under subsection 4 of section 104.1054 for a  
62 deceased beneficiary under that section.

63           **2.** If a judge is married as of the annuity starting date, the  
64 judge's annuity shall be paid under the provisions of either option 1 or  
65 option 2 as set forth in subsection 1 of this section, at the judge's  
66 choice, with the spouse as the judge's designated beneficiary unless the  
67 spouse consents in writing to the judge electing another available form  
68 of payment.

69           **3.** If a judge has elected at the annuity starting date option 1 or  
70 2 pursuant to this section and if the judge's spouse or eligible former  
71 spouse dies after the annuity starting date but before the judge dies,  
72 then the judge may cancel the judge's election and return to the  
73 unreduced annuity form of payment and annuity amount, effective the  
74 first of the month following the date of such spouse's or eligible former  
75 spouse's death. If a judge dies prior to notifying the system of the  
76 spouse's death, the benefit will not revert to an unreduced annuity and  
77 no retroactive payments shall be made.

78           **4.** If a judge designates a spouse as a beneficiary pursuant to this  
79 section and subsequently that marriage ends as a result of a dissolution  
80 of marriage, such dissolution shall not affect the option election  
81 pursuant to this section and the former spouse shall continue to be  
82 eligible to receive survivor benefits upon the death of the judge.

83           **5.** A judge may make an election under option 1 or 2 after the  
84 annuity starting date as described in this section if the judge makes  
85 such election within one year from the date of marriage pursuant to  
86 any of the following circumstances:

87           **(1) The judge elected to receive a life annuity and was not**  
88 **eligible to elect option 1 or 2 on the annuity starting date; or**

89           **(2) The judge's annuity reverted to a normal or early retirement**  
90 **annuity pursuant to subsection 3 of this section, and the judge**  
91 **remarried.**

92           **6. A judge may change a judge's election made under this section**  
93 **at any time prior to the system mailing or electronically transferring**  
94 **the first annuity payment to such member.**

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