

FIRST REGULAR SESSION

HOUSE BILL NO. 282

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FRANZ.

1055L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 105.915 and 105.927, RSMo, and to enact in lieu thereof two new sections relating to the state employee deferred contribution program.

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

Section A. Sections 105.915 and 105.927, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 105.915 and 105.927, to read as follows:

105.915. 1. The board of trustees of the Missouri state employees' retirement system shall administer the deferred compensation fund for the employees of the state of Missouri that was previously administered by the deferred compensation commission, as established in section 105.910, prior to August 28, 2007. The board shall be vested with the same powers that it has under chapter 104 to enable it and its officers, employees, and agents to administer the fund under sections 105.900 to 105.927. Two of the commissioners serving on the deferred compensation commission immediately prior to the transfer made to the board under section 105.910 shall serve as ex officio members of the board solely to participate in the duties of administering the deferred compensation fund. One such commissioner serving as an ex officio board member shall be a member of the house of representatives selected by the speaker of the house of representatives, and such commissioner's service on the board shall cease on December 31, 2009. The other commissioner serving as an ex officio board member shall be the chairman of the deferred compensation commission immediately prior to the transfer made to the board under section 105.910, and such commissioner's service on the board shall cease December 31, 2008.

2. **Except as provided in this subsection**, participation in such plan shall be by a specific written agreement between state employees and the state, which shall provide for the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 deferral of such amounts of compensation as requested by the employee subject to any
19 limitations imposed under federal law. Participating employees must authorize that such
20 deferrals be made from their wages for the purpose of participation in such program. **An**
21 **election to defer compensation shall be made before the beginning of the month in which**
22 **the compensation is paid. Contributions shall be made for payroll periods occurring on**
23 **or after the first day of the month after the election is made. Each employee eligible to**
24 **participate in the plan hired on or after July 1, 2012, shall be enrolled in the plan**
25 **automatically, and his or her employer shall in accordance with the plan document**
26 **withhold and contribute to the plan an amount equal to one percent of eligible**
27 **compensation received on and after the date of hire, unless the employee elects not to**
28 **participate in the plan within the first thirty days of employment. If the employee elects**
29 **not to participate in the plan within the first thirty days of employment, any amounts**
30 **contributed and earnings thereon shall be refunded by the plan to the employee under the**
31 **procedure contained in the plan documents. Employees who are employed by a state**
32 **college or university shall not be automatically enrolled but may elect to participate in the**
33 **plan and make contributions in accordance with the terms of the plan. Employees who are**
34 **enrolled automatically may elect to change the contribution rate in accordance with the**
35 **terms of the plan. Employees who elect not to participate in the plan may at a later date**
36 **elect to participate in the plan and make contributions in accordance with the terms of the**
37 **plan.** All assets and income of such fund shall be held in trust by the board for the exclusive
38 benefit of participants and their beneficiaries. Assets of such trust, **and the trust established**
39 **under section 105.927,** may be pooled solely for investment management purposes with assets
40 of the trust established under section 104.320.

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

48 4. Investments offered under the deferred compensation fund for the employees of the
49 state of Missouri shall be made available at the discretion of the board.

50 5. The board and employees of the Missouri state employees' retirement system shall be
51 immune from suit and shall not be subject to any claim or liability associated with any
52 administrative actions or decisions made by the commission with regard to the deferred
53 compensation program prior to the transfer made to the board under section 105.910.

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

60 7. The system shall be immune from suit and shall not be subject to any claim or liability
61 associated with the administration of the deferred compensation fund by the board and
62 employees of the system.

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

77 **9. The board may adopt and amend plan documents to change the terms and**
78 **conditions of the deferred compensation plan and the plan established under section**
79 **105.927 that are consistent with federal law.**

 105.927. [1.] The treasurer of the state of Missouri shall credit an amount not to exceed
2 seventy-five dollars per month, to a plan established pursuant to the provisions of the Internal
3 Revenue Code Section 401(a) for each [qualified] participant in the state's deferred compensation
4 program; provided that funds to be credited to each [qualified] participant's account shall not
5 exceed the amount appropriated by the general assembly for each [qualified] participant. **Such**
6 **funds may be credited to each participant directly by a state agency if that agency's payroll**
7 **is not issued through the treasurer of the state of Missouri.** Funds so credited shall be held,
8 administered and invested as provided in sections 105.900 to 105.925 and the plan document
9 adopted for the administration of such contributions.

10 [2. For purposes of this section, "qualified participant" means an employee of the state
11 of Missouri who is making continuous deferrals of at least twenty-five dollars per month to the
12 deferred compensation program and has been an employee of the state of Missouri for at least
13 twelve consecutive months immediately preceding the commencement of any amount credited
14 pursuant to this section. The amount credited on behalf of a qualified participant pursuant to this
15 section shall not exceed the amount that the qualified participant contributes to his or her
16 deferred compensation plan.]

T