

FIRST REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 643

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HINSON.

1571H.01P

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 50.1175, 70.600, and 86.207, RSMo, and to enact in lieu thereof four new sections relating to local government retirement systems.

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

Section A. Sections 50.1175, 70.600, and 86.207, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 50.1175, 70.600, 70.631, and 86.207, to read as follows:

50.1175. The right of a person to an annuity, pension benefit, funds, retirement allowance, right to a return on accumulated contributions, allowance options, property, or right created by or accrued, accruing or paid to any person pursuant to sections 50.1000 to 50.1300, including any defined contribution account created pursuant to sections 50.1210 to 50.1260 and any deferred compensation plan created pursuant to section 50.1300 shall not be subject to execution, garnishment, attachment, writ of sequestration, the operation of bankruptcy or insolvency laws [ , a qualified domestic relations order as defined in 26 U.S.C. Section 414(p) or 29 U.S.C. Section 1056(d), or any other domestic relations order] or to any other claim or process of law whatsoever except for the collection of child support and maintenance after a member begins receiving payments, and shall be unassignable except as specifically provided in sections 50.1000 to 50.1300.

70.600. The following words and phrases as used in sections 70.600 to 70.755, unless a different meaning is plainly required by the context, shall mean:

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.

- 3 (1) "Accumulated contributions", the total of all amounts deducted from the  
4 compensations of a member and standing to the member's credit in his or her individual account  
5 in the members deposit fund, together with investment credits thereon;
- 6 (2) "Actuarial equivalent", a benefit of equal reserve value;
- 7 (3) "Allowance", the total of the annuity and the pension. All allowances shall be paid  
8 not later than the tenth day of each calendar month;
- 9 (4) "Annuity", a monthly amount derived from the accumulated contributions of a  
10 member and payable by the system throughout the life of a person or for a temporary period;
- 11 (5) "Beneficiary", any person who is receiving or designated to receive a system benefit,  
12 except a retirant;
- 13 (6) "Benefit program", a schedule of benefits or benefit formulas from which the  
14 amounts of system benefits can be determined;
- 15 (7) "Board of trustees" or "board", the board of trustees of the system;
- 16 (8) "Compensation", the remuneration paid an employee by a political subdivision or by  
17 an elected fee official of the political subdivision for personal services rendered by the employee  
18 for the political subdivision or for the elected fee official in the employee's public capacity;  
19 provided, that for an elected fee official, "compensation" means that portion of his or her fees  
20 which is net after deduction of (a) compensation paid by such elected fee official to his or her  
21 office employees, if any, and (b) the ordinary and necessary expenses paid by such elected fee  
22 official and attributable to the operation of his or her office. In cases where an employee's  
23 compensation is not all paid in money, the political subdivision shall fix the reasonable value of  
24 the employee's compensation not paid in money. In determining compensation no consideration  
25 shall be given to:
- 26 (a) Any nonrecurring single sum payment paid by an employer;
- 27 (b) Employer contributions to any employee benefit plan or trust;
- 28 (c) Any other unusual or nonrecurring remuneration; or
- 29 (d) Compensation in excess of the limitations set forth in Internal Revenue Code Section  
30 401(a)(17). The limitation on compensation for eligible employees shall not be less than the  
31 amount which was allowed to be taken into account under the system as in effect on July 1, 1993.  
32 For purposes of this paragraph, an "eligible employee" is an individual who was a member of  
33 the system before the first plan year beginning after December 31, 1995;
- 34 (9) "Credited service", the total of a member's prior service and membership service, to  
35 the extent such service is standing to the member's credit as provided in sections 70.600 to  
36 70.755;
- 37 (10) "Employee", any person regularly employed by a political subdivision who receives  
38 compensation from the political subdivision for personal services rendered the political

39 subdivision, including any elected official of the political subdivision whose position requires  
40 his or her regular personal services and who is compensated wholly or in part on a fee basis, and  
41 including the employees of such elected fee officials who may be compensated by such elected  
42 fee officials. The term "employee" may include any elected county official. The term  
43 "employee" shall not include any person:

44 (a) Who is not an elected official of the political subdivision and who is included as an  
45 active member in any other plan similar in purpose to this system by reason of his or her  
46 employment with his or her political subdivision, except the federal Social Security Old Age,  
47 Survivors, and Disability Insurance Program, as amended; or

48 (b) Who acts for the political subdivision under contract; or

49 (c) Who is paid wholly on a fee basis, except elected officials and their employees; or

50 (d) Who holds the position of mayor, presiding judge, president or chairman of the  
51 political subdivision or is a member of the governing body of the political subdivision; except  
52 that, such an official of a political subdivision having ten or more other employees may become  
53 a member if the official is covered under the federal Social Security Old Age, Survivors, and  
54 Disability Insurance Program, as amended, by reason of such official's employment with his or  
55 her political subdivision, by filing written application for membership with the board after the  
56 date the official qualifies for such position or within thirty days after the date his or her political  
57 subdivision becomes an employer, whichever date is later;

58 (11) "Employer", any political subdivision which has elected to have all its eligible  
59 employees covered by the system;

60 (12) "Final average salary", the monthly average of the compensations paid an employee  
61 during the period of sixty or, if an election has been made in accordance with section 70.656,  
62 thirty-six consecutive months of credited service producing the highest monthly average, which  
63 period is contained within the period of one hundred twenty consecutive months of credited  
64 service immediately preceding his or her termination of membership. Should a member have  
65 less than sixty or, if an election has been made in accordance with section 70.656, thirty-six  
66 months of credited service, "final average salary" means the monthly average of compensation  
67 paid the member during his or her total months of credited service;

68 (13) "Fireman", any regular or permanent employee of the fire department of a political  
69 subdivision, including a probationary fireman. The term "fireman" shall not include:

70 (a) Any volunteer fireman; or

71 (b) Any civilian employee of a fire department, **except as provided in section 70.631;**

72 or

73 (c) Any person temporarily employed as a fireman for an emergency;

74 (14) "Member", any employee included in the membership of the system;

75 (15) "Membership service", employment as an employee with the political subdivision  
76 from and after the date such political subdivision becomes an employer, which employment is  
77 creditable as service hereunder;

78 (16) "Minimum service retirement age", age sixty for a member who is neither a  
79 policeman nor a fireman; "minimum service retirement age", age fifty-five for a member who  
80 is a policeman or a fireman;

81 (17) "Pension", a monthly amount derived from contributions of an employer and  
82 payable by the system throughout the life of a person or for a temporary period;

83 (18) "Policeman", any regular or permanent employee of the police department of a  
84 political subdivision, including a probationary policeman. The term "policeman" shall not  
85 include:

86 (a) Any civilian employee of a police department, **except as provided in section 70.631**;  
87 or

88 (b) Any person temporarily employed as a policeman for an emergency;

89 (19) "Political subdivision", any governmental subdivision of this state created pursuant  
90 to the laws of this state, and having the power to tax, except public school districts; a board of  
91 utilities or a board of public works which is required by charter or ordinance to establish the  
92 compensation of employees of the utility separate from the compensation of other employees of  
93 the city may be considered a political subdivision for purposes of sections 70.600 to 70.755; a  
94 joint municipal utility commission may be considered a political subdivision for purposes of  
95 sections 70.600 to 70.755;

96 (20) "Prior service", employment as an employee with the political subdivision prior to  
97 the date such political subdivision becomes an employer, which employment is creditable as  
98 service hereunder;

99 (21) "Regular interest" or "investment credits", such reasonable rate or rates per annum,  
100 compounded annually, as the board shall adopt annually;

101 (22) "Reserve", the present value of all payments to be made on account of any system  
102 benefit based upon such tables of experience and regular interest as the board shall adopt from  
103 time to time;

104 (23) "Retirant", a former member receiving a system allowance by reason of having been  
105 a member;

106 (24) "Retirement system" or "system", the Missouri local government employees'  
107 retirement system.

**70.631. 1. Each political subdivision may, by majority vote of its governing body,  
2 elect to cover emergency police dispatchers and jailers as policemen members of the system  
3 and emergency fire dispatchers and emergency medical service personnel as firemen**

4 members of the system. The clerk or secretary of the political subdivision shall certify an  
5 election concerning the coverage of emergency police dispatchers and jailers as policemen  
6 members of the system and emergency fire dispatchers and emergency medical service  
7 personnel as firemen members of the system to the board within ten days after such vote.  
8 The date on which the political subdivision's election becomes effective shall be the first  
9 day of the calendar month specified by such governing body, the first day of the calendar  
10 month next following receipt by the board of the certification of the election, or the  
11 effective date of the political subdivision's becoming an employer, whichever is the latest  
12 date. Such election shall not be changed after the effective date. If the election is made,  
13 the coverage provisions shall be applicable to the past and future employment with the  
14 employer by present and future employees.

15       2. If an employer elects to cover emergency police dispatchers and jailers as  
16 policemen members of the system and emergency fire dispatchers and emergency medical  
17 service personnel as firemen members of the system, the employer contributions shall be  
18 correspondingly changed effective the same date as the effective date of the political  
19 subdivision's election.

20       3. The limitation on increases in an employer's contributions provided by  
21 subsection 6 of section 70.730 shall not apply to any contribution increase resulting from  
22 an employer making an election under the provisions of this section.

86.207. 1. Except as provided herein, all persons who become policemen and all  
2 policemen who enter or reenter the service of [the] any city **not within a county** after the first  
3 day of October, 1957, become members as a condition of their employment and shall receive no  
4 pensions or retirement allowance from any other pension or retirement system supported wholly  
5 or in part by the city **not within a county** or the state of Missouri, nor shall they be required to  
6 make contributions under any other pension or retirement system of the city **not within a county**  
7 or the state of Missouri **for the same period of service**, anything to the contrary  
8 notwithstanding. Any employee of a city not within a county who is earning creditable  
9 service in a retirement plan established by said city under section 95.540 and subsequently  
10 becomes a policeman may elect to remain a member of said retirement plan and shall not  
11 be required to become a member of a police retirement system established under section  
12 86.200. However, an employee of a city not within a county who is earning creditable  
13 service in a retirement plan established by said city under section 95.540 and who  
14 subsequently becomes a policeman may elect to transfer membership and creditable service  
15 to the police retirement system created under section 86.200. Such transfers are subject  
16 to the conditions and requirements contained in section 105.691 and are also subject to any  
17 existing agreements between the said retirement plans, provided however, transfers

18 **completed prior to January 1, 2016 shall occur without regard to the vesting requirements**  
19 **of the receiving plan, contained in section 105.691. As part of the transfer process**  
20 **described herein, the respective retirement plans may require the employee to acknowledge**  
21 **and agree as a condition of transfer that any election made under this section is**  
22 **irrevocable, constitutes a waiver of any right to receive retirement and disability benefits**  
23 **except as provided by the police retirement system, and that plan terms may be modified**  
24 **in the future.**

25         2. If any member ceases to be in service for more than one year unless the member has  
26 attained the age of fifty-five or has twenty years or more of creditable service, or if the member  
27 withdraws the member's accumulated contributions or if the member receives benefits under the  
28 retirement system or dies, the member thereupon ceases to be a member; except in the case of  
29 a member who has served in the Armed Forces of the United States and has subsequently been  
30 reinstated as a policeman. A member who has terminated employment as a police officer, has  
31 actually retired and is receiving retirement benefits under the system shall be considered a retired  
32 member.

33         3. A reserve officer shall not be considered a member of the system for the purpose of  
34 determining creditable service, nor shall any contributions be due. A reserve officer shall not  
35 be entitled to any benefits from the system other than those awarded when the reserve officer  
36 originally retired under section 86.250, nor shall service as a reserve officer prohibit distribution  
37 of those benefits.

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