

Joint Committee on Public Employee Retirement
GOVERNING STATUTES & MISSOURI CONSTITUTION PROVISION

21.550. Definition. — The phrase “state and local public employee retirement systems”, as used in sections 21.550 to 21.564*, unless a different meaning is plainly required by the context, shall mean: any retirement system established by the state of Missouri or any political subdivision or instrumentality of the state for the purpose of providing retirement plan benefits for elected or appointed public officials or employees of the state of Missouri or any political subdivision of the state.

(L. 1983 S.B. 393 § A)

*Section 21.564 was repealed by H.B. 1882, 2014.

21.553. Joint committee on public retirement established — membership — terms. — 1. There is established a permanent joint committee of the general assembly to be known as the “Joint Committee on Public Employee Retirement” to be comprised of six members of the senate and six members of the house of representatives. The senate members shall be appointed by the president pro tem of the senate and the house members shall be appointed by the speaker of the house. The appointment of members shall continue during their term of office as members of the general assembly or until a successor has been duly appointed to fill their place when their term of office as members of the general assembly has expired.

2. No political party shall be represented on the committee by more than three members from the senate nor by more than three members from the house.

(L. 1983 S.B. 393 § 1)

21.555. Meeting of committee — quorum — officers, qualifications, expenses and per diem. — 1. The joint committee on public employee retirement shall meet within ten days after its creation and organize by selecting a chairman and a vice chairman, one of whom shall be a member of the senate and the other a member of the house of representatives.

2. The committee shall regularly meet at least quarterly.

3. A majority of the members of the committee shall constitute a quorum.

4. The members of the committee shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(L. 1983 S.B. 393 § 2, A.L. 1985 H.B. 695)

21.557. Personnel and actuarial assistance authorized — compensation, how paid. — The committee may employ such personnel and actuarial assistance as it deems necessary to carry out its duties and prepare required reports. The compensation of such personnel and the expenses of the committee shall be paid from moneys appropriated to the committee or from the joint contingent fund as approved.

(L. 1983 S.B. 393 § 3, A.L. 2014 H.B. 1882)

21.559. Powers and duties of joint committee. — The committee shall:

(1) Make a continuing study and analysis of all state and local government retirement systems;

(2) Devise a standard reporting system to obtain data on each public employee retirement

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system that will provide information on each system's financial and actuarial status at least biennially;

(3) Determine from its study and analysis the need for changes in statutory law;

(4) Make any other recommendation to the general assembly necessary to provide adequate retirement benefits to state and local government employees within the ability of taxpayers to support their future costs.

(L. 1983 S.B. 393 § 4, A.L. 1985 H.B. 695)

21.561. Retirement systems, state and local to cooperate. — 1. All state and local public employee retirement systems shall cooperate with and assist the committee in the performance of its duties and shall make available all books, records and information requested.

2. If any state or local public employee retirement system does not comply with the committee's request for books, records, or information, or does not cooperate and assist the committee as provided in subsection 1 of this section, then the committee may request the staff or board members of any state or local public employee retirement system to testify before the committee regarding noncompliance with this section.

3. The committee may subpoena witnesses, take testimony under oath, and compel the production of records.

(L. 1983 S.B. 393 § 5, A.L. 2014 H.B. 1882)

21.562. Cost-of-living increases in pension benefits or other increases in payments beyond prior year, notice of to committee, when — evidence of actuarial soundness, when. — 1.

All state or local public employee retirement systems shall notify the committee within seven calendar days when the governing body thereof which determines the amount and type of plan benefits to be paid takes final action providing any new or additional payments beyond the plan provisions of the prior plan year of periodic cost-of-living increases in pension and retirement benefits for its retired officers and employees and spouses of deceased officers and employees.

2. If so requested at any time by the committee, any state or local public employee retirement system providing such periodic cost-of-living increases shall provide satisfactory evidence of its actuarial soundness.

(L. 1985 H.B. 695, A.L. 2014 H.B. 1882)

21.563. Report, contents — submitted when. — The committee shall compile a full report of its activities for submission to the general assembly. The report shall be submitted not later than the annual first quarterly meeting of the joint committee on public employee retirement each year in which the general assembly convenes in regular session and shall include any recommendations which the committee may have for legislative action, as well as any recommendations to retirement system boards of management. The report shall also include an analysis and statement of the manner in which statutory provisions relating to public employee retirement programs are being executed.

(L. 1983 S.B. 393 § 6, A.L. 2014 H.B. 1882)

105.660. Definitions, retirement benefit changes. — The following words and phrases as used

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in sections 105.660 to 105.685, unless a different meaning is plainly required by the context, shall mean:

- (1) **“Actuarial valuation”**, a mathematical process which determines plan financial condition and plan benefit cost;
- (2) **“Actuary”**, an actuary:
 - (a) Who is a member of the American Academy of Actuaries or who is an enrolled actuary under the Employee Retirement Income Security Act of 1974; and
 - (b) Who is experienced in retirement plan financing;
- (3) **“Board”**, the governing board or decision-making body of a plan that is authorized by law to administer the plan;
- (4) **“Defined benefit plan”**, a plan providing a definite benefit formula for calculating retirement benefit amounts;
- (5) **“Defined contribution plan”**, a plan in which the contributions are made to an individual retirement account for each employee;
- (6) **“Funded ratio”**, the ratio of the actuarial value of assets over its actuarial accrued liability;
- (7) **“Lump sum benefit plan”**, payment within one taxable year of the entire balance to the participant from a plan;
- (8) **“Plan”**, any retirement system established by the state of Missouri or any political subdivision or instrumentality of the state for the purpose of providing plan benefits for elected or appointed public officials or employees of the state of Missouri or any political subdivision or instrumentality of the state;
- (9) **“Plan benefit”**, the benefit amount payable from a plan together with any supplemental payments from public funds;
- (10) **“Substantial proposed change”**, a proposed change in future plan benefits which would increase or decrease the total contribution percent by at least one-quarter of one percent of active employee payroll, or would increase or decrease a plan benefit by five percent or more, or would materially affect the actuarial soundness of the plan. In testing for such one-quarter of one percent of payroll contribution increase, the proposed change in plan benefits shall be added to all actual changes in plan benefits since the last date that an actuarial valuation was prepared. The closing or freezing of a current defined benefit plan is considered a substantial proposed change only for the purposes of sections 105.665, 105.670, 105.675, and 105.685.

(L. 1979 H.B. 130 § 1, A.L. 2007 S.B. 406, A.L. 2014 H.B. 1882)

105.661. All retirement plans to prepare financial report, content audit by state auditor and joint committee on public employee retirement — rules submitted to joint committee on public employee retirement, when — report required. — 1. Each plan shall annually prepare and have available as public information a comprehensive annual financial report showing the financial condition of the plan as of the end of the plan's fiscal year. The report shall contain, but not be limited to, detailed financial statements prepared in accordance with generally accepted accounting principles for public employee retirement systems including an independent auditors report thereon, prepared by a certified public accountant or a firm of certified public accountants, a detailed summary of the plan's most recent actuarial valuation including a certification letter from the actuary and a summary of actuarial assumptions and methods used in such valuation, a detailed listing of the investments, showing both cost and

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market value, held by the plan as of the date of the report together with a detailed statement of the annual rates of investment return from all assets and from each type of investment, a detailed list of investments acquired and disposed of during the fiscal year, a listing of the plan's board of trustees or responsible administrative body and administrative staff, a detailed list of administrative expenses of the plan including all fees paid for professional services, a detailed list of brokerage commissions paid, a summary plan description, and such other data as the plan shall deem necessary or desirable for a proper understanding of the condition of the plan. In the event a plan is unable to comply with any of the disclosure requirements outlined above, a detailed statement must be included in the report as to the reason for such noncompliance.

2. Any rule or portion of rule promulgated by any plan pursuant to the authority of chapter 536, or of any other provision of law, shall be submitted to the joint committee on public employee retirement prior to or concurrent with the filing of a notice of proposed rulemaking with the secretary of state's office pursuant to section 536.021. The requirement of this subsection is intended solely for the purpose of notifying the joint committee on public employee retirement with respect to a plan's proposed rulemaking so that the joint committee on public employee retirement has ample opportunity to submit comments with respect to such proposed rulemaking in accordance with the normal process. Any plan not required to file a notice of proposed rulemaking with the secretary of state's office shall submit any proposed rule or portion of a rule to the joint committee on public employee retirement within ten days of its promulgation.

3. A copy of the comprehensive annual financial report as outlined in subsection 1 of this section shall be forwarded within six months of the end of the plan's fiscal year to the state auditor and the joint committee on public employee retirement.

4. Each defined benefit plan shall submit a quarterly report regarding the plan's investment performance to the joint committee on public employee retirement in the form and manner requested by the committee. If the plan fails to submit this report, the committee may subpoena witnesses, take testimony under oath, and compel the production of records regarding this information, pursuant to its authority under section 21.561.

(L. 1987 H.B. 713, A.L. 2002 H.B. 1674, A.L. 2011 H.B. 282)

105.662. Public pension funds not to be commingled — trusteeship. — The assets of public pension funds represent the deferred wages and future economic security of plan participants and shall not be commingled with any other funds of the political jurisdiction. All funds of the plan shall be placed in a trusteeship, and adequate reporting and disclosure requirements shall be established.

(L. 1992 S.B. 499, et al. § 4)

105.663. Retirement plan may appoint attorney as legal advisor. — Notwithstanding any other provision of law to the contrary, each public retirement plan as defined in section 105.660, through its board of trustees or other responsible administrative body, is authorized to appoint an attorney at law or firm of attorneys at law to be the legal advisor and to represent the plan and the board of trustees or other responsible administrative body in all legal proceedings.

(L. 1995 H.B. 416, et al.)

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105.664. Actuarial valuation performed at least biennially — forwarded to joint committee on public employee retirement, when. — 1. Each plan shall at least biennially prepare and have available as public information an actuarial valuation performed in compliance with applicable standards and guidelines as set forth by the governmental accounting standards board. Any plan currently performing valuations on a biennial basis making a substantial proposed change in benefits as defined in section 105.660 shall have a new actuarial valuation performed using the same methods and assumptions for the most recent periodic actuarial valuation.

2. An actuarial valuation performed in compliance with applicable governmental accounting standards board pronouncements shall be forwarded to the joint committee on public employee retirement no later than sixty calendar days after completion or adoption of such valuation.

(L. 2002 H.B. 1455, A.L. 2014 H.B. 1882)

105.665. Cost statement of proposed changes prepared by actuary — contents. — 1. The legislative body or committee thereof which determines the amount and type of plan benefits to be paid shall, before taking final action on any substantial proposed change in plan benefits, cause to be prepared a statement regarding the cost of such change.

2. The cost statement shall be prepared by an actuary using the methods used in preparing the most recent periodic actuarial valuation for the plan and shall, without limitation by enumeration, include the following:

(1) The level normal cost of plan benefits currently in effect, which cost is expressed both in estimated annual dollars and as a percent of active employee payroll;

(2) The contribution for unfunded accrued liabilities currently payable by the plan, which cost is expressed both in estimated annual dollars and as a percent of active employee payroll and shall be over a period not to exceed thirty years;

(3) The total contribution rate expressed both in estimated annual dollars and as a percent of active employee payroll, which contribution rate shall be the total of the normal cost percent plus the contribution percent for unfunded accrued liabilities;

(4) A statement as to whether the legislative body is currently paying the total contribution rate as defined in subdivision (3) of this subsection;

(5) The plan's actuarial value of assets, market value of assets, actuarial accrued liability, and funded ratio as defined in section 105.660 as of the most recent actuarial valuation;

(6) The total post-change contribution rate expressed both in estimated annual dollars and as a percent of active employee payroll;

(7) A projection of at least ten years of the current plan provisions compared to the proposed change from the proposed effective date of such change including the total annual contribution requirements expressed both in estimated annual dollars and as a percent of active employee payroll, the actuarial value of assets, the market value of assets, the actuarial accrued liability, and the funded ratio as defined in section 105.660 except that such projection shall not apply to employers within the retirement system established in sections 70.600 to 70.755, but in lieu thereof shall include a prospective schedule of at least ten years containing current provision-estimated employer contributions as a percent of payroll and estimated annual dollars, proposed provision-estimated employer contributions as a percent of payroll and estimated annual dollars, and the resulting difference. Such schedule shall also contain the estimated difference between the actuarial accrued liability and actuarial value of assets for each scenario;

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(8) A statement as to whether such additional contributions are mandated by the proposed change;

(9) A statement as to whether or not the proposed change would in any way impair the ability of the plan to meet the obligations thereof in effect at the time the proposal is made;

(10) All assumptions relied upon to evaluate the present financial condition of the plan and all assumptions relied upon to evaluate the impact of the proposed change upon the financial condition of the plan, which shall be those assumptions used in preparing the most recent periodic actuarial valuation for the plan, unless the nature of the proposed change is such that alternative assumptions are clearly warranted, and shall be made and stated with respect to at least the following:

(a) Investment return;

(b) Pay increase;

(c) Mortality of employees and officials, and other persons who may receive benefits under the plan;

(d) Withdrawal (turnover);

(e) Disability;

(f) Retirement ages;

(g) Change in active employee group size;

(11) The actuary shall certify that in the actuary's opinion the assumptions used for the valuation produce results which, in the aggregate, are reasonable;

(12) A description of the actuarial funding method used in preparing the valuation including a description of the method used and period applied in amortizing unfunded actuarial accrued liabilities.

(L. 1979 H.B. 130 § 2, A.L. 1996 H.B. 1355, A.L. 2007 S.B. 406, A.L. 2014 H.B. 1882)

105.666. Board member education program, curriculum, requirements — annual pension benefit statement required. — 1. Each plan shall, in conjunction with its staff and advisors,

establish a board member education program, which shall be in effect on or after January 1, 2008. The curriculum shall include, at a minimum, education in the areas of duties and responsibilities of board members as trustees, ethics, governance process and procedures, pension plan design and administration of benefits, investments including but not limited to the fiduciary duties as defined under section 105.688, legal liability and risks associated with the administration of a plan, sunshine law requirements under chapter 610, actuarial principles and methods related to plan administration, and the role of staff and consultants in plan administration. Board members appointed or elected on a board on or after January 1, 2008, shall complete a board member education program designated to orient new board members in the areas described in this section within ninety days of becoming a new board member. Board members who have served one or more years shall attend at least a total of six hours of continuing education programs each year in the areas described in this section.

2. Routine annual presentation by outside plan service providers shall not be used to satisfy board member education or continuing education program requirements contained in subsection 1 of this section. Such service providers may be utilized to perform education programs with such programs being separate and apart from routine annual presentations.

3. Plan governing body or staff shall maintain a record of board member education including, but not limited to, date, time length, location, education material, and any facilitator

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utilized. The record shall be signed and attested to by the attending board member or board chairperson or designee. Such information shall be maintained for public record and disclosure for at least three years or until the expiration of such board member's term, whichever occurs first.

4. A board member who is knowingly not participating in the required education programs under this section may be removed from such board by a majority of the board members which shall result in a vacancy to be filled in accordance with plan provisions except that ex officio board members shall not be removed under this subsection.

5. Each plan shall, upon the request of any individual participant, provide an annual pension benefit statement which shall be written in a manner calculated to be understood by the average plan participant and may be delivered in written, electronic, or other appropriate form to the extent such form is reasonably accessible to each participant or beneficiary. Such pension benefit statement shall include, but not be limited to, accrued participant contributions to the plan, total benefits accrued, date first eligible for a normal retirement benefit, and projected benefit at normal retirement. Any plan failing to do so shall submit in writing to the joint committee on public employee retirement as to why the information may not be provided as requested.

(L. 2007 S.B. 406, A.L. 2014 H.B. 1882)

105.667. Gain or profit from funds or transactions of plan, prohibited when. — 1. Any appointing authority, board member, or employee shall be prohibited from receiving any gain or profit from any funds or transaction of the plan, except benefits from interest in investments common to all members of the plan, if entitled thereto.

2. Any appointing authority, board member, or employee accepting any political contribution, gratuity, or compensation for the purpose of influencing his or her action with respect to the investment of the funds of the system shall thereby forfeit his or her office and in addition thereto be subject to the penalties prescribed for bribery.

3. Any trustee, employee, or participant of a plan who pleads guilty to or is found guilty of a plan-related felony after August 28, 2007, that is determined by a court of law to have been directly committed in connection with the member's duties as either a trustee, employee, or participant of a plan shall not be eligible to receive any retirement benefits from the respective plan.

(L. 2007 S.B. 406)

105.669. Felony conviction, ineligible for benefits, when — employer to notify of offenses, when — list of offenses. — 1. Any participant of a plan who is convicted of a felony offense listed in subsection 3 of this section, which is committed in direct connection with or directly related to the participant's duties as an employee on or after August 28, 2014, shall not be eligible to receive any retirement benefits from the respective plan based on service rendered on or after August 28, 2014, except a participant may still request from the respective retirement system a refund of the participant's plan contributions, including interest credited to the participant's account.

2. The employer of any participant who is charged or convicted of a felony offense listed in subsection 3 of this section, which is committed in direct connection with or directly related to

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the participant's duties as an employee on or after August 28, 2014, shall notify the appropriate retirement system in which the offender was a participant and provide information in connection with such charge or conviction. The plans shall take all actions necessary to implement the provisions of this section.

3. A felony conviction based on any of the following offenses or a substantially similar offense provided under federal law shall result in the ineligibility of retirement benefits as provided in subsection 1 of this section:

(1) The offense of felony stealing under section 570.030 when such offense involved money, property, or services valued at five thousand dollars or more;

(2) The offense of felony receiving stolen property under section 570.080*, as it existed before January 1, 2017, when such offense involved money, property, or services valued at five thousand dollars or more;

(3) The offense of forgery under section 570.090;

(4) The offense of felony counterfeiting under section 570.103;

(5) The offense of bribery of a public servant under section 576.010; or

(6) The offense of acceding to corruption under section 576.020.

(L. 2014 H.B. 1217, A.L. 2017 S.B. 34 merged with S.B. 62)

*Section 570.080 was repealed by S.B. 491, 2014, effective 1-01-17.

105.670. Cost statement available for inspection — effect of changes (general assembly). — When the general assembly is the legislative body responsible for authorizing a substantial proposed change in plan benefits, a prepared statement regarding the cost of such change shall be made available for its consideration prior to taking final action. Such statement of cost shall be prepared in accordance with section 105.665 and shall be available as public information for at least five legislative days before third reading and passage by either the house of representatives or the senate. The speaker or president pro tem may refer such bill for reconsideration upon receipt of the actuary statement to the committee to which the bill was originally referred. The bill shall retain its place on the calendar as though it had not been recalled. The committee shall report the bill to the house or senate, respectively, within seven calendar days with its recommendations. If any additional substantial proposed change, as defined in subdivision (10) of section 105.660, in cost or benefits is made by either the house of representatives or the senate or committee thereof, the actuary making the original cost statement shall amend the statement to reflect the additional features prior to the proposal being truly agreed to and finally passed. The plan shall make available to the actuary such information as is necessary to prepare such actuarial statement. The statement of cost shall be filed with the chief clerk of the Missouri house of representatives, the secretary of the senate, and with the joint committee on public employee retirement.

(L. 1979 H.B. 130 § 3, A.L. 1985 H.B. 695, A.L. 1987 H.B. 713, A.L. 1989 H.B. 674, A.L. 1996 H.B. 1355, A.L. 2014 H.B. 1882)

105.675. Cost statement available for inspection (political subdivisions). — When a political subdivision or instrumentality of the state is the legislative body responsible for making a substantial proposed change in benefits, a prepared statement regarding the cost of such change shall be prepared in accordance with section 105.665 and shall be made available for its consideration. Such statement of cost shall be available as public information for at least forty-

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five calendar days before the legislative body can take final action to adopt the substantial proposed change in benefits. The statement of cost required by this section shall be filed in the office of the clerk, secretary or other individual responsible for keeping the official records of the legislative body, and with the joint committee on public employee retirement.

(L. 1979 H.B. 130 § 4, A.L. 1985 H.B. 695, A.L. 1996 H.B. 1355)

105.679. Contact information for retired members to be provided, when (St. Louis City).

— Notwithstanding the provisions of sections 610.010 to 610.035 to the contrary, any retirement plan as defined in section 105.660, located in a city not within a county, providing retirement benefits for general employees shall provide, upon request by any retiree organization, sufficient information enabling such organization to contact retired members.

(L. 2001 S.B. 290 § 1, A.L. 2003 H.B. 131)

Transferred 2003; formerly 70.795

105.680. Expenses for cost statements, how paid. — 1. For any proposed change in plan benefits, the expense of having the cost statement prepared shall be assured before the legislative body may take final action to approve a proposed substantial change in plan benefits.

2. The expense of having the cost statement prepared shall be paid by the plan if the substantial proposed change is initiated or approved by the plan's governing board.

3. When the general assembly is the legislative body considering a proposed change in plan benefits, the joint committee on public employee retirement, upon approval by a majority of the statutory number of senators serving on the committee and approval of a majority of the statutory number of representatives serving on the committee, may assume the expense of preparing a cost statement required by sections 105.660 to 105.685 by employing or contracting with an actuary or actuaries who possess the qualifications required by the provisions of sections 105.660 to 105.685 upon such terms as may be agreed upon and within the limits of appropriations made therefor, or may order the plan to provide such statement.

4. If the expense of preparing the cost statement is not assured by reason of subsection 2 or 3 above, the expense shall be paid by the individual, group of individuals, department or agency seeking such proposed change.

(L. 1979 H.B. 130 § 5, A.L. 1985 H.B. 695)

105.683. Plan deemed delinquent, when, effect of. — Any plan, other than a plan created under sections 169.010 to 169.141 or sections 169.600 to 169.715, whose actuary determines that the plan has a funded ratio below sixty percent and the political subdivision has failed to make one hundred percent of the actuarially required contribution payment for five successive plan years with a descending funded ratio for five successive plan years, shall be deemed delinquent in the contribution payment and such delinquency in the contribution payment shall constitute a first lien on the funds of the political subdivision, and the board as defined under section 105.660 is authorized to compel payment by application for a writ of mandamus; and in addition, such delinquency in the contribution payment shall be certified by the board to the state treasurer and director of the department of revenue. Until such delinquency in the contribution payment, together with regular interest, is satisfied, the state treasurer and director of the department of revenue shall withhold twenty-five percent of the certified contribution deficiency from the total

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moneys due the political subdivision from the state.

(L. 2007 S.B. 406, A.L. 2014 H.B. 1882)

105.684. Benefit increases prohibited, when — amortization of unfunded actuarial accrued liabilities — accelerated contribution schedule required, when. — 1. Notwithstanding any law to the contrary, no plan shall adopt or implement any additional benefit increase, supplement, enhancement, lump sum benefit payments to participants, or cost-of-living adjustment beyond current plan provisions in effect prior to August 28, 2007, which would, in aggregate with any other proposed plan provisions, increase the plan's actuarial accrued liability when valued by an actuary using the same methods and assumptions as used in the most recent periodic valuation, unless the plan's actuary determines that the funded ratio of the most recent periodic actuarial valuation and prior to such adoption or implementation is at least eighty percent and will not be less than seventy-five percent after such adoption or implementation. Methods and assumptions used in valuing such proposed change may be modified if the nature is such that alternative assumptions are clearly warranted.

2. The unfunded actuarial accrued liabilities associated with benefit changes described in this section shall be amortized over a period not to exceed twenty years for purposes of determining the contributions associated with the adoption or implementation of any such benefit increase, supplement, or enhancement.

3. Any plan with a funded ratio below sixty percent shall have the actuary prepare an accelerated contribution schedule based on a descending amortization period for inclusion in the actuarial valuation.

4. Nothing in this section shall apply to any plan established under chapter 70 or chapter 476.

5. Nothing in this section shall prevent a plan from adopting and implementing any provision necessary to maintain a plan's status as a qualified trust pursuant to 26 U.S.C. Section 401(a).

(L. 2007 S.B. 406, A.L. 2013 H.B. 233, A.L. 2014 H.B. 1882)

105.685. Effective date of changes. — A substantial proposed change in plan benefits shall not become effective until such time as the provisions of sections 105.660 to 105.685 are complied with.

(L. 1979 H.B. 130 § 6)

Effective 8-06-79

105.687. Definitions. — As used in sections 105.687 to 105.689, the following terms mean:

(1) **“Equity interests”**, limited partnership interests and other interests in which the liability of the investor is limited to the amount of the investment, but does not include general partnership interests or other interests involving general liability of the investor;

(2) **“Invest”** or **“investment”**, utilization of money in the expectation of future returns in the form of income or capital gain;

(3) **“Investment fiduciary”**, a person who either exercises any discretionary authority or control in the investment of a public employee retirement system's assets or who renders for a fee advice for a public employment retirement system;

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(4) “**Small business**”, an independently owned and operated business as defined in Title 15 U.S.C. Section 632A and as described by Title 13 CFR Part 121*;

(5) “**Small business investment company**”, an incorporated body or a limited partnership under Section 301 of Title III of the Small Business Investment Act of 1958, 15 U.S.C. 681;

(6) “**System**”, a public employee retirement system established by the state or any political subdivision of the state;

(7) “**Venture capital firm**”, a corporation, partnership, proprietorship, or other entity, the principal businesses of which is the making of investments in small businesses, either directly or indirectly by investing in entities the principal business of which is the making of investments in small businesses.

(L. 1987 S.B. 20 § 1)

*The number “21” appears in original rolls.

105.688. Investment fiduciaries, duties. — The assets of a system may be invested, reinvested and managed by an investment fiduciary subject to the terms, conditions and limitations provided in sections 105.687 to 105.689. An investment fiduciary shall discharge his or her duties in the interest of the participants in the system and their beneficiaries and shall:

(1) Act with the same care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims;

(2) Act with due regard for the management, reputation, and stability of the issuer and the character of the particular investments being considered;

(3) Make investments for the purposes of providing benefits to participants and participants' beneficiaries, and of defraying reasonable expenses of investing the assets of the system;

(4) Give appropriate consideration to those facts and circumstances that the investment fiduciary knows or should know are relevant to the particular investment or investment course of action involved, including the role of the investment or investment course of action plays in that portion of the system's investments for which the investment fiduciary has responsibility. For purposes of this subdivision, “**appropriate consideration**” shall include, but is not necessarily limited to a determination by the investment fiduciary that a particular investment or investment course of action is reasonably designed, as part of the investments of the system, to further the purposes of the system, taking into consideration the risk of loss and the opportunity for gain or other return associated with the investment or investment course of action; and consideration of the following factors as they relate to the investment or investment course of action:

(a) The diversification of the investments of the system;

(b) The liquidity and current return of the investments of the system relative to the anticipated cash flow requirements of the system; and

(c) The projected return of the investments of the system relative to the funding objectives of the system;

(5) Give appropriate consideration to investments which would enhance the general welfare of this state and its citizens if those investments offer the safety and rate of return comparable to other investments available to the investment fiduciary at the time the investment decision is made.

(L. 1987 S.B. 20 § 2)

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105.689. Investment fiduciary may make investments in certain countries. — Nothing in sections 105.687 to 105.689 shall prevent any investment fiduciary from making investments in any company which does business in any country with which the United States maintains diplomatic relations.

(L. 1987 S.B. 20 § 3, A.L. 1992 S.B. 499, et al.)

105.690. Selection of fiduciaries, preference to Missouri firms. — When selection is made of a venture capital firm, a consultant or a fiduciary, preference must be given to a Missouri based company.

(L. 1987 S.B. 20 § 4)

105.691. Definitions — agreements to transfer service between plans — election to transfer — transfer of service, determination of value — amount due, payment period — effect of transfer — transfer not to result in receipt of benefits under more than one plan. — 1. As used in this section, unless a different meaning is plainly required by the context, the following terms mean:

(1) **“Accumulated contributions”**, the sum of all amounts deducted from the compensation of an individual and credited to the person's individual account in the applicable plan, together with interest allowed thereon by the plan;

(2) **“Creditable service”**, the service of an individual, whether rendered while a member of a plan or not, which is recognized by a plan in determining the individual's eligibility for and the amount of the individual's benefits under the plan;

(3) **“Plan”** or **“retirement plan”**, any retirement system established by the state of Missouri or any political subdivision or instrumentality of the state for the purpose of providing plan benefits for elected or appointed public officials or employees of the state of Missouri or any political subdivision or instrumentality of the state;

(4) **“Receiving plan”**, a plan which pursuant to this section is receiving funds from another plan or an individual to provide creditable service for that individual;

(5) **“Transferring plan”**, a plan which pursuant to this section is transferring funds to another plan for the purpose of providing creditable service for an individual;

(6) **“Vested”**, having the right to receive the payment of a benefit from the plan, whether at present or at a future time. For the purpose of determining eligibility for transferring service credit, all plans shall be deemed to have five-year vesting.

2. Any retirement plan as defined in this section may enter into cooperative agreements to transfer creditable service from one retirement plan to another when a member who has been employed in a position covered by one plan is employed in a position covered by another plan. If any two plans already have in place on August 28, 1992, a cooperative agreement for transferring service between those plans, the existing agreement may remain in force upon agreement of both plans.

3. Any individual who has not yet retired and has earned creditable service under the provisions of a retirement plan which has entered into a cooperative agreement as specified in subsection 2 of this section, and who is vested in any plan may elect in writing to transfer the individual's creditable service from one plan to another plan upon employment and vesting in a position covered by the receiving plan. Within sixty days of such election the plan from which

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the individual is transferring shall transfer on the individual's behalf to the receiving plan an amount equal to the employee's pension benefit obligation at the time of transfer using the same assumption used in performing the last regular actuarial valuation of the transferring plan; except that in no event shall the transferred amount be less than the employee's accumulated contributions on deposit with the transferring plan.

4. The receiving plan shall determine, using accepted actuarial methods, the value of transferred service in the receiving plan. The amount of creditable service which shall be recognized in the receiving plan shall be determined by the actuarial value of the funds transferred, but in no event shall such creditable service exceed the actual number of years of creditable service from the transferring plan. If the actuarial value of the funds transferred to the receiving plan is less than that required to fund the liability created by the actual number of years of creditable service in the transferring plan, the employee may purchase additional creditable service in the receiving plan up to the actual number of years of creditable service in the transferring plan by paying the amount required by the receiving plan.

5. Any individual having earned creditable service under the provisions of any of the retirement plans identified in this section who is not vested in such plans and who becomes employed and vested in a position covered by another retirement plan identified in this section shall be permitted to purchase creditable service in the plan in which the individual is vested up to the actual number of years of creditable service the individual has in the other plans. The cost shall be determined using accepted actuarial methods by the receiving plan.

6. Payment in full of an amount due by an individual electing to transfer or purchase creditable service pursuant to this section shall be made over a period not to exceed two years, measured from the date of election, or prior to the effective date of retirement benefit payments to that individual by the receiving plan, whichever is earlier, and with interest compounded annually at the actuarially assumed interest rate of the plan receiving the payments. If payment in full is not made within this prescribed time period, any partial payments made by the individual because of the election shall be refunded, and no creditable service shall be allowable in the receiving plan as a result of the partial payments.

7. Any individual employed in nonfederal public employment in Missouri but not covered by a retirement plan who becomes employed and vested in a position covered by a retirement plan identified in this section shall be permitted to purchase creditable service in the plan up to the actual number of years of public service in an uncovered position. The cost and creditable service allowed shall be determined using accepted actuarial methods by the receiving plan.

8. When an individual elects to transfer creditable service from one plan to another plan, the individual thereby forfeits any claim to any benefit based on such service under the provisions of the retirement plan from which the creditable service is transferred.

9. In no event shall any individual receive credit or benefits for the same period of service or employment under more than one retirement plan as a consequence of transfer or purchase pursuant to the provisions of this section. Benefits paid on the basis of creditable service transferred or purchased pursuant to the provisions of this section shall be calculated using the formula applicable to the receiving plan.

(L. 1992 S.B. 499, et al., A.L. 1993 H.B. 733 merged with S.B. 363, A.L. 1997 H.B. 356, A.L. 1999 S.B. 196)

CROSS REFERENCE:

Purchase or transfer of prior creditable service authorized for certain persons covered by retirement plans identified in chapter 104, 287 or 476

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105.702. Minority and women money managers, brokers, and investment counselors, procurement action plan required — annual report. — All retirement plans defined under section 105.660 shall develop a procurement action plan for utilization of minority and women money managers, brokers, and investment counselors. Such retirement systems shall report their progress annually to the joint committee on public employee retirement and the governor's minority advocacy commission.

(L. 2014 H.B. 1882)

Missouri Constitution, Article VII: Statement of actuary required before retirement benefits substantially changed.

Section 14. The legislative body which stipulates by law the amount and type of retirement benefits to be paid by a retirement plan covering elected or appointed public officials or both, shall, before taking final action of any substantial proposed change in future benefits, cause to be prepared a statement regarding the cost of such change. Such statement of cost shall be prepared by a qualified actuary with experience in retirement plan financing and such statement shall be available for public inspection. The general assembly shall provide by law applicable standards and requirements governing the preparation, content, and disposition of such statements of cost.

(Adopted August 8, 1978)