

To view a specific statute, just click on the **specific statute number**.

STATUTES (RSMo)

- 70.600. Definitions.
- 70.605. Missouri local government employees’ retirement system created--jurisdiction, Cole County--board of trustees, composition, terms--annual meeting--vacancies, how created--oath--appointment of actuary, attorney and investment counselor--mortality tables to be adopted--record of proceedings--hearings, notice--surety bonds--annual audits--expenses of board--rules and regulations, adoption.
- 70.610. Election to become an employer, when effective--who covered.
- 70.615. Other plans prohibited, exceptions.
- 70.620. Prior plan, effect of – discrimination between employees prohibited.
- 70.625. Employees acquired from another subdivision or private business, how handled.
- 70.630. Membership, composition.
- 70.635. Member’s termination of employment, effect of – reemployment in system – retirement, service with more than one employer, effect of.
- 70.638. Elected county officials, may purchase prior service, procedure.
- 70.640. Prior service, membership service and credited service, how computed--disability time included, when--certification of prior service--purchase of prior military service, limitations--procedure.
- 70.645. Retirement, when eligible – eligibility for option.
- 70.646. Alternate election, system may provide for, how.
- 70.650. Mandatory retirement age, how determined.
- 70.655. Retirement benefits – program to be selected by governing body – formula for computing benefits – cost of living factor – suspension of certain benefits, when.
- 70.656. Final average compensation, period covered – governing body may elect – procedure – effects.
- 70.660. Optional retirement, election, when made--benefits, how computed--death of beneficiary, effect (member and beneficiary).
- 70.661. Member deceased before retirement, surviving spouse or dependent children entitled to benefits, when – determination of eligibility.
- 70.665. Death of retirant prior to receiving benefits equal to his contributions, balance to his nominee or estate.
- 70.670. Early retirement, application – requirements – option – benefits, how computed.
- 70.675. Deferred allowance, requirements, option--contribution withdrawal, effect on credited service--death of former member prior to retirement, allowance payable to surviving spouse, when.
- 70.676. Vested employee no longer covered by system may be bought out by lump sum payment, how computed--limitations.
- 70.680. Disability retirement – medical examinations required, when – option.
- 70.686. Retirant becoming reemployed in the system, effect of.
- 70.690. Member leaving system before eligible for retirement, disposition of his contributions.
- 70.695. Rights accrued under sections 70.600 to 70.755 not subject to garnishment, execution or bankruptcy proceedings, exceptions
- 70.697. Member eligible to receive benefits under prosecuting attorneys’ retirement system, receipt of benefits--reduction of benefits, when, amount.
- 70.700. Assets of system to be in five funds.
- 70.705. Members deposit fund, source, contributions of members, repayment of withdrawals – transfers from fund – election to eliminate contributions, when.
- 70.707. Elimination of member contributions, refunding of, procedure.
- 70.710. Employer accumulation fund, created, uses – employer contributions.
- 70.715. Benefit reserve fund, created, uses.
- 70.720. Casualty reserve fund, created, source of funds, uses.
- 70.722. Allowances and benefits, all payments to be made from benefit reserve fund, when.
- 70.725. Income – expense fund, created, defined – gifts and bequests – regular interest – contingency reserves.
- 70.730. Employer’s contributions, how computed.
- 70.735. Political subdivision delinquent in payments – lien – mandamus – state aid withheld.
- 70.740. State not to contribute to system, exception.
- 70.745. Board may invest funds.
- 70.746. Board may delegate powers of investment, requirements – liability.
- 70.747. Board may invest in real estate – limitations.
- 70.750. Trustees and officers and employees of board, not to have interest in investments of board, exception.
- 70.755. Assets exempt from certain taxes.
- 87.006. Firemen, certain diseases presumed incurred in line of duty--persons covered--disability from cancer, presumption suffered in line of duty, when.

To view a specific statute, just click on the **specific statute number**.

STATUTES (RSMo)

- 105.660. Definitions, retirement benefit changes.
- 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.
- 105.662. Public pension funds not to be commingled – trusteeship.
- 105.663. Retirement plan may appoint attorney as legal advisor.
- 105.664. Actuarial valuation performed at least biennially.
- 105.665. Cost statement of proposed changes prepared by actuary – contents.
- 105.666. Board member education program required, curriculum--annual pension benefit statement required.
- 105.670. Cost statement available for inspection – effect of changes (general assembly).
- 105.675. Cost statement available for inspection (political subdivisions).
- 105.680. Expenses for cost statements, how paid.
- 105.683. Plan deemed delinquent, when, effect of.
- 105.685. Effective date of changes.
- 105.688. Investment fiduciaries, duties.
- 105.689. Investment fiduciary may make investments in certain countries.
- 105.690. Selection of fiduciaries, preference to Missouri firms.
- 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.
- 143.123. Taxes on annuities, pensions and retirement allowances, subtraction per taxpayer, maximums per year or six-month period
- 143.124. Annuities, pensions, retirement benefits, or retirement allowances provided by state, United States, political subdivisions or any other state, Keogh plans, annuities from defined benefit pension plans and IRAs, amounts subtracted from Missouri adjusted gross income.

CONSTITUTIONAL PROVISIONS

- Article VI
Section 25 Limitation on use of credit and grant of public funds by local governments – pensions and retirement plans for employees of certain cities and counties.
- Article VII
Section 14 Statement of actuary required before retirement benefits substantially changed.

ADMINISTRATIVE RULES

- 20-1.010 General Organization
- 20-2.010 Definitions
- 20-2.015 Determination of Certain Allowances
- 20-2.020 Actuarial Valuations
- 20-2.030 Prior Service Credit
- 20-2.040 Refunds
- 20-2.045 Application for Retirement
- 20-2.050 Waiting Period for Contributions on New Employees
- 20-2.055 Election of Optional Retirement Benefits
- 20-2.056 Lump-Sum Cash Payout of Retirement Allowance
- 20-2.060 Correction of Errors
- 20-2.070 Collection of Delinquent Payments
- 20-2.080 Workers’ Compensation, Military Leave, Educational Leave Service Credit
- 20-2.085 Disability Retirement Applications and Other Relief
- 20-2.090 Non-Discrimination Among Members
- 20-2.095 Member Deposit Fund Interest Procedure
- 20-2.105 Determination of Amount Otherwise Payable During Deflation
- 20-3.010 Hearings and Proceedings
- 20-4.010 Actuarial Assumptions

70.600 Definitions

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:

(1) **“Accumulated contributions”**, the total of all amounts deducted from the compensations of a member and standing to the member’s credit in his or her individual account in the members deposit fund, together with investment credits thereon;

(2) **“Actuarial equivalent”**, a benefit of equal reserve value;

(3) **“Allowance”**, the total of the annuity and the pension. All allowances shall be paid not later than the tenth day of each calendar month;

(4) **“Annuity”**, a monthly amount derived from the accumulated contributions of a member and payable by the system throughout the life of a person or for a temporary period;

(5) **“Beneficiary”**, any person who is receiving or designated to receive a system benefit, except a retirant;

(6) **“Benefit program”**, a schedule of benefits or benefit formulas from which the amounts of system benefits can be determined;

(7) **“Board of trustees” or “board”**, the board of trustees of the system;

(8) **“Compensation”**, the remuneration paid an employee by a political subdivision or by an elected fee official of the political subdivision for personal services rendered by the employee for the political subdivision or for the elected fee official in the employee’s public capacity; provided, that for an elected fee official, “compensation” means that portion of his or her fees which is net after deduction of (a) compensation paid by such elected fee official to his or her office employees, if any, and (b) the ordinary and necessary expenses paid by such elected fee official and attributable to the operation of his or her office. In cases where an employee’s compensation is not all paid in money, the political subdivision shall fix the reasonable

value of the employee’s compensation not paid in money. In determining compensation no consideration shall be given to:

(a) Any nonrecurring single sum payment paid by an employer;

(b) Employer contributions to any employee benefit plan or trust;

(c) Any other unusual or nonrecurring remuneration; or

(d) Compensation in excess of the limitations set forth in Internal Revenue Code Section 401(a)(17). The limitation on compensation for eligible employees shall not be less than the amount which was allowed to be taken into account under the system as in effect on July 1, 1993. For purposes of this paragraph, an “eligible employee” is an individual who was a member of the system before the first plan year beginning after December 31, 1995;

(9) **“Credited service”**, the total of a member’s prior service and membership service, to the extent such service is standing to the member’s credit as provided in sections 70.600 to 70.755;

(10) **“Employee”**, any person regularly employed by a political subdivision who receives compensation from the political subdivision for personal services rendered the political subdivision, including any elected official of the political subdivision whose position requires his or her regular personal services and who is compensated wholly or in part on a fee basis, and including the employees of such elected fee officials who may be compensated by such elected fee officials. The term “employee” may include any elected county official. The term “employee” shall not include any person:

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

contract; or

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

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

(11) **“Employer”**, any political subdivision which has elected to have all its eligible employees covered by the system;

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

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

(a) Any volunteer fireman; or

(b) Any civilian employee of a fire department; or

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

(14) **“Member”**, any employee included in the membership of the system;

(15) **“Membership service”**, employment as an employee with the political subdivision from and after the date such political subdivision becomes an employer, which employment is creditable as service hereunder;

(16) **“Minimum service retirement age”**, age sixty for a member who is neither a policeman nor a fireman; “minimum service retirement age”, age fifty-five for a member who is a policeman or a fireman;

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

(18) **“Policeman”**, any regular or permanent employee of the police department of a political subdivision, including a probationary policeman. The term “policeman” shall not include:

(a) Any civilian employee of a police department; or

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

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

(20) **“Prior service”**, employment as an employee with the political subdivision prior to the date such political subdivision becomes an employer, which employment is creditable as

service hereunder;

(21) **“Regular interest” or “investment credits”**, such reasonable rate or rates per annum, compounded annually, as the board shall adopt annually;

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

(23) **“Retirant”**, a former member receiving a system allowance by reason of having been a member;

(24) **“Retirement system” or “system”**, the Missouri local government employees’ retirement system.

(L. 1967 p. 141 i½ 1, A.L. 1971 H.B. 63, A.L. 1978 H.B. 1634, A.L. 1980 S.B. 630, A.L. 1983 H.B. 341, A.L. 1984 H.B. 874, A.L. 1986 S.B. 420, A.L. 1987 S.B. 276, A.L. 1988 H.B. 1098, A.L. 1989 S.B. 230, A.L. 1992 H.B. 1440, A.L. 1994 H.B. 1606, A.L. 1999 H.B. 464 merged with S.B. 410) CROSS REFERENCE: County health center’s insurance and retirement plans for employees, the definition of political subdivision to apply, 205.115)

70.605 Missouri local government employees’ retirement system created--jurisdiction, Cole County--board of trustees, composition, terms--annual meeting--vacancies, how created--oath--appointment of actuary, attorney and investment counselor--mortality tables to be adopted--record of proceedings--hearings, notice--surety bonds--annual audits--expenses of board--rules and regulations, adoption.

70.605 1. For the purpose of providing for the retirement or pensioning of the officers and employees and the widows and children of deceased officers and employees of any political subdivision of the state, there is hereby created and established a retirement system which shall be a body corporate, which shall be under the management of a board of trustees herein described, and shall be known as the “Missouri Local Government Employees’ Retirement System”. Such system may sue and be sued, transact business, invest funds, and hold cash, securities, and other property. All suits or

proceedings directly or indirectly against the system shall be brought in Cole County. The system shall begin operations on the first day of the calendar month next following sixty days after the date the board of trustees has received certification from ten political subdivisions that they have elected to become employers.

2. The general administration and the responsibility for the proper operation of the system is vested in a board of trustees of seven persons: three persons to be elected as trustees by the members of the system; three persons to be elected trustees by the governing bodies of employers; and one person, to be appointed by the governor, who is not a member, retirant, or beneficiary of the system and who is not a member of the governing body of any political subdivision.

3. Trustees shall be chosen for terms of four years from the first day of January next following their election or appointment, except that of the first board shall all be appointed by the governor by and with the consent of the senate, as follows:

(1) Three persons who are officers or officials of political subdivisions, one for a term of three years, one for a term of two years, and one for a term of one year; and

(2) Three persons who are employees of political subdivisions and who would, if the subdivision by which they are employed becomes an employer, be eligible as members, one for a term of three years, one for a term of two years, and one for a term of one year; and

(3) That person appointed by the governor under the provisions of subsection 2 of this section.

All the members of the first board shall take office as soon as appointed by the governor, but their terms shall be computed from the first day of January next following their appointment, and only one member may be from any political subdivision or be a policeman or fireman.

4. Successor trustees elected or appointed as member trustees shall be members of the

retirement system; provided, that not more than one member trustee shall be employed by any one employer, and not more than one member trustee shall be a policeman, and not more than one member trustee shall be a fireman.

5. Successor trustees elected as employer trustees shall be elected or appointed officials of employers and shall not be members of the retirement system; provided, that not more than one employer trustee shall be from any one employer.

6. An annual meeting of the retirement system shall be called by the board in the last calendar quarter of each year in Jefferson City, or at such place as the board shall determine, for the purpose of electing trustees and to transact such other business as may be required for the proper operation of the system. Notice of such meeting shall be sent by registered mail to the clerk or secretary of each employer not less than thirty days prior to the date of such meeting. The governing body of each employer shall certify to the board the name of one delegate who shall be an officer of the employer, and the members of the employer shall certify to the board a member of the employer to represent such employer at such meeting. The delegate certified as member delegate shall be elected by secret ballot by the members of such employer, and the clerk or secretary of each employer shall be charged with the duty of conducting such election in a manner which will permit each member to vote in such election. Under such rules and regulations as the board shall adopt, approved by the delegates, the member delegates shall elect a member trustee for each such position on the board to be filled, and the officer delegates shall elect an employer trustee for each such position on the board to be filled.

7. In the event any member trustee ceases to be a member of the retirement system, or any employer trustee ceases to be an appointed or elected official of an employer, or becomes a member of the retirement system, or if the trustee appointed by the governor becomes a

member of the retirement system or an elected or appointed official of a political subdivision, or if any trustee fails to attend three consecutive meetings of the board, unless in each case excused for cause by the remaining trustees attending such meeting or meetings, he or she shall be considered as having resigned from the board and the board shall, by resolution, declare his or her office of trustee vacated. If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled; provided, however, that the remaining trustees may fill employer and member trustee vacancies on the board until the next annual meeting.

8. Each trustee shall be commissioned by the governor, and before entering upon the duties of his office, shall take and subscribe to an oath or affirmation to support the Constitution of the United States, and of the state of Missouri, and to demean himself faithfully in his or her office. Such oath as subscribed to shall be filed in the office of the secretary of state of this state.

9. Each trustee shall be entitled to one vote in the board of trustees. Four votes shall be necessary for a decision by the trustees at any meeting of the board of trustees. Four trustees, of whom at least two shall be member trustees and at least two shall be employer trustees, shall constitute a quorum at any meeting of the board. Unless otherwise expressly provided herein, a meeting need not be called or held to make any decision on a matter before the board. Each member must be sent by the executive secretary a copy of the matter to be decided with full information from the files of the board. The concurring decisions of four trustees may decide the issue by signing a document declaring their decision and sending the written instrument to the executive secretary, provided that no other trustee shall send a dissenting decision to the executive secretary within fifteen days after the document and information was mailed to him or her. If any trustee is not in agreement with the four trustees, the matter is to be passed on

at a regular board meeting or a special meeting called for that purpose. The board shall hold regular meetings at least once each quarter, the dates of these meetings to be designated in the rules and regulations adopted by the board. Other meetings as deemed necessary may be called by the chairman or by any four trustees acting jointly.

10. The board of trustees shall elect one of their number as chairman, and one of their number as vice chairman, and shall employ an executive secretary, not one of their number, who shall be the executive officer of the board. Other employees of the board shall be chosen only upon the recommendation of the executive secretary.

11. The board shall appoint an actuary or a firm of actuaries as technical advisor to the board on matters regarding the operation of the system on an actuarial basis. The actuary or actuaries shall perform such duties as are required of him or her under sections 70.600 to 70.755, and as are from time to time required by the board.

12. The board may appoint an attorney-at-law or firm of attorneys-at-law to be the legal advisor of the board and to represent the board in all legal proceedings.

13. The board may appoint an investment counselor to be the investment advisor of the board.

14. The board shall from time to time, after receiving the advice of its actuary, adopt such mortality and other tables of experience, and a rate or rates of regular interest, as shall be necessary for the actuarial requirements of the system, and shall require its executive secretary to keep in convenient form such data as shall be necessary for actuarial investigations of the experience of the system, and such data as shall be necessary for the annual actuarial valuations of the system.

15. The board shall keep a record of its proceedings, which shall be open to public inspection. It shall prepare annually and render

to each employer a report showing the financial condition of the system as of the preceding June thirtieth. The report shall contain, but shall not be limited to, a financial balance sheet; a statement of income and disbursements; a detailed statement of investments acquired and disposed of during the year, together with a detailed statement of the annual rates of investment income from all assets and from each type of investment; an actuarial balance sheet prepared by means of the last valuation of the system, and such other data as the board shall deem necessary or desirable for a proper understanding of the condition of the system.

16. The board of trustees shall, after reasonable notice to all interested parties, conduct administrative hearings to hear and decide questions arising from the administration of sections 70.600 to 70.755; except, that such hearings may be conducted by a hearing officer who shall be appointed by the board. The hearing officer shall preside at the hearing and hear all evidence and rule on the admissibility of evidence. The hearing officer shall make recommended findings of fact and may make recommended conclusions of law to the board. All final orders or determinations or other final actions by the board shall be approved in writing by at least four members of the board. Any board member approving in writing any final order, determination or other final action, who did not attend the hearing, shall do so only after certifying that he or she reviewed all exhibits and read the entire transcript of the hearing. Within thirty days after a decision or order or final action of the board, any member, retirant, beneficiary or political subdivision adversely affected by that determination or order or final action may take an appeal under the provisions of chapter 536. Jurisdiction over any dispute regarding the interpretation of sections 70.600 to 70.755 and the determinations required thereunder shall lie in the circuit court of Cole County.

17. The board shall arrange for adequate

surety bonds covering the executive secretary and any other custodian of the funds or investments of the board. When approved by the board, said bonds shall be deposited in the office of the secretary of state.

18. The board shall arrange for annual audits of the records and accounts of the system by a certified public accountant or by a firm of certified public accountants. The state auditor shall examine such audits at least once every three years and report to the board and the governor.

19. The headquarters of the retirement system shall be in Jefferson City.

20. The board of trustees shall serve as trustees without compensation for their services as such; except that each trustee shall be paid for any necessary expenses incurred in attending meetings of the board or in the performance of other duties authorized by the board.

21. Subject to the limitations of sections 70.600 to 70.755, the board shall formulate and adopt rules and regulations for the government of its own proceedings and for the administration of the retirement system.

(L. 1967 p. 141 ½ 2, A.L. 1974 S.B. 421, A.L. 1992 H.B. 1440, A.L. 2000 H.B. 1808, A.L. 2003 H.B. 131)

70.610 Election to become an employer, when effective--who covered.

70.610. Each political subdivision, by a majority vote of its governing body, may elect to become an employer and cover its employees under the system, as follows:

(1) The clerk or secretary of the political subdivision shall certify the election to be an employer to the board within ten days after the vote of the governing body. The effective date of the political subdivision's coverage is the first day of the calendar month next following receipt by the board of the election to be an employer, or the operative date of the system, whichever is the later.

(2) An employer must cover all its employees who are neither policemen nor firemen and may cover its policemen or firemen

or both.

(L. 1967 p. 141 ½ 2)

70.615 Other plans prohibited, exceptions.

70.615. After October 13, 1967, a political subdivision shall not commence coverage of its employees who are neither policemen nor firemen under another plan similar in purpose to this system, other than under this system, except the federal Social Security Old Age, Survivors, and Disability Insurance Program, as amended; except that, any political corporation or subdivision of this state, now having or which may hereafter have an assessed valuation of one hundred million dollars or more, which does not now have a pension system for its officers and employees adopted pursuant to state law, may provide by proper legislative action of its governing body for the pensioning of its officers and employees and the widows and minor children of deceased officers and employees under a plan separate and apart from that provided in sections 70.600 to 70.670 and appropriate and utilize its revenues and other available funds for such purposes, and except that the board of hospital trustees of any hospital which is owned by any political corporation or subdivision of this state, may provide for the pensioning of its employees and the widows and minor children of deceased employees under a plan separate and apart from that provided in sections 70.600 to 70.670, and utilize its revenues and other funds for such purposes.

(L. 1967 p. 141 ½ 4, A.L. 1981 S.B. 4, A.L. 1988 H.B. 1098)

70.620 Prior plan, effect of--discrimination between employees prohibited.

70.620. In the event an employer has in effect for all or part of its employees a plan similar in purpose to this system, by agreement with the board, after the board has received the advice of its technical advisors concerning such agreement, that employer may provide for coverage under this system of either some part or all of such employee's employment previously covered or coverable by such other plan, provided such coverage and resulting

benefits hereunder do not duplicate any benefits previously provided by such other plan. In providing for such coverage, an employer and the board shall pursue uniform policies and shall not discriminate in favor of or against any such employee or group of such employees.

(L. 1967 p. 141 $\frac{1}{2}$ 5)

70.625 Employees acquired from another subdivision or private business, how handled.

70.625. In the event an employer acquires employees as the result of acquiring an enterprise from a private business which had an employee retirement plan or from another political subdivision, by agreement with the board after the board has received the advice of its technical advisors concerning such agreement, such employer may provide for coverage under this system of either some part or all of such employee's employment with such private business or other political subdivision, provided such coverage does not duplicate any coverage of a plan similar in purpose to this system which such private business or other political subdivision may have had in effect. In providing for such coverage, an employer and the board shall pursue uniform policies and shall not discriminate in favor of or against any such employee or group of such employees.

(L. 1967 p. 141 $\frac{1}{2}$ 6)

70.630 Membership, composition.

70.630. 1. The membership of the system shall include the following persons:

(1) All employees who are neither policemen nor firemen who are in the employ of a political subdivision the day preceding the date such political subdivision becomes an employer and who continue in such employ on and after such date shall become members of the system.

(2) All persons who become employed by a political subdivision as neither policemen nor firemen on or after the date such political subdivision becomes an employer shall become members of the system.

(3) If his employing political subdivision has elected to cover present and future policemen,

all policemen who are in the employ of a political subdivision the day preceding the date such political subdivision covers policemen hereunder and who continue in such employ as a policeman on and after such date, and all persons who become employed by a political subdivision as a policeman on or after the date the political subdivision covers policemen shall become members of the system.

(4) If his employing political subdivision has elected to cover only future policemen, all persons who become employed by a political subdivision as a policeman on or after the date such political subdivision covers policemen hereunder shall become members of the system.

(5) If his employing political subdivision has elected to cover present and future firemen, all firemen who are in the employ of a political subdivision the day preceding the date such political subdivision covers firemen hereunder and who continue in such employ as a fireman on and after such date, and all persons who become employed by a political subdivision as a fireman on or after the date the political subdivision covers firemen hereunder shall become members of the system.

(6) If his employing political subdivision has elected to cover only future firemen, all persons who become employed by a political subdivision as a fireman on or after the date such political subdivision covers firemen hereunder shall become members of the system.

2. In no event shall an employee become a member if continuous employment to time of retirement will leave the employee with less than minimum number of years of credited service specified in section 70.645.

3. In any case of question as to the system membership status of any person, the board shall decide the question.

(L. 1967 p. 141 $\frac{1}{2}$ 7, A.L. 1973 H.B. 218)

70.635 Member's termination of employment, effect of--reemployment in system--retirement, service with more than one employer, effect of.

70.635. 1. When a member is no longer employed by any employer in a position covered by the system, he or she shall thereupon cease to be a member of the system. Except as otherwise provided in sections 70.600 to 70.755, upon termination of his or her membership his or her credited service shall be forfeited by him. If such person is not a retirant and becomes reemployed by any employer in a position covered by the system, he or she shall again become a member of the system. Should such reemployment or employment occur within a period of ten years from and after the date his or her membership last terminated, his or her credited service last forfeited by him or her shall be restored to his or her credit under the following conditions:

(1) Any membership service or prior service for which he or she was required to make member contributions provided for in subsection 2 of section 70.705 shall be restored to his or her credit if he or she returns to the members deposit fund the amount, if any, he or she withdrew therefrom, together with regular interest from the date of withdrawal to the date of repayment;

(2) Any membership service or prior service for which no member contributions were required as provided for in subsection 6 of section 70.705, or for which accumulated contributions were refunded as provided for in section 70.707, shall be restored to his or her credit.

2. Upon a member's retirement he or she shall thereupon cease to be a member and, except as otherwise provided in sections 70.600 to 70.760, he or she shall not again become a member of the system.

3. Should a former member entitled to a deferred allowance provided for in section 70.675 become employed in a position covered by the system before becoming a retirant, he or she shall thereupon cease to be entitled to a deferred allowance, and he or she shall become a member, with his or her previous credited service reactivated and to be increased by such

employment.

4. Upon the retirement of a member whose credited service results from employment with more than one employer, the amount of his or her allowance shall be based upon his or her total credited service in force at the time of his or her retirement and his or her final average salary during such total credited service. Each such employer shall be responsible financially, within the provisions of sections 70.600 to 70.755, for the portion of such allowance based upon the service credited such member for employment with such employer, and the benefit program to be applied to each such portion of credited service shall be the benefit program such employer had in effect at the time the member left the employment of such employer.

(L. 1967 p. 141 $\frac{1}{2}$ 8, A.L. 1973 H.B. 218, A.L. 1982 H.B. 1465, A.L. 1987 S.B. 20, A.L. 2003 H.B. 131)

70.638 Elected county officials, may purchase prior service, procedure.

70.638. Any employee of a county, including any elected county official, who became a member of the system due to the amendment to the definition of "employee" in section 70.600, and who has been previously employed by a county in a position which is now considered covered employment, may elect to purchase all of his membership service or prior service for which he would have been required to make member contributions provided for in section 70.705 if the member provides an affidavit stating that he is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the period of service to be purchased. The purchase shall be effected by the member's paying to the members deposit fund the amount required in section 70.705 together with regular interest from the date of employment to the date of repayment. Each political subdivision shall also be responsible for making employer contributions in accordance with section 70.730.

(L. 1992 H.B. 1440)

70.640 Prior service, membership service and credited service, how computed--disability time included, when--certification of prior service--purchase of prior military service, limitations--procedure.

70.640. 1. The board shall fix and determine by rules and regulations the number of years and months of prior service and membership service to be credited each member for his employment as an employee; except that, in no case shall less than ten days of employment rendered in any calendar month be credited as a month of service, nor shall less than ten months of service rendered in any calendar year be credited as one year of service, nor shall more than one year of service be credited any member for all employment rendered by him in any one calendar year.

2. Not later than one year after the date an employer covers its employees, and before the retirement of a member included in the employees so covered, the employer shall certify to the board the period or periods of prior employment of each of its members to be considered for credit as prior service; provided, that all of such prior employment shall be considered for credit unless the employer certifies that only a portion of such prior employment is to be considered, which portion shall be uniform for all its members and shall be seventy-five percent, fifty percent, or twenty-five percent. No such prior employment shall be so certified by an employer for any member unless he was employed by the employer within the one-year period immediately preceding the date an employer covers its employees and unless he is continuously employed by such employer from and after such date for (1) one year, or (2) until his death, or (3) until his total and permanent disability, whichever is earliest.

3. In the event a member, who while an employee, entered or enters the armed forces of the United States during any period of compulsory military service, the armed service actually required of him shall be credited him

as service hereunder; provided, that he again becomes an employee within a period of one year from and after honorable termination of such armed service actually required of him, and he returns to the members deposit fund any amount he may have withdrawn at the time he entered or while in such armed service, together with regular interest from the date of withdrawal to the date of repayment. During the period of such armed service and until his return as an employee his contributions to the system shall be suspended and any balance remaining to his credit in the members deposit fund shall be accumulated at regular interest.

4. In the event a member is given a leave of absence by his employer for the purpose of continuing his education, such leave time shall be credited him as service hereunder; provided, that such leave of absence is in writing, that the length of such leave together with the length of all other similar leaves does not exceed a total of two years, that the member returns to his employer upon the expiration of such leave, and that he returns to the members deposit fund the amount, if any, he may have withdrawn therefrom during such leave, together with regular interest from the date of withdrawal to the date of repayment. During the period of such leave his contributions to the system shall be suspended and any balance remaining to his credit in the members deposit fund shall be accumulated at regular interest.

5. Anything contained herein to the contrary notwithstanding, not later than December 31, 1988, an employer with employees who were not accruing service credit because of the ten-year limitation on credited service of subsection 1 of this section in existence prior to January 1, 1988, and who are or would accrue service credit without such ten-year limitation on credited service, shall certify to the board the period or periods of previous employment of each of such employees to be considered for credited service, and such previous employment shall be considered for credited service provided the

employee pays to the system by December 31, 1989, the total member contributions he would have contributed to the system had such ten-year service limitation not been in effect.

6. In the event a member in service becomes totally physically or mentally incapacitated for his duty as an employee as the natural and proximate result of a personal injury or disease which has arisen out of and in the course of his actual performance of duty as an employee, and in the event such disability will probably not be permanent, and in the event periodic payments are payable under any workers' compensation or similar law on account of the same disability, then such disability time shall be credited as service hereunder upon written application filed with the board by or on behalf of the member; provided, all determinations concerning the nature of such disability shall be made by the board. During the period of such disability his contributions to the system shall be suspended and any balance remaining to his credit in the members deposit fund shall be accumulated at regular interest. Service credit granted in this subsection shall not be considered as credited service for the purpose of determining such member's final average salary. Should such person die while so disabled, then he shall be considered a member actively employed at time of death.

7. Any member who had served in the armed forces of the United States prior to becoming a member and who became a member after discharge under honorable conditions may elect, prior to retirement, to purchase prior service credit equivalent to such service in the armed forces, not to exceed four years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, and an affidavit so stating shall be filed by the member with the retirement system. However, if the member is eligible to receive retirement credits in a United States military service retirement system, he

shall be permitted to purchase creditable prior service equivalent to his service in the armed services, but not to exceed four years, any other provision of law to the contrary notwithstanding. The purchase shall be effected by the member's paying to the retirement system an amount equal to the present value, on the date of payment, of the amount of the additional retirement allowance that would be obtained by virtue of the purchase of the additional service credit, using the interest rate specified by the board and the applicable mortality table adopted by the board and assuming continuous future service in the retirement system until, and retirement at, the age at which the minimum requirements of the retirement system for normal retirement or retirement with an allowance unreduced for retirement at an early age. The payment shall be made over a period of not longer than two years, measured from the date of election, and with compound interest on the unpaid balance. Payments made for such creditable prior service under this subsection shall be treated by the retirement system as would contributions made by the employee and shall not be subject to any prohibition on member contributions or refund provisions in effect on August 28, 1992.

(L. 1967 p. 141 § 9, A.L. 1971 H.B. 63, A.L. 1973 H.B. 218, A.L. 1974 S.B. 573, A.L. 1975 H.B. 111, H.B. 944, A.L. 1979 H.B. 130, A.L. 1980 S.B. 630, A.L. 1988 H.B. 1098, A.L. 1992 H.B. 1787)

70.645 Retirement, when eligible--eligibility for option.

70.645. Any member in service may retire with an allowance provided for in section 70.655 upon his written application to the board setting forth at what time not less than thirty days nor more than ninety days subsequent to the execution and filing of his application he desires to be retired; except that, at the time specified for his retirement the member must have attained his minimum service retirement age, or if an election has been made in accordance with section 70.646 to provide for alternate eligibility, have years of attained age and years of credited service in force which total eighty or more, and

must have five or more years of credited service in force, and notwithstanding that during the period of notification he may have separated from service. He shall have the right to elect an option provided for in section 70.660.

(L. 1967 p. 141 i½ 10, A.L. 1975 H.B. 111, A.L. 1977 H.B. 702, A.L. 1988 H.B. 1098)

70.646 Alternate election, system may provide for, how.

70.646. 1. Each political subdivision may, by majority vote of its governing body, elect from time to time, with respect to its members retiring in the future, to provide an alternate for unreduced age and service retirement eligibility for its members, which alternate shall allow for unreduced age and service retirement for its members who have years of attained age and years of credited service in force which total eighty or more. If a political subdivision makes no election under this section, the minimum age and service requirements of section 70.645 shall be in effect. The clerk or secretary of the political subdivision shall certify an election concerning age and service eligibility to the board within ten days after such vote. The effective date of the political subdivision's age and service eligibility election is the first day of the calendar month specified by such governing body, or the first day of the calendar month next following receipt by the board of the certification of the age and service eligibility election, or the effective date of the political subdivision's becoming an employer, whichever is the latest date. Such age and service eligibility may be changed from time to time by a majority vote of the governing body, but not more than once in two years. If such election is to adopt the alternate age and service eligibility provided for in this section, such alternate provisions shall be applicable to allowances for which the employer is financially responsible for all of the employer's employees who accrue credited service with the employer while such alternate is in effect. If the election is to limit retirement eligibility to the minimum eligibility provisions of section 70.645, such

election shall be applicable to employees of the employer who did not accrue service credit with the employer while the alternate may have been in effect.

2. Should an employer change its age and service eligibility election as provided in this section, the employer contributions shall be correspondingly changed effective the same date as the age and service eligibility change.

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

(L. 1988 H.B. 1098, A.L. 1992 H.B. 1440)

70.650 Mandatory retirement age, how determined.

70.650. Subject to the provisions of any applicable federal or state law the governing body of an employer may determine the mandatory separation age for its employees which shall not be less than the minimum service retirement age. Upon such separation from his last employer, a member who has five or more years of credited service in force shall receive an allowance provided for in section 70.655 and shall have the right to elect an option provided for in section 70.660.

(L. 1967 p. 141 i½ 11, A.L. 1975 H.B. 111, A.L. 1977 H.B. 702, A.L. 1988 H.B. 1098)

70.655 Retirement benefits--program to be selected by governing body--formula for computing benefits--cost-of-living factor--suspension of certain benefits, when.

70.655. 1. Upon a member's retirement he or she shall receive an allowance for life in accordance with the applicable benefit program elected by the member's employer, as follows:

(1) Benefit program L-1. A member with credited service covered by benefit program L-1 shall receive an allowance for life equal to one percent of the member's final average salary multiplied by the number of years of such credited service;

(2) Benefit program L-3. A member with credited service covered by benefit program L-3 shall receive an allowance for life equal to one and one-quarter percent of the member's final average salary multiplied by the number of years of such credited service;

(3) Benefit program LT-4. A member with credited service covered by benefit program LT-4 shall receive an allowance for life equal to one percent of the member's final average salary multiplied by the number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-two, then such member shall receive a temporary allowance equal to one percent of the member's final average salary multiplied by the number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death; or the member's attainment of age sixty-two;

(4) Benefit program LT-5. A member with credited service covered by benefit program LT-5 shall receive an allowance for life equal to one and one-quarter percent of the member's final average salary multiplied by the number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-two, then such member shall receive a temporary allowance equal to three-quarters of one percent of the member's final average salary multiplied by the number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death; or the member's attainment of age sixty-two;

(5) Benefit program L-6. A member with credited service covered by benefit program L-6 shall receive an allowance for life equal to two percent of the member's final average

salary multiplied by the number of years of such credited service;

(6) Benefit program L-7. A member with credited service covered by benefit program L-7 shall receive an allowance for life equal to one and one-half percent of the member's final average salary multiplied by the number of years of such credited service;

(7) Benefit program LT-8. A member with credited service covered by benefit program LT-8 shall receive an allowance for life equal to one and one-half percent of the member's final average salary multiplied by the number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-two, then such member shall receive a temporary allowance equal to one-half of one percent of the member's final average salary multiplied by the number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death; or the member's attainment of age sixty-two;

(8) Benefit program LT-4(65). A member with credited service covered by benefit program LT-4(65) shall receive an allowance for life equal to one percent of the member's final average salary multiplied by the number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-five, then such member shall receive a temporary allowance equal to one percent of the member's final average salary multiplied by the number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death; or the member's attainment of age sixty-five;

(9) Benefit program LT-5(65). A member with credited service covered by benefit

program LT-5(65) shall receive an allowance for life equal to one and one-quarter percent of the member's final average salary multiplied by the number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-five, then such member shall receive a temporary allowance equal to three-quarters of one percent of the member's final average salary multiplied by the number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death; or the member's attainment of age sixty-five;

(10) Benefit program LT-8(65). A member with credited service covered by benefit program LT-8(65) shall receive an allowance for life equal to one and one-half percent of the member's final average salary multiplied by the number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-five, then such member shall receive a temporary allowance equal to one-half of one percent of the member's final average salary multiplied by the number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death; or the member's attainment of age sixty-five;

(11) Benefit program L-9. A member with credited service covered by benefit program L-9 shall receive an allowance for life equal to one and six-tenths percent of the member's final average salary multiplied by the number of years of such credited service;

(12) Benefit program LT-10(65). A member with credited service covered by benefit program LT-10(65) shall receive an allowance for life equal to one and six-tenths percent of the members' final average salary multiplied by

the number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-five, then such member shall receive a temporary allowance equal to four-tenths of one percent of the member's final average salary multiplied by the number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death; or the member's attainment of age sixty-five;

(13) Benefit program L-11. Benefit program L-11 may cover employment in a position only if such position is not concurrently covered by federal Social Security; in addition, if such position was previously covered by federal Social Security, benefit program L-11 may cover only employment rendered after cessation of federal Social Security coverage. A member with credited service covered by benefit program L-11 shall receive an allowance for life equal to two and one-half percent of the member's final average salary multiplied by the number of years of such credited service;

(14) Benefit program L-12. A member with credited service covered by benefit program L-12 shall receive an allowance for life equal to one and three-quarter percent of the member's final average salary multiplied by the number of years of such credited service;

(15) Benefit program LT-14(65). A member with credited service covered by benefit program LT-14(65) shall receive an allowance for life equal to one and three-quarter percent of the member's final average salary multiplied by the number of years of such credited service. In addition, if such member is retiring as provided in section 70.645, 70.650, or 70.670, then such member shall receive a temporary allowance equal to one-quarter of one percent of the member's final average salary multiplied by the number of years of such credited service. Such temporary allowance shall terminate at the end

of the calendar month in which the earlier of the following events occurs: such member's death or the member's attainment of age sixty-five.

2. If each portion of a member's credited service is not covered by the same benefit program, then the member's total allowance for life shall be the total of the allowance for life determined under each applicable benefit program.

3. Each employer shall have the credited service of each of its members covered by benefit program L-1 provided for in this section unless such employer shall have elected another benefit program provided for in this section.

4. Except as otherwise provided in this subsection, each political subdivision, by majority vote of its governing body, may elect from time to time to cover its members, whose political subdivision employment is concurrently covered by federal Social Security, under one of the benefit programs provided for in this section. Each political subdivision, by majority vote of its governing body, may elect from time to time to cover its members, whose political subdivision employment is not concurrently covered by federal Social Security, under one of the benefit programs provided for in this section. The clerk or secretary of the political subdivision shall certify the election of the benefit program to the board within ten days after such vote. The effective date of the political subdivision's benefit program is the first day of the calendar month specified by such governing body, or the first day of the calendar month next following receipt by the board of the certification of election of benefit program, or the effective date of the political subdivision becoming an employer, whichever is the latest. Such election of benefit program may be changed from time to time by such vote, but not more often than biennially. If such changed benefit program provides larger allowances than the benefit program previously in effect, then such larger benefit program shall be applicable to the past and future employment with the employer by present and future employees. If

such changed benefit program provides smaller allowances than the benefit program previously in effect, then such changed benefit program shall be applicable only to credited service for employment rendered from and after the effective date of such change. After August 28, 1994, political subdivisions shall not elect coverage under benefit program LT-4, benefit program LT-5, or benefit program LT-8. After August 28, 2005, political subdivisions shall not elect coverage under benefit program L-9 or benefit program LT- 10(65).

5. Should an employer change its election of benefit program as provided in this section, the employer contributions shall be correspondingly changed effective the same date as the benefit program change.

6. The limitation on increases in an employer's contribution provided by subsection 6 of section 70.730 shall not apply to any contribution increase resulting from an employer electing a benefit program which provides larger allowances.

7. Subject to the provisions of subsections 9 and 10 of this section, for an allowance becoming effective on September 28, 1975, or later, and beginning with the October first which is at least twelve full months after the effective date of the allowance, the amount of the allowance shall be redetermined effective each October first and such redetermined amount shall be payable for the ensuing year. Subject to the limitations stated in the next sentence, such redetermined amount shall be the amount of the allowance otherwise payable multiplied by the following percent: one hundred percent, plus two percent for each full year (excluding any fraction of a year) in the period from the effective date of the allowance to the current October first. In no event shall such redetermined amount (1) be less than the amount of the allowance otherwise payable nor (2) be more than the amount of the allowance otherwise payable multiplied by the following fraction: the numerator shall be the Consumer Price Index for the month

of June immediately preceding such October first (but in no event an amount less than the denominator below) and the denominator shall be the Consumer Price Index for the month of June immediately preceding the effective date of the allowance. As used herein, "Consumer Price Index" means the Consumer Price Index for Urban Wage Earners and Clerical Workers, as determined by the United States Department of Labor and in effect January 1, 1975; provided, should such Consumer Price Index be restructured subsequent to 1974 in a manner materially changing its character, the board shall change the application of the Consumer Price Index so that as far as is practicable the 1975 intent of the use of the Consumer Price Index shall be continued. As used herein "the amount of the allowance otherwise payable" means the amount of the allowance which would be payable without regard to these provisions redetermining allowance amounts after retirement.

8. Subject to the provisions of subsections 9 and 10 of this section, for an allowance becoming effective on September 28, 1975, or later, the maximum allowance payable under the provisions of section 70.685 shall be redetermined each October first in the same manner as an allowance is redetermined under the provisions of subsection 7 of this section.

9. (1) The system establishes reserves for the payment of future allowances to retirants and beneficiaries. Should the board determine, after consulting with the actuary, that the established reserves are more than sufficient to provide such allowances, the board may increase the annual increase rate provided for in subsections 7 and 8 of this section, as it applies to any allowance payable, but in no event shall the total of all redetermined amounts as of October first of any year be greater than one hundred four percent of the allowances which would have been payable that October first without such redeterminations; provided, as of any redetermination date the same annual increase

rate shall be applied to all allowances with effective dates in the range of November first to October first of the following year. The board may extend the provisions of subsections 7 and 8 of this section to allowances which became effective before September 28, 1975; provided such an action by the board shall not increase an employer contribution rate then in effect;

(2) After August 28, 1993, the annual increase rate established by this subsection shall be a compound rate, compounded annually, and the four percent annual maximum rate shall also be a compound rate, compounded annually; provided, the use of such compounding shall not begin until October 1, 1993, and shall not affect redeterminations made prior to that date.

10. Should the board determine that the provisions of subsections 7, 8 and 9 of this section are jeopardizing the financial solvency of the system, the board shall suspend these provisions redetermining allowance amounts after retirement for such periods of time as the board deems appropriate.

(L. 1967 p. 141 i; 12, A.L. 1975 S.B. 16, A.L. 1977 H.B. 702, A.L. 1986 H.B. 1051 merged with H.B. 1050, A.L. 1988 H.B. 1098, A.L. 1993 H.B. 287, A.L. 1994 H.B. 1606, A.L. 1995 H.B. 416, et al. merged with S.B. 395, A.L. 2000 H.B. 1808, A.L. 2005 H.B. 261)

70.656 Final average compensation, period covered--governing body may elect--procedure--effects.

70.656. 1. Each political subdivision may, by majority vote of its governing body, elect, from time to time, with respect to its members retiring in the future, to have final average salary determined over a thirty-six-consecutive-month period instead of a sixty-consecutive-month period, as provided in subdivision (12) of section 70.600. If a political subdivision makes no election under this section concerning final average salary, the sixty-consecutive-month period shall be in effect. The clerk or secretary of the political subdivision shall certify an election concerning final average salary to the board within ten days

after such vote. The effective date of the political subdivision's final average salary election is the first day of the calendar month specified by such governing body, or the first day of the calendar month next following receipt by the board of the certification of final average salary election, or the effective date of the political subdivision's becoming an employer, whichever is the latest date. Such final average salary election may be changed from time to time by a majority vote of the governing body, but not more often than once in two years. If such changed final average salary provides larger allowances than the final average salary previously in effect, then such larger final average salary shall be applicable to the past and future employment with the employer by present and future employees. If such changed final average salary provides smaller allowances than the final average salary previously in effect, then such smaller final average salary shall be applicable only to credited service for employment rendered from and after the effective date of such change.

2. Should an employer change its final average salary election as provided in this section, the employer contributions shall be correspondingly changed effective the same date as the final average salary change.

3. The limitation on increases in an employer's contribution provided by subsection 6 of section 70.730 shall not apply to any contribution increase resulting from an employer electing a final average salary which provides larger allowances.

(L. 1984 H.B. 874, A.L. 1992 H.B. 1440)

70.660 Optional retirement, election, when made--benefits, how computed--death of beneficiary, effect (member and beneficiary).

70.660. 1. Except as otherwise provided herein, before the date the first payment of a person's allowance becomes due but not thereafter, a person about to become a retirant may elect to receive his or her allowance for life with or without a partial lump-sum distribution, as provided in this subsection. A person about

to become a retirant may elect to receive a partial lump-sum distribution equal to twenty-four times the amount of his or her monthly allowance for life, not including any monthly temporary allowance which may be payable. Such lump sum shall be paid to the retirant, upon written application to the board, not fewer than ninety days nor more than one hundred fifty days after the date the first payment of his or her monthly allowance becomes due. The retirant's monthly life allowance shall be reduced to eighty-four percent if the retirant's age at the time of retirement is sixty, which percent shall be decreased by four-tenths of one percent for each year the retirant's age at the time of retirement is greater than sixty, or which percent shall be increased by four-tenths of one percent for each year the retirant's age at the time of retirement is less than sixty. The reductions in monthly life allowance in this subsection shall be calculated and applied before any reductions under subsection 2 of this section are calculated and applied.

2. Before the date the first payment of a person's allowance becomes due but not thereafter, a person about to become a retirant may elect to have his or her allowance for life reduced but not any temporary allowance which may be payable, and nominate a beneficiary, as provided by option A, B, C, or D set forth below:

(1) Option A. Under option A, a retirant's allowance payable to the retirant shall be reduced to a certain percent of the allowance otherwise payable to the retirant. If such first payment due date is on or after October 1, 1998, such percent shall be eighty-five percent if the retirant's age and the retirant's beneficiary's age are the same on such first due date, which shall be decreased by three-quarters of one percent for each year that the beneficiary's age is less than the retirant's age, or which shall be increased by three-quarters of one percent, up to a maximum of ninety percent, for each year that the beneficiary's age is more than the retirant's age. Upon the retirant's death three-

quarters of the retirant's reduced allowance to which the retirant would have been entitled had the retirant lived shall be paid to his or her surviving beneficiary, nominated before such first payment due date but not thereafter, who was the retirant's spouse for not less than the two years immediately preceding such first payment due date, or another person aged forty years or older receiving more than one-half support from the retirant for not less than the two years immediately preceding such first payment due date.

(2) Option B. Under option B, a retirant's allowance payable to the retirant shall be reduced to a certain percent of the allowance otherwise payable to the retirant. If such first payment due date is on or after October 1, 1998, such percent shall be ninety percent if the retirant's age and the retirant's beneficiary's age are the same on such first payment due date, which shall be decreased by one-half of one percent for each year that the beneficiary's age is less than the retirant's age, or which shall be increased by one-half of one percent, up to a maximum of ninety-five percent for each year that the beneficiary's age is more than the retirant's age. Upon the retirant's death one-half of his or her reduced allowance to which the retirant would have been entitled had the retirant lived shall be paid to the retirant's surviving beneficiary, nominated before such first payment due date but not thereafter, who was either the retirant's spouse for not less than the two years immediately preceding such first payment due date, or another person aged forty years or older receiving more than one-half support from the retirant for not less than the two years immediately preceding such first payment due date.

(3) Option C. Under option C, a retirant's allowance payable to the retirant shall be reduced to ninety-five percent of the allowance otherwise payable to the retirant if such first payment due date is on or after October 1, 1998. If the retirant dies before having received one hundred twenty monthly payments of his

or her reduced allowance, his or her reduced allowance to which the retirant would have been entitled had the retirant lived shall be paid for the remainder of the one hundred twenty months' period to such person as the retirant shall have nominated by written designation duly executed and filed with the board. If there is no such beneficiary surviving the retirant, the reserve for such allowance for the remainder of such one hundred twenty months' period shall be paid to the retirant's estate.

(4) Option D. Some other option approved by the board which shall be the actuarial equivalent of the allowance to which the member is entitled under this system.

3. The death of the beneficiary designated under option A or B of subsection 2 of this section before the death of the retirant after retirement shall, upon written notification to the system of the death of the beneficiary, cancel any optional plan elected at retirement to provide continuing lifetime benefits to the beneficiary and shall return the retirant to his or her single lifetime benefit equivalent, to be effective the month following receipt of the written notification of the death of the beneficiary by the system.

4. If a member fails to elect a benefit option under subsection 2 of this section, his or her allowance for life shall be paid to the member as a single lifetime benefit.

(L. 1967 p. 141 § 13, A.L. 1971 S.B. 124, A.L. 1972 S.B. 454, A.L. 1977 H.B. 702, A.L. 1992 H.B. 1440, A.L. 1998 H.B. 1033, A.L. 2003 H.B. 348 & 347)

70.661 Member deceased before retirement, surviving spouse or dependent children entitled to benefits, when--determination of eligibility.

70.661. 1. If a member with five or more years of credited service dies before retirement while an employee, the benefits provided in subsections 2, 3, 4 and 5 of this section shall be paid, as applicable.

2. (1) The surviving spouse to whom the member was married for not less than two years immediately preceding the time of the member's

death shall receive an allowance computed in the same manner in all respects as if such member had:

(a) Retired on the first day of the month following the date of his or her death with an allowance for life based upon the member's credited service and final average salary to time of death and without reduction if the member's age was younger than the member's minimum service retirement age;

(b) Elected option A provided for in section 70.660; and

(c) Nominated such spouse as joint beneficiary under such option.

(2) If the board finds that the member's death was the result of an accident that did not arise out of and in the course of his or her actual performance of duty as an employee, the requirement that the surviving spouse must have been married to the member for not less than two years immediately preceding the time of the member's death shall not apply.

3. If the board finds that the member's death was the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of duty as an employee, then:

(1) Other provisions of law to the contrary notwithstanding, for the purpose of computing the amount of the allowance payable under this section and for the purpose of determining eligibility under subsection 1 of this section, credited service shall include the period from the date of the member's death to the date he or she would have attained age sixty, or the date he or she would have acquired five years of credited service, if later; and

(2) In order to be eligible for spouse benefits, the surviving spouse and the deceased member must have been married on the date of the personal injury resulting in the member's death or on the date of onset of the disease resulting in the member's death. In any case of question as to the date of onset of disease resulting in the member's death, the board shall decide the

question.

4. If a benefit is not payable under the provisions of subsection 2 or 3 of this section, or when such benefit has ceased to be payable, each dependent child of the deceased member, if any, shall receive an allowance of an equal share of sixty percent of an allowance computed in the same manner in all respects as if such deceased member had retired on the first day of the month following the date of his or her death with an allowance for life based upon the member's credited service and final average salary to time of death and without reduction if the member's age was younger than the member's minimum service retirement age. A child shall be a dependent child until the child's death or marriage or attainment of age eighteen, whichever occurs first; provided, the age eighteen maximum shall be extended as long as the child continues uninterruptedly being a full-time student at an accredited secondary school or college or university, but in no event beyond attainment of age twenty-three; provided further, that if a full-time student eligible for or receiving benefits under this section is ordered to military duty, his or her benefit shall be suspended during such period of military duty, and shall be reinstated upon his or her return to school not later than the beginning of the academic term immediately following his or her return from military duty, in which case his or her eligibility for dependent child benefits shall be extended by the number of months of military duty, but in no event beyond attainment of age twenty-five; provided further, the age eighteen maximum shall be extended for any child who has been found totally incapacitated by a court of competent jurisdiction for as long as such incapacity exists. Upon a child ceasing to be a dependent child, his or her allowance shall terminate, and there shall be a redetermination of the amounts payable to any remaining dependent children.

5. In the event all of the allowances provided for in this section, payable on account

of the death of a member, terminate before there has been paid an aggregate amount equal to the accumulated contributions standing to the deceased member's credit in the member's deposit fund at the time of death, the difference between such accumulated contributions and such aggregate amount of allowance payments shall be paid to such person as the member shall have nominated by written designation duly executed and filed with the board. If there be no such designated person surviving at termination, such difference shall be paid to the member's estate or to the estate of the last beneficiary to whom benefits were paid.

(L. 1971 S.B. 124, A.L. 1972 S.B. 454, A.L. 1975 S.B. 15, H.B. 111, A.L. 1976 S.B. 722, A.L. 1980 S.B. 630, A.L. 1983 S.B. 44 & 45, A.L. 1988 H.B. 1098, A.L. 2000 H.B. 1808, A.L. 2003 H.B. 131)

70.665 Death of retirant prior to receiving benefits equal to his contributions, balance to his nominee or estate.

70.665. In the event a retirant dies before he has received in allowance payments an aggregate amount equal to his accumulated contributions standing to his credit in the members deposit fund at the time of his retirement, the difference between such accumulated contributions and such aggregate amount of allowance payments received by him shall be paid to such person as he shall have nominated by written designation duly executed and filed with the board. If there be no such designated person surviving such retirant, such difference, if any, shall be paid to the retirant's estate. In no case shall any benefits be paid under this section on account of the death of a retirant if any allowance becomes payable by the system on account of his death.

70.670 Early retirement, application--requirements--option--benefits, how computed.

70.670. 1. Any member in service who has not attained his minimum service retirement age may retire with an early allowance provided for in subsection 2 of this section, upon his written application to the board setting forth at what

time, not less than thirty days nor more than ninety days subsequent to the execution and filing thereof, he desires to be retired; provided, that at the time of his separation from service and the time so specified for his retirement, the member's age shall be within five years of his minimum service retirement age and he shall have five or more years of credited service in force, and notwithstanding that during such period of notification he may have separated from service. He shall have the right to elect an option provided for in section 70.660.

2. Upon early retirement a member shall receive a certain percent of an allowance provided for in section 70.655. Such percent shall be one hundred percent reduced by: One-half of one percent multiplied by the number of months by which his age at early retirement is younger than his minimum service retirement age.

(L. 1967 p. 141 $\frac{1}{2}$ 15, A.L. 1975 H.B. 111, A.L. 1977 H.B. 702, A.L. 1980 S.B. 630)

70.675 Deferred allowance, requirements, option--contribution withdrawal, effect on credited service--death of former member prior to retirement, allowance payable to surviving spouse, when.

70.675. 1. Should a member with five or more years of credited service cease to be a member, except by death or retirement, before attaining an age which is within five years of his or her minimum service retirement age, the member shall be entitled to a deferred allowance provided for in this section; provided, if the former member withdraws his or her accumulated contributions from the members deposit fund, for purposes of this section there shall be eliminated from credited service any membership service or prior service for which the member was required to make member contributions provided for in subsection 2 of section 70.705. Such deferred allowance shall commence as of the first day of the calendar month next following the later of:

(1) The member's attainment of an age

which is within five years of his or her minimum service retirement age; or

(2) The date the member's written application therefor is received by the board, in accordance with the provisions of subsection 2 of this section. The member shall have the right to elect an option provided for in section 70.660 at the time of filing such written application.

2. Except as provided in subsection 5 of this section, a former member otherwise entitled to a deferred allowance shall be entitled to a deferred allowance only if the former member lives to an age which is within five years of his or her minimum service retirement age and if written application therefor is received by the board from the former member not earlier than ninety days before his or her attainment of such age. If such former member does not live to retirement or in the event the former member becomes employed in a position covered by the system before becoming a retirant or in the event such written application is not received by the board within the time limits specified, no benefits whatsoever shall be paid pursuant to the provisions of this section, except as provided in subsection 5 of this section.

3. A former member otherwise entitled to a deferred allowance shall be considered a member only for the purposes of subsection 4 of section 70.725.

4. If the deferred allowance commences prior to the date the former member reaches his or her minimum service retirement age, the allowance shall be a certain percent of the allowance otherwise provided for in this section. Such percent shall be one hundred percent reduced by one-half of one percent multiplied by the number of months by which the former member's age at the date the allowance commences is younger than the former member's minimum service retirement age.

5. If a former member who: (1) is entitled to a deferred allowance pursuant to this section; and (2) does not receive a lump sum

payment as provided in section 70.676, dies before his or her date of retirement, the applicable benefits, if any, provided in this subsection shall be paid. The former member's surviving spouse, if any, to whom the former member was married for not less than two years immediately preceding the date of the former member's death shall receive an allowance computed in the same manner in all respects as if such former member had:

(1) Survived to the first day of the calendar month next following the day the former member would have attained his or her minimum service retirement age or if later, the first day of the calendar month next following the date of the former member's death;

(2) Retired on such day with an allowance for life based on his or her credited service and final average salary at the time of termination of membership;

(3) Elected option A provided for in section 70.660;

(4) Nominated such spouse as joint beneficiary under such option; and

(5) Died on such day after electing such option A. The allowance payable to the surviving spouse shall commence as of the first day of the calendar month next following the day the former member would have attained his or her minimum service retirement age or, if later, the first day of the calendar month next following the date of the former member's death. This subsection shall apply to any person who is a former member on or after August 28, 1998.

(L. 1967 p. 141 $\frac{1}{2}$ 16, A.L. 1975 H.B. 111, A.L. 1982 H.B. 1465, A.L. 1988 H.B. 1098, A.L. 1995 H.B. 416, et al. merged with S.B. 395, A.L. 1998 H.B. 1033, A.L. 2000 H.B. 1808)

Effective 7-1-00

70.676 Vested employee no longer covered by system may be bought out by lump sum payment, how computed--limitations.

70.676. In accordance with rules adopted by the board, a former member who is entitled to a deferred allowance pursuant to section 70.675 may elect for the system to pay the reserve

value of the deferred allowance if the amount of the former member's credited service is less than ten years and if the former member is not within ten years of his or her minimum service retirement age at the time of payment of the reserve value. The reserve value shall be the actuarial equivalent of the allowance otherwise payable. Any lump sum payment so made shall be a complete discharge of all liability under the system with respect to such allowance.

(L. 1986 S.B. 420, A.L. 1998 H.B. 1033)

70.680 Disability retirement--medical examinations required, when--option.

70.680. 1. Any member in service with five or more years of credited service who has not attained the age and service requirements of section 70.645 and who becomes totally and permanently physically or mentally incapacitated for his duty as an employee, as the result of a personal injury or disease, may be retired by the board upon written application filed with the board by or on behalf of the member; provided, that after a medical examination of such member made by or under the direction of a medical committee consisting of three physicians, one of whom shall be selected by the board, one by or on behalf of such member, and the third by the first two physicians so named, the medical committee reports to the board, by majority opinion in writing, that such member is physically or mentally totally incapacitated for the further performance of duty, that such incapacity will probably be permanent and that such member should be retired.

2. Upon disability retirement, as provided in subsection 1 of this section, a member shall receive an allowance for life provided for in section 70.655 and shall have the right to elect an option provided for in section 70.660. His or her disability retirement and allowance shall be subject to the provisions of subsection 5 of this section and to the provisions of section 70.685.

3. Any member in service who becomes totally and permanently physically or mentally

incapacitated for his duty as an employee, as the natural and proximate result of a personal injury or disease which the board finds to have arisen out of and in the course of his actual performance of duty as an employee, may be retired by the board upon written application filed with the board by or on behalf of the member; provided, that after a medical examination of such member made by or under the direction of a medical committee consisting of three physicians, one of whom shall be selected by the board, one by or on behalf of such member, and the third by the first two physicians so named, the medical committee reports to the board, by majority opinion in writing, that such member is physically or mentally totally incapacitated for the further performance of duty, that such incapacity will probably be permanent, and that such member should be retired.

4. Upon disability retirement as provided in subsection 3 of this section, a member shall receive an allowance for life provided for in section 70.655; provided, that for the sole purpose of computing the amount of such allowance, he or she shall be given credited service for the period from the date of his or her disability retirement to the date he or she would attain age sixty. He or she shall have the right to elect an option provided for in section 70.660. His or her disability retirement and allowance shall be subject to the provisions of subsection 5 of this section and to the provisions of section 70.685.

5. At least once each year during the first five years following a member's retirement on account of disability, and at least once in each three-year period thereafter, the board shall require any disability retiree who has not attained his minimum service retirement age to undergo a medical examination to be made by a physician designated by the board. If the retiree refuses to submit to medical examination in any such period, his disability allowance shall be suspended by the board until his withdrawal of such refusal. If such refusal continues for one

year, all his rights in and to a disability allowance shall be revoked by the board. If, upon medical examination of the retiree, the physician reports to the board that the retiree is physically and mentally able and capable of resuming his duty as an employee in the position held by him at the time of his disability retirement, then the board shall, if demanded by the retiree, arrange a further medical examination of such member made by or under the direction of a medical committee consisting of three physicians, one of whom shall be selected by the board, one by or on behalf of the member, and the third by the first two physicians named. Should the medical committee concur, by majority opinion in writing to the board, the disability retiree is capable of resumption of duty, his disability retirement shall terminate and he shall be returned to duty and he shall immediately again become a member of the system, his credited service at the time of disability retirement shall be restored to his credit, and the amount of his accumulated contributions at the time of his disability retirement shall be restored to his credit in the members deposit fund. If he was in receipt of a duty disability allowance provided for in subsection 3 of this section, he shall also be given service credit for the period he was in receipt of the duty disability allowance.

(L. 1967 p. 141 $\frac{1}{2}$ 17, A.L. 1971 S.B. 124, A.L. 1972 S.B. 454, A.L. 1975 H.B. 111, A.L. 1980 S.B. 630, A.L. 1988 H.B. 1098, A.L. 1992 H.B. 1440, A.L. 2000 H.B. 1808) Effective 7-1-00

70.686 Retiree becoming reemployed in the system, effect of.

70.686. 1. If a retiree becomes reemployed in a position covered by the system by a political subdivision from which he or she is receiving a retirement allowance, such retiree shall forfeit one monthly benefit allowance for each calendar month in which the retiree renders service in connection with such reemployment.

2. If a retiree becomes employed in a position covered by the system by a political subdivision from which he or she is not receiving a retirement allowance, such retiree

shall continue to receive his or her retirement allowance during such period of employment.

3. A retiree who becomes employed by any participating political subdivision shall be considered a reemployed member with contributions due immediately in accordance with sections 70.705, 70.710, and 70.720. Such period of employment shall be for a minimum of one year of continuous membership service before the retiree shall receive any additional allowance.

4. Any reemployed member who has one or more years of membership service after reemployment and later retires shall receive an additional allowance calculated to include only the membership service and the average compensation earned by the reemployed member since reemployment, if such employment is less than the period described in section 70.656. In either event, the original allowance and the additional allowance, if any, shall become effective after a written application is submitted in accordance with section 70.645.

5. Notwithstanding any provision of this section to the contrary, if the retiree retired pursuant to section 70.680, the provisions of section 70.680 shall apply.

(L. 1971 S.B. 124, A.L. 1972 S.B. 454, A.L. 1980 S.B. 630, A.L. 1999 H.B. 464 merged with S.B. 410, A.L. 2003 H.B. 348 & 347)

70.690 Member leaving system before eligible for retirement, disposition of his contributions.

70.690. 1. In the event a member ceases to be a member other than by death before the date he becomes entitled to retire with an allowance payable by the system, he shall be paid, upon his written application filed with the board, his accumulated contributions standing to his credit in the members deposit fund.

2. In the event a member dies, and no allowance becomes or will become payable by the system on account of his death, his accumulated contributions standing to his credit in the members deposit fund at the time of his death shall be paid to such person or

persons as he shall have nominated by written designation duly executed and filed with the board. If there be no such designated person or persons surviving such member, such accumulated contributions shall be paid to his surviving spouse, or to his estate if there is no surviving spouse.

3. In the event a member's membership in the system terminates, and no allowance becomes or will become payable on his account, any accumulated contributions standing to his credit in the members deposit fund unclaimed by such member or his legal representative within three years after the date his membership terminated, shall be transferred to the income-expense fund. If thereafter proper application is made for such accumulated contributions, the board shall pay them from the income-expense fund, but without interest after the date payment was first due.

(L. 1967 p. 141 i;½ 19)

70.695 Rights accrued under sections 70.600 to 70.755, not subject to garnishment, execution or bankruptcy proceedings, exceptions.

70.695. The right of a person to an allowance, to the return of accumulated contributions, the allowance itself, any allowance option, and any other right accrued or accruing under the provisions of sections 70.600 to 70.755, and all moneys belonging to the system shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or to any other process of law whatsoever, and shall be unassignable, except as is specifically provided in sections 70.600 to 70.755; except that:

(1) Any political subdivision shall have the right of setoff for any claim arising from embezzlement by or fraud of a member, retirant, or beneficiary; [and]

(2) Such rights shall not be exempt from attachment or execution in a proceeding instituted for the support and maintenance of children. In all such actions described in this subdivision, the system shall be entitled to collect

a fee of up to twenty dollars chargeable against the person for each delinquent attachment, execution, sequestration or garnishment payment; and

(3) A retirant may authorize the board to have deducted from his or her allowance the payments required of him or her to provide for health insurance or long-term care insurance premiums in accordance with Section 402 of the Internal Revenue Code of 1986, as amended.

(L. 1967 p. 141 i;½ 20, A.L. 1988 H.B. 1098, A.L. 1992 H.B. 1440, A.L. HB 1039)

70.697 Member eligible to receive benefits under prosecuting attorneys' retirement system, receipt of benefits--reduction of benefits, when, amount.

70.697. 1. Any member who is eligible to receive benefits under the local government employees' retirement system and who retires after August 28, 1993, and who is also eligible to receive benefits under the provisions of sections 56.800 to 56.840 shall receive benefits under sections 56.800 to 56.840 which are reduced by the amount received from the local government employees' retirement system.

2. Any member who retires after August 28, 1999, shall receive benefits pursuant to sections 56.800 to 56.840 which are reduced by one-third of the amount received from the local government employees' retirement system.

(L. 1993 S.B. 169 i;½ 1, A.L. 1999 S.B. 308 & 314)

70.700 All the assets of the system shall be held in five funds,

70.700. All the assets of the system shall be held in five funds namely, the members deposit fund, the employer accumulation fund, the benefit reserve fund, the casualty reserve fund, and the income-expense fund.

(L. 1967 p. 141 i;½ 21)

70.705 Members deposit fund, source, contributions of members, repayment of withdrawals--transfers from fund--election to eliminate contributions, when.

70.705. 1. The "Members Deposit Fund" is hereby created. It shall be the fund in which

shall be accumulated the contributions made by members to the system, and from which shall be made transfers and refunds of members' contributions as provided in sections 70.600 to 70.755.

2. Except as provided otherwise in this section, the contributions of a member to the system shall be four percent of his compensations after the date he has completed sufficient employment for six months of credited service. Such contributions shall be made notwithstanding that the minimum salary or wages provided by law for any member shall thereby be changed. Each member shall be deemed to consent and agree to the deductions made and provided for herein. Payment of a member's compensation less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered by him to a political subdivision, except as to benefits provided by this system.

3. The officer or officers responsible for making up the payrolls for each political subdivision shall cause the contributions provided for in this section to be deducted from the compensation of each member in the employ of the political subdivision, on each and every payroll, for each and every payroll period after the date he has completed sufficient employment for six months of credited service to the date his membership terminates. When deducted, each of these amounts shall be paid by the political subdivision to the system; the payments shall be made in the manner and shall be accompanied by such supporting data as the board shall from time to time prescribe. When paid to the system, each of the amounts shall be credited to the members deposit fund account of the member from whose compensations the contributions were deducted.

4. In addition to the contributions deducted from the compensations of a member, as heretofore provided, a member shall deposit in the members deposit fund, by

a single contribution or by an increased rate of contributions, as approved by the board, the amount or amounts he may have withdrawn therefrom and not repaid thereto, together with regular interest from the date of withdrawal to the date of repayment. In no case shall a member be given credit for service rendered prior to the date he withdrew his accumulated contributions until he returns to the members deposit fund all amounts due the fund by him.

5. Upon the retirement of a member, or upon his death if an allowance becomes payable on account of his death, his accumulated contributions shall be transferred to the benefit reserve fund.

6. Each political subdivision, by majority vote of its governing body, may elect with respect to its members to eliminate future member contributions otherwise provided for in this section. The clerk or secretary of the political subdivision shall certify the election concerning member contributions to the board within ten days after such vote. The effective date of the political subdivision's member contribution election is the first day of the calendar month specified by such governing body, or the first day of the calendar month next following receipt by the board of the certification of such election, or the effective date of the political subdivision's becoming an employer, whichever is the latest. Such election concerning member contributions may be changed from time to time by such vote, but not more often than once in two years. Except as provided in section 70.707, if such election is to eliminate member contributions, then such election shall apply only to future member compensations and shall not change the status of any member contributions made before such election. If the effect of such election is to require member contributions, then such election shall apply only to future member compensations and shall not change any member contribution requirements existing before such election. Should an employer change its member contribution requirements as provided in this

section, the employer contribution requirements shall be correspondingly changed effective the same date as the member contribution change. The limitation on increases in an employer's contribution provided by subsection 6 of section 70.730 shall not apply to any contribution increase resulting from an employer electing to eliminate member contributions.

(L. 1967 p. 141 $\frac{1}{2}$ 22, A.L. 1973 H.B. 218, A.L. 1982 H.B. 1465, A.L. 1987 S.B. 20, A.L. 1988 H.B. 1098, A.L. 1992 H.B. 1440)

70.707 Elimination of member contributions, refunding of, procedure.

70.707. 1. The governing body of any political subdivision, in which member contributions have been eliminated pursuant to subsection 6 of section 70.705, may, after two or more continuous years without member contributions, elect by majority vote that accumulated contributions resulting from employment with such political subdivision be refunded. The clerk or the secretary of the political subdivision shall certify the election concerning the refund to the board within ten days after such vote. The board shall refund the specified accumulated contributions to each member by no later than the later of:

(1) One hundred eighty days from receipt by the board of the certification from the clerk or secretary; or

(2) Ninety days from receipt by the board of written application signed by the member requesting that such accumulated contributions be refunded.

2. If a political subdivision elects to refund member contributions, the employer contribution requirements provided in section 70.710 shall be correspondingly changed effective the first day of the month following the refund election. The limitation on increases in an employer's contribution provided by subsection 6 of section 70.730 shall not apply to any contribution increase resulting from an employer's electing to refund member contributions as provided in this section.

(L. 1987 S.B. 20, A.L. 1992 H.B. 1440)

70.710 Employer accumulation fund, created, uses--employer contributions.

70.710. 1. The "Employer Accumulation Fund" is hereby created. It is the fund in which shall be accumulated the contributions made by employers for benefits, and from which shall be made transfers, as provided in sections 70.600 to 70.755.

2. When paid to the system, the employer contributions provided for in subsections 2 and 3 of section 70.730 shall be credited to the employer accumulation fund account of the employer making the contributions.

3. When an allowance other than a disability allowance or an allowance that results from a member's death that was the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of duty as an employee first becomes due and payable, there shall be transferred to the benefit reserve fund from his employer's account in the employer accumulation fund the difference between the reserve for the allowance and the accumulated contributions standing to his credit in the members deposit fund at the time the allowance first becomes due and payable, of the member or former member to whom or on whose behalf the allowance is payable.

4. A separate account shall be maintained in the employer accumulation fund for each employer. No employer shall be responsible for the employer accumulation fund liabilities of another employer.

5. When a disability allowance or an allowance that results from a member's death that was the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of duty as an employee first becomes due and payable, the accrued service pension reserve covering the retiring member shall be calculated in the manner provided for in subsection 3 of section 70.730, as of the effective date of the disability allowance. Such reserve shall be transferred to

the benefit reserve fund from the employer's account in the employer accumulation fund.

(L. 1967 p. 141 $\frac{1}{2}$ 23, A.L. 1983 H.B. 341, A.L. 1988 H.B. 1098, A.L. 2011 H.B. 282)

70.715 Benefit reserve fund, created, uses.

70.715. The "Benefit Reserve Fund" is hereby created. It is the fund into which shall be made transfers as provided in sections 70.600 to 70.755 and from which allowances and related benefits shall be paid.

(L. 1967 p. 141 $\frac{1}{2}$ 24, A.L. 1988 H.B. 1098)

70.720 Casualty reserve fund, created, source of funds, uses.

70.720. 1. The "Casualty Reserve Fund" is hereby created. It is the fund in which shall be accumulated the contributions made by employers for pensions either to be paid members who retire on account of disability or that result from a member's death that was the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of duty as an employee, and from which shall be made transfers as provided in sections 70.600 to 70.755.

2. When paid to the system, the employer contributions provided for in subsection 4 of section 70.730 shall be credited to the casualty reserve fund.

3. When a disability allowance or an allowance that results from a member's death that was the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of duty as an employee first becomes due and payable, there shall be transferred to the benefit reserve fund from the casualty reserve fund an amount equal to the reserve for the allowance, minus:

(1) The accumulated contributions, standing to the member's credit in the members deposit fund at the time the allowance first becomes due and payable; and

(2) The accrued service pension reserve determined pursuant to subsection 5 of section

70.710.

(L. 1967 p. 141 $\frac{1}{2}$ 25, A.L. 1983 H.B. 341, A.L. 1988 H.B. 1098, A.L. 2011 H.B. 282)

70.722 Allowances and benefits, all payments to be made from benefit reserve fund, when.

70.722. The board shall arrange for transfers to the benefit reserve fund so that thereafter all allowances and related benefits shall be paid from the benefit reserve fund. Such transfers shall be completed upon a determination by the board's actuary of the amounts of such transfers and shall consist of the following:

(1) The reserve value of allowances payable from the employer's accumulation fund at time of transfer shall be transferred from the employer's accumulation fund; and

(2) The reserve value of allowances payable from the casualty reserve fund at time of transfer shall be transferred from the casualty reserve fund.

(L. 1988 H.B. 1098)

70.725. Income-expense fund, created, defined--gifts and bequests--regular interest--contingency reserves.

70.725. 1. The "Income-Expense Fund" is hereby created. It is the fund to which shall be credited all investment income from invested assets of the system, and in which shall be accumulated the contributions made by employers for the administrative expenses of the system, and from which shall be made annual transfers of investment credits to the other funds of the system, and from which shall be paid all the expenses of the board necessary for the administration and operation of the system.

2. When paid to the system, the employer contributions provided for in subsection 5 of section 70.730 shall be credited to the income-expense fund.

3. The board may accept gifts and bequests, and they shall be credited to the income-expense fund, along with all other moneys received by the system, the disposition of which is not specifically provided for in sections 70.600 to 70.760.

4. At the end of each system fiscal year the

board shall credit each member's individual account in the members deposit fund with regular interest on the largest balance remaining in such account for the entire fiscal year. At the end of each system fiscal year the board shall credit to each account in the employer accumulation fund regular interest on the mean balance in such fund for the fiscal year, and similarly shall credit regular interest to the benefit reserve fund and to the casualty reserve fund. Such regular interest shall be transferred from the income-expense fund.

5. Whenever the board determines that the balance in the income-expense fund is more than sufficient to cover the current charges to the fund, the board may by resolution provide for contingency reserves, or for the transfer of such excess or portions thereof to cover the needs of the benefit reserve fund or the casualty reserve fund.

(L. 1967 p. 141 $\frac{1}{2}$ 26)

70.730. Employer's contributions, how computed.

70.730. 1. Each employer's contributions to the system shall be the total of the contribution amounts provided for in subsections 2 through 5 of this section; provided, that such contributions shall be subject to the provisions of subsection 6 of this section.

2. An employer's normal cost contributions shall be determined as follows: Using the financial assumptions adopted by the board from time to time, the actuary shall annually compute the rate of contributions which, if paid annually by each employer during the total service of its members, will be sufficient to provide the pension reserves required at the time of their retirements to cover the pensions to which they might be entitled or which might be payable on their behalf. The board shall annually certify to the governing body of each employer the amount of membership service contribution so determined, and each employer shall pay such amount to the system during the employer's next fiscal year which begins six months or more after the date of such board certification. Such payments shall be made in such manner and form and in such frequency

and shall be accompanied by such supporting data as the board shall from time to time determine. When received, such payments shall be credited to the employer's account in the employer accumulation fund.

3. An employer's accrued service contributions shall be determined as follows: Using the financial assumptions adopted by the board from time to time, the actuary shall annually compute for each employer the portions of pension reserves for pensions which will not be provided by future normal cost contributions. The accrued service pension reserves so determined for each employer* less the employer's applicable balance in the employer accumulation fund shall be amortized over a period of years, as determined by the board. Such period of years shall not extend beyond the latest of (1) forty years from the date the political subdivision became an employer, or (2) thirty years from the date the employer last elected to increase its optional benefit program, or (3) fifteen years from the date of the annual actuarial computation. The board shall annually certify to the governing body of each employer the amount of accrued service contribution so determined for the employer, and each employer shall pay such amount to the system during the employer's next fiscal year which begins six months or more after the date of such board certification. Such payments shall be made in such manner and form and in such frequency and shall be accompanied by such supporting data as the board shall from time to time determine. When received, such payments shall be credited to the employer's account in the employer accumulation fund.

4. The employer's contributions for the portions of disability pensions not covered by accrued service pension reserves shall be determined on a one-year term basis. The board may determine different rates of contributions for employers having policeman members or having fireman members or having neither policeman members nor fireman members. The board shall annually certify to the governing body of each employer the amount of contribution so ascertained for the em-

ployer, and each employer shall pay such amount to the system during the employer's next fiscal year which begins six months or more after the date of such board certification. Such payments shall be made in such manner and form and in such frequency and shall be accompanied by such supporting data as the board shall from time to time ascertain. When received, such payments shall be credited to the casualty reserve fund.

5. Each employer shall provide its share, as determined by the board, of the administrative expenses of the system and shall pay same to the system to be credited to the income-expense fund.

6. The employer's total contribution to the system, expressed as a percent of active member compensations, in any employer fiscal year, beginning with the second fiscal year that the political subdivision is an employer, shall not exceed its total contributions for the immediately preceding fiscal year, expressed as a percent of active member compensations, by more than one percent.

(L. 1967 p. 141 $\frac{1}{2}$ 27, A.L. 1980 S.B. 630, A.L. 1983 H.B. 341, A.L. 2011 H.B. 282)

70.735 Political subdivisions delinquent in payments--lien--mandamus--state aid withheld.

70.735. If any political subdivision fails to make any payment due the system for a period of sixty days after the payment is due, the political subdivision shall become delinquent and the amount of the delinquency shall constitute a first lien on the funds of the political subdivision, and the board is authorized to compel payment by application for a writ of mandamus; and, in addition, such delinquency shall be certified by the board to the state treasurer and director of the department of revenue. Until such delinquency, together with regular interest, is satisfied, the state treasurer and director of the department of revenue shall withhold all moneys due the political subdivision from the state.

(L. 1967 p. 141 $\frac{1}{2}$ 28, A.L. 1988 H.B. 1098)

70.740 State not to contribute to system, exception.

70.740. The state of Missouri shall not

contribute directly or indirectly to finance the system, except those amounts which the political subdivision may receive from time to time under a law or laws providing for a general apportionment of political subdivision moneys throughout the state.

(L. 1967 p. 141 $\frac{1}{2}$ 29)

70.745 Board may invest funds.

70.745. The board shall be the trustees of the funds of the system. Subject to the provisions of any applicable federal or state laws, the board shall have full power to invest and reinvest the moneys of the system, and to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys. (L. 1967 p. 141 $\frac{1}{2}$ 30, A.L. 1974 S.B. 419, A.L. 1984 H.B. 874, A.L. 1988 H.B. 1098)

70.746 Board may delegate powers of investment, requirements--liability.

70.746. Notwithstanding any other provision of law to the contrary, the board of trustees may delegate to its duly appointed investment counselor authority to act in place of the board in the investment and reinvestment of all or part of the moneys of the system, and may also delegate to such counselor the authority to act in place of the board in the holding, purchasing, selling, assigning, transferring, or disposing of any or all of the securities and investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys. Such investment counselor shall be registered as an investment advisor with the United States Securities and Exchange Commission. In exercising or delegating its investment powers and authority, members of the board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing, the board shall consider the long- and short-term needs of the system in carrying out its purposes, the system's present and

anticipated financial requirements, the expected total return on the system's investment, general economic conditions, income, growth, long-term net appreciation, and probable safety of funds. No member of the board shall be liable for any action taken or omitted with respect to the exercise of or delegation of these powers and authority if such member shall have discharged the duties of his or her position in good faith and with that degree of diligence, care, and skill which prudent men and women would ordinarily exercise under similar circumstances in a like position.

(L. 1982 S.B. 462)

70.747 Board may invest in real estate--limitations.

70.747. Notwithstanding any other provision of law to the contrary, the board shall have full power to invest and reinvest the funds and moneys of the system in improved real estate, including collective real estate funds and real estate investment trusts, wherever situated; provided, however, that not more than one-tenth of the funds and moneys of the system at the time of such investment shall be so invested.

(L. 1984 H.B. 874)

70.750. Except as to the rights of a member or retirant or beneficiary, no trustee and no officer or employee of the board shall have any interest direct or indirect in the gains or profits of any investment made by the board; nor shall any of them directly or indirectly for himself or as an agent in any manner use the assets of the system except to make such current and necessary payments as are authorized by the board; nor shall any of them become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the board.

(L. 1967 p. 141 $\frac{1}{2}$ 31)

70.755 Assets exempt from certain taxes.

70.755. The assets of the system are exempt

from state, county, and municipal taxes.

(L. 1967 p. 141 $\frac{1}{2}$ 32, A.L. 1992 H.B. 1440)

87.005 Firemen, certain diseases presumed incurred in line of duty--conditions--infectious disease defined.

87.005. 1. Notwithstanding the provisions of any law to the contrary, after five years' service, any condition of impairment of health caused by any infectious disease, disease of the lungs or respiratory tract, hypertension, or disease of the heart resulting in total or partial disability or death to a uniformed member of a paid fire department, who successfully passed a physical examination within five years prior to the time a claim is made for such disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in line of duty, unless the contrary be shown by competent evidence. In order to receive the presumption that an infectious disease was contracted in the line of duty, the member shall submit to an annual physical examination, at which a blood test is administered.

2. This section shall apply only to the provisions of chapter 87, RSMo 1959.

3. As used in this section, the term "infectious disease" means the human immunodeficiency virus, acquired immunodeficiency syndrome, tuberculosis, hepatitis A, hepatitis B, hepatitis C, hepatitis D, diphtheria, meningococcal meningitis, methicillin-resistant staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe acute respiratory syndrome.

(L. 1967 p. 167 $\frac{1}{2}$ 1, A.L. 2011 H.B. 664 merged with S.B. 238)

87.006 Firemen, certain diseases presumed incurred in line of duty--persons covered--disability from cancer, presumption suffered in line of duty, when--infectious disease defined.

87.006. 1. Notwithstanding the provisions of any law to the contrary, and only for the purpose of computing retirement benefits provided by an established retirement plan, after five years' service, any condition of impairment of health caused by any infectious

disease, disease of the lungs or respiratory tract, hypotension, hypertension, or disease of the heart resulting in total or partial disability or death to a uniformed member of a paid fire department, who successfully passed a physical examination within five years prior to the time a claim is made for such disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in the line of duty, unless the contrary be shown by competent evidence. In order to receive the presumption that an infectious disease was contracted in the line of duty, the member shall submit to an annual physical examination, at which a blood test is administered.

2. Any condition of cancer affecting the skin or the central nervous, lymphatic, digestive, hematological, urinary, skeletal, oral, breast, testicular, genitourinary, liver or prostate systems, as well as any condition of cancer which may result from exposure to heat or radiation or to a known or suspected carcinogen as determined by the International Agency for Research on Cancer, which results in the total or partial disability or death to a uniformed member of a paid fire department who successfully passed a physical examination within five years prior to the time a claim is made for disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in the line of duty unless the contrary be shown by competent evidence and it can be proven to a reasonable degree of medical certainty that the condition did not result nor was contributed to by the voluntary use of tobacco.

3. This section shall apply to paid members of all fire departments of all counties, cities, towns, fire districts, and other governmental units.

4. As used in this section, the term "infectious disease" means the human immunodeficiency virus, acquired immunodeficiency syndrome, tuberculosis, hepatitis A, hepatitis B, hepatitis

C, hepatitis D, diphtheria, meningococcal meningitis, methicillin-resistant staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe acute respiratory syndrome.

(L. 1969 p. 157 $\frac{1}{2}$ 1, A.L. 2007 S.B. 22 merged with S.B. 406, A.L. 2011 H.B. 664 merged with S.B. 238)

105.660 Definitions, retirement benefit changes.

105.660. The following words and phrases as used 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 (i) 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 (ii) 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.

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

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.

105.661. 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 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.

105.662. 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.

105.663. 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.)

105.664 Actuarial valuation performed at least biennially.

105.664. Each plan shall at least biennially prepare and have available as public information an actuarial valuation performed in compliance with the recommended 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.

(L. 2002 H.B. 1455) Effective 7-11-02

105.665 Cost statement of proposed changes

prepared by actuary--contents.

105.665. 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 as a percent of active employee payroll;

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

(3) The total contribution rate expressed as a percent of active employees 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 total contribution rate expressed as a percent of active employee payroll which would be sufficient to adequately fund the proposed change in benefits;

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

(7) 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;

(8) 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;
- (9) The actuary shall certify that in the actuary's opinion the assumptions used for the valuation produce results which, in the aggregate, are reasonable;
- (10) 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;
- (11) The increase in the total contribution amount required to adequately fund the proposed change in benefits, expressed in annual dollars as determined by multiplying the increase in total contribution rate by the active employee annual payroll used for this valuation.

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

105.666 Board member education program required, curriculum--annual pension benefit statement required.

105.666. 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 two continuing education programs each year in the areas described in this section.

2. 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)

105.667 Gain or profit from funds or transactions of plan, prohibited when.

105.667. 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)

105.670 Cost statement available for inspection--effect of changes (general assembly).

105.670. 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 final passage by either house. 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 (5) of section 105.660, in cost or benefits is made by either house or committee thereof, the actuary making the original cost statement shall amend the statement to reflect the additional features. 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)

105.675 Cost statement available for inspection (political subdivisions).

105.675. 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-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)

105.680 Expenses for cost statements, how paid.

105.680. 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.

105.683. 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 after August 28, 2007, 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 moneys due the political subdivision from the state.

(L. 2007 S.B. 406)

105.685 Effective date of changes.

105.685. 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 8-6-79*

105.687 Definitions. 105.687. 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;
- (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)

105.688 Investment fiduciaries, duties.

105.688. 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)

105.689 Investment fiduciary may make investments in certain countries.

105.689. 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.

105.690. 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.

105.691. 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 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) “Transferred 1994; formerly 105.985 CROSS REFERENCE: Purchase or transfer of prior creditable service authorized for certain persons covered by retirement plans identified in chapter 104, 287 or 476, 104.335

143.123 Taxes on annuities, pensions and retirement allowances, subtraction per taxpayer, maximums per year or six-month period.

143.123. Any six thousand dollar subtraction provided by law for annuities, pensions, and retirement allowances in total per taxpayer, as hereafter provided by subsequent law, shall be implemented in a maximum amount of six thousand dollars per year, or three thousand dollars for a six-month period.

(L. 1989 H.B. 610 § 1) Effective 6-14-89

143.124 Annuities, pensions, retirement benefits, or retirement allowances provided by state, United States, political subdivisions or any other state, Keogh plans, annuities from defined pension plans and IRAs, amounts subtracted from Missouri adjusted gross income.

143.124. 1. Other provisions of law to the contrary notwithstanding, for tax years ending on or before December 31, 2006, the total amount of all annuities, pensions, or retirement allowances above the amount of six thousand dollars annually provided by any law of this state, the United States, or any other state to any person except as provided in subsection 4 of this section, shall be subject to tax pursuant to the provisions of this chapter, in the same manner, to the same extent and under the same conditions as any other taxable income received by the person receiving it. For purposes of this section, “annuity, pension, retirement benefit, or retirement allowance” shall be defined as an annuity, pension or retirement allowance provided by the United States, this state, any other state or any political subdivision or agency or institution of this or any other state. For all tax years beginning on or after January 1, 1998, for purposes of this section, annuity, pension or retirement allowance shall be defined to include 401(k) plans, deferred compensation plans, self-employed retirement plans, also known as Keogh plans, annuities from a defined pension plan and individual retirement arrangements, also known as IRAs, as described in the Internal Revenue Code, but not including Roth IRAs, as well as an annuity, pension or retirement allowance provided by the United States, this

state, any other state or any political subdivision or agency or institution of this or any other state. An individual taxpayer shall only be allowed a maximum deduction equal to the amounts provided under this section for each taxpayer on the combined return.

2. For the period beginning July 1, 1989, and ending December 31, 1989, there shall be subtracted from Missouri adjusted gross income for that period, determined pursuant to section 143.121, the first three thousand dollars of retirement benefits received by each taxpayer:

(1) If the taxpayer's filing status is single, head of household or qualifying widow(er) and the taxpayer's Missouri adjusted gross income is less than twelve thousand five hundred dollars; or

(2) If the taxpayer's filing status is married filing combined and their combined Missouri adjusted gross income is less than sixteen thousand dollars; or

(3) If the taxpayer's filing status is married filing separately and the taxpayer's Missouri adjusted gross income is less than eight thousand dollars.

3. For the tax years beginning on or after January 1, 1990, but ending on or before December 31, 2006, there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of the first six thousand dollars of retirement benefits received by each taxpayer from sources other than privately funded sources, and for tax years beginning on or after January 1, 1998, there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of the first one thousand dollars of any retirement allowance received from any privately funded source for tax years beginning on or after January 1, 1998, but before January 1, 1999, and a maximum of the first three thousand dollars of any retirement allowance received from any privately funded source for tax years beginning on or after January 1, 1999, but before January 1,

2000, and a maximum of the first four thousand dollars of any retirement allowance received from any privately funded source for tax years beginning on or after January 1, 2000, but before January 1, 2001, and a maximum of the first five thousand dollars of any retirement allowance received from any privately funded source for tax years beginning on or after January 1, 2001, but before January 1, 2002, and a maximum of the first six thousand dollars of any retirement allowance received from any privately funded sources for tax years beginning on or after January 1, 2002. A taxpayer shall be entitled to the maximum exemption provided by this subsection:

(1) If the taxpayer's filing status is single, head of household or qualifying widow(er) and the taxpayer's Missouri adjusted gross income is less than twenty-five thousand dollars; or

(2) If the taxpayer's filing status is married filing combined and their combined Missouri adjusted gross income is less than thirty-two thousand dollars; or

(3) If the taxpayer's filing status is married filing separately and the taxpayer's Missouri adjusted gross income is less than sixteen thousand dollars.

4. If a taxpayer's adjusted gross income exceeds the adjusted gross income ceiling for such taxpayer's filing status, as provided in subdivisions (1), (2) and (3) of subsection 3 of this section, such taxpayer shall be entitled to an exemption equal to the greater of zero or the maximum exemption provided in subsection 3 of this section reduced by one dollar for every dollar such taxpayer's income exceeds the ceiling for his or her filing status.

5. For purposes of this subsection, the term "maximum Social Security benefit available" shall mean thirty-two thousand five hundred dollars for the tax year beginning on or after January 1, 2007, and for each subsequent tax year such amount shall be increased by the percentage increase in the Consumer Price Index for All Urban Consumers, or its successor

index, as such index is defined and officially reported by the United States Department of Labor, or its successor agency. For the tax year beginning on or after January 1, 2007, but ending on or before December 31, 2007, there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to the greater of: six thousand dollars in retirement benefits received from sources other than privately funded sources, to the extent such benefits are included in the taxpayer's federal adjusted gross income; or twenty percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. For the tax year beginning on or after January 1, 2008, but ending on or before December 31, 2008, there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to the greater of: six thousand dollars in retirement benefits received from sources other than privately funded sources, to the extent such benefits are included in the taxpayer's federal adjusted gross income; or thirty-five percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. For the tax year beginning on or after January 1, 2009, but ending on or before December 31, 2009, there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to the greater of: six thousand dollars in retirement benefits received from sources other than privately funded sources, to the extent such benefits are included in the taxpayer's federal adjusted gross income; or fifty percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. For

the tax year beginning on or after January 1, 2010, but ending on or before December 31, 2010, there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to the greater of: six thousand dollars in retirement benefits received from sources other than privately funded sources, to the extent such benefits are included in the taxpayer's federal adjusted gross income; or sixty-five percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. For the tax year beginning on or after January 1, 2011, but ending on or before December 31, 2011, there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to the greater of: six thousand dollars in retirement benefits received from sources other than privately funded sources, to the extent such benefits are included in the taxpayer's federal adjusted gross income; or eighty percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. For all tax years beginning on or after January 1, 2012, there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to one hundred percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. A taxpayer shall be entitled to the maximum exemption provided by this subsection:

(1) If the taxpayer's filing status is married filing combined, and their combined Missouri adjusted gross income is equal to or less than one hundred thousand dollars; or

(2) If the taxpayer's filing status is single, head of household, qualifying widow(er), or

married filing separately, and the taxpayer's Missouri adjusted gross income is equal to or less than eighty-five thousand dollars.

6. If a taxpayer's adjusted gross income exceeds the adjusted gross income ceiling for such taxpayer's filing status, as provided in subdivisions (1) and (2) of subsection 5 of this section, such taxpayer shall be entitled to an exemption, less any applicable reduction provided under subsection 7 of this section, equal to the greater of zero or the maximum exemption provided in subsection 5 of this section reduced by one dollar for every dollar such taxpayer's income exceeds the ceiling for his or her filing status.

7. For purposes of calculating the subtraction provided in subsection 5 of this section, such subtraction shall be decreased by an amount equal to any Social Security benefit exemption provided under section 143.125.

8. For purposes of this section, any Social Security benefits otherwise included in Missouri adjusted gross income shall be subtracted; but Social Security benefits shall not be subtracted for purposes of other computations pursuant to this chapter, and are not to be considered as retirement benefits for purposes of this section.

9. The provisions of subdivisions (1) and (2) of subsection 3 of this section shall apply during all tax years in which the federal Internal Revenue Code provides exemption levels for calculation of the taxability of Social Security benefits that are the same as the levels in subdivisions (1) and (2) of subsection 3 of this section. If the exemption levels for the calculation of the taxability of Social Security benefits are adjusted by applicable federal law or regulation, the exemption levels in subdivisions (1) and (2) of subsection 3 of this section shall be accordingly adjusted to the same exemption levels.

10. The portion of a taxpayer's lump sum distribution from an annuity or other retirement plan not otherwise included in Missouri adjusted gross income as calculated pursuant

to this chapter but subject to taxation under Internal Revenue Code Section 402 shall be taxed in an amount equal to ten percent of the taxpayer's federal liability on such distribution for the same tax year.

11. For purposes of this section, retirement benefits received shall not include any withdrawals from qualified retirement plans which are subsequently rolled over into another retirement plan.

12. The exemptions provided for in this section shall not affect the calculation of the income to be used to determine the property tax credit provided in sections 135.010 to 135.035.

13. The exemptions provided for in this section shall apply to any annuity, pension, or retirement allowance as defined in subsection 1 of this section to the extent that such amounts are included in the taxpayer's federal adjusted gross income and not otherwise deducted from the taxpayer's federal adjusted gross income in the calculation of Missouri taxable income. This subsection shall not apply to any individual who qualifies under federal guidelines to be one hundred percent disabled.

14. In addition to all other subtractions authorized in this section, for all tax years beginning on or after January 1, 2010, there shall be subtracted from Missouri adjusted gross income, determined under section 143.121, any retirement benefits received by any taxpayer as a result of the taxpayer's service in the armed forces of the United States, including reserve components and the national guard of this state, as defined in Sections 101(3) and 109 of Title 32, United States Code, and any other military force organized under the laws of this state, to the extent such benefits are included in the taxpayer's federal adjusted gross income and not otherwise deducted from the taxpayer's federal adjusted gross income in the calculation of Missouri taxable income. Such retirement benefits shall be subtracted as provided in the following schedule:

(1) For the tax year beginning on January 1,

2010, fifteen percent of such retirement benefits;

(2) For the tax year beginning on January 1, 2011, thirty percent of such retirement benefits;

(3) For the tax year beginning on January 1, 2012, forty-five percent of such retirement benefits;

(4) For the tax year beginning on January 1, 2013, sixty percent of such retirement benefits;

(5) For the tax year beginning on January 1, 2014, seventy-five percent of such retirement benefits;

(6) For the tax year beginning on January 1, 2015, ninety percent of such retirement benefits;

(7) For tax years beginning on or after January 1, 2016, one hundred percent of such retirement benefits.

(L. 1989 H.B. 674 § 1, A.L. 1997 H.B. 491, A.L. 1999 H.B. 516, A.L. 2003 H.B. 600, A.L. 2007 H.B. 444, et al., A.L. 2009 H.B. 82)

CROSS REFERENCE: Exemptions for retirement benefits, 104.250

CONSTITUTION OF MISSOURI

Article VI

Section 25 Limitation on use of credit and grant of public funds by local governments--pensions and retirement plans for employees of certain cities and counties.

Section 25. No county, city or other political corporation or subdivision of the state shall be authorized to lend its credit or grant public money or property to any private individual, association or corporation except as provided in Article VI, Section 23(a) and except that the general assembly may authorize any county, city or other political corporation or subdivision to provide for the retirement or pensioning of its officers and employees and the surviving spouses and children of deceased officers and employees and may also authorize payments from any public funds into a fund or funds for paying benefits upon retirement, disability or death to persons employed and paid out of any public fund for educational services and to their beneficiaries or estates; and except, also, that any county of the first class is authorized to provide for the creation and establishment of death benefits, pension and retirement plans for all its salaried employees, and the surviving spouses and minor children of such deceased employees; and except also, any county, city or political corporation or subdivision may provide for the payment of periodic cost of living increases in pension and retirement benefits paid under this section to its retired officers and employees and spouses of deceased officers and employees, provided such pension and retirement systems will remain actuarially sound.

Source: Const. of 1875, Art. IV, §§ 47, 47a, 48a, (as amended November 2, 1948).

(Amended January 14, 1966)

(Amended November 6, 1984)

(1953) Election of St. Louis City board of education to bring school district under workmen's compensation system of state held not violative of constitution particularly in view of teachers' pension

provision of § 25, Art. VI. Hickey v. Board of Education of City of St. Louis, 363 Mo. 1039, 256 S.W.2d 775.

(1968) Allowing proceeds of tax to be expended by private agency violates this section. Ruggeri v. City of St. Louis (Mo.), 429 S.W.2d 765.

(1975) Held an increase in pensions for persons already retired based on cost of living violates Art. VI, § 25, Const. of Mo. and that pension funds retain their identity as public funds. Section 86.441 insofar as it applies to persons already retired on August 13, 1972, is unconstitutional. Police Retirement System v. Kansas City (Mo.), 529 S.W.2d 388.

(1975) Constitutionality upheld as not violating Art. III, § 39, or Art. VI, § 25, of the constitution of Missouri. State ex rel. Dreer v. Public School Retirement System (Mo.), 519 S.W.2d 290.

Article VII

Section 14 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)

ADMINISTRATIVE RULES

Title 16—RETIREMENT SYSTEMS

Division 20—Missouri Local Government Employees' Retirement System (LAGERS)

Chapter 1—General Organization

16 CSR 20-1.010 General Organization

PURPOSE: The purpose of this regulation is to comply with section 536.023(3), RSMo 1986 which requires each agency to adopt as a regulation, a description of its operation and the procedures where the public may obtain information or make submissions or requests.

(1) The Missouri Local Government Employees' Retirement System (LAGERS) is a body corporate established by state law for the purpose of providing for the pensioning of the officers and employees and the widows and children of deceased officers and employees of any political subdivision of the state.

(2) The general administration and the responsibility for the proper operation of the system is vested in a board of trustees consisting of seven (7) persons. Three (3) trustees are elected by the employees who participate in the system, three (3) trustees are elected by the members of the governing bodies of those political subdivisions which participate in the system and one (1) trustee is appointed by the governor. The board of trustees employs an executive secretary, not one of their number, who shall be the executive officer of the board. The board also employs or contracts for the services of an actuary, legal advisor, investment counselors, medical advisors and a certified public accountant.

(3) Anyone wishing to obtain information or make submissions or requests may do so by contacting the system's Executive Secretary at 1913 William Street, P.O. Box 1665, Jefferson City, MO 65102; or by calling (573) 636-9455.

AUTHORITY: section 70.605.21, RSMo 1994. Original rule*

filed Dec. 29, 1975, effective Jan. 8, 1976. Amended: Filed Oct. 31, 1979, effective Feb. 11, 1980. Amended: Filed Feb. 16, 1999, effective July 30, 1999. Original authority 70.605, RSMo 1967, amended 1974, 1992

Chapter 2 - Administrative Rules

16 CSR 20-2.010 Definitions

PURPOSE: The purpose of this rule is to expand on definitions found in section 70.600, RSMo (1986).(1) Employee.

(A) The term employee shall include persons who are neither police officers nor fire fighters, who are employed by, or who become employed by, an employer participating in the system. The term employee may include, at the employer's election, either police officers or fire fighters or both police officers and fire fighters. The term employee shall include elected fee officials and the employees of elected fee officials under the provisions of section 70.600(8) and 70.600(10), RSMo 1994. The term employee may also include a person who is holding the position of mayor, presiding commissioner, president or chairman of a political subdivision, or who is a member of the governing body, if the political subdivision has ten (10) or more other employees, if that person is covered by the federal Social Security program by virtue of the position held with the political subdivision, and if that person files application for membership with the board within the time prescribed by section 70.600(10)(D), RSMo 1994.

(B) The term employee shall not include any person—

1. Who is employed in a position normally requiring less than one thousand five hundred (1500) hours of work a year; provided a political

subdivision, by written certification to the board at the time the employer joins the system, may reduce one thousand five hundred (1500) hours minimum for its employees, which lesser number of hours shall be uniform for all its employees and shall be one thousand two hundred fifty (1250) or one thousand (1000);

2. Who is included as an active member of any other public employee retirement plan by reason of his/her employment with his/her political subdivision, except the federal Social Security program and the County Employees' Retirement System; and

3. Who acts for the political subdivision as an independent contractor or is paid wholly on a fee basis, except elected officials and their employees.

(C) The term "police officer" means any regular or permanent employee of the police department of a political subdivision, including probationary police officers, possessing the duty and power to enforce the general criminal laws of the state or the ordinances of any political subdivision of the state, and who is required to be certified by the "Peace Officer Standards and Training Commission." The term "police officer" includes the terms "peace officer" and "policeman."

1. The term "police officer" shall not include any civilian employee of a police department, or any person temporarily employed as a police officer for an emergency.

(D) The term "firefighter" means any regular or permanent employee of the fire department of a political subdivision, including probationary firefighters, employed for the duty of fighting fires, or whose duties include supervision of firefighting personnel.

The term "firefighter" includes the term "fireman."

1. The term "firefighter" shall not include civilian employees of a fire department; volunteer firefighters; paramedics and/or emergency medical technicians (EMTs), unless they perform firefighting duties in addition to

their paramedic or EMT duties; or any person temporarily employed as a firefighter for an emergency.

(2) Credited Service.

(A) Six (6) or more hours a day of work (or equivalent paid leave time) shall be considered a day of credited service; provided, the six (6) hours minimum shall be reduced to five (5) hours (or equivalent paid leave time) for a political subdivision which has elected to cover employee positions requiring one thousand two hundred fifty (1,250) or more hours of work a year, or to four (4) hours (or equivalent paid leave time) for a political subdivision which has elected to cover employee positions requiring one thousand (1,000) or more hours of work a year.

(B) Fifteen (15) or more days of work as defined in 16 CSR 20-2.010(2)(A) rendered in a calendar month (or equivalent paid leave time) shall be considered a month of credited service; provided the fifteen (15) days minimum shall be reduced to twelve (12) days (or equivalent paid leave time) for a political subdivision which has elected to cover employee positions requiring one thousand two hundred fifty (1,250) or more hours of work a year, or to ten (10) days (or equivalent paid leave time) for a political subdivision which has elected to cover employee positions requiring one thousand (1,000) or more hours of work a year.

(C) In no case shall a member receive more than one (1) year of service credit for service rendered by him/her for one (1) or more employers in any calendar year.

(D) For purposes of computing total service credit at the time of retirement, the first month of employment and/or the last month of employment shall be included in total service credit if fifteen (15) or more calendar days of service rendered in the month(s) in question, provided the fifteen (15) calendar days shall be reduced to twelve (12) calendar days for a political subdivision which elected to cover employee positions requiring one thousand

two hundred fifty (1250) or more hours of work a year or ten (10) calendar days for a political subdivision which has elected to cover employee positions requiring one thousand (1000) or more hours of work a year.

(E) An elected member of the governing body of a political subdivision, who is concurrently employed on a full-time basis, or in a full-time equivalent (FTE) position with a different political subdivision, may be enrolled as a member for both political subdivisions pursuant to section 70.600(10), RSMo subject to the provisions of subsection (2)(C).

(3) Compensation.

(A) Compensation includes all remuneration paid an employee by a political subdivision for personal services rendered by the employee for the political subdivision (in the case of elected fee officials and their employees, refer to section 70.600(8), RSMo 1994).

(B) Remuneration paid by a political subdivision, but not in money, is considered to be compensation subject to employee and employer contributions based on a reasonable value in money to be determined by the political subdivision, subject to the approval of the system.

AUTHORITY: section 70.605.21, RSMo Supp. 2007. Original rule filed Dec. 29, 1975, effective Jan. 8, 1976. Amended: Filed*

*Feb. 16, 1999, effective July 30, 1999. Amended: Filed Feb. 28, 2008, effective Aug. 30, 2008.*Original authority: 70.605, RSMo 1967, amended 1974, 1992, 2000, 2003.*

16 CSR 20-2.015 Determination of Certain Allowances

PURPOSE: The purpose of this rule is to clarify the procedures for determining eligibility and the amounts of allowances applicable to consecutive and/or concurrent periods of employment.

(1) For purposes of determining eligibility for and amounts of allowances applicable to consecutive periods of employment rendered as a police officer or firefighter and then as a general employee, or vice-versa, service credit in each department shall be considered separately. The

final average salary (FAS) used for determining such allowances shall be the final average salary determined on the basis of total credited service.

(2) In those instances where a member has concurrent employment with more than one (1) participating political subdivision in one (1) or more calendar months, when the member submits an application for retirement, the member's final average salary will be calculated separately for each employer, based on either the highest consecutive thirty-six (36) or sixty (60)-months of wages contained in the period of one hundred twenty (120) consecutive months of credited service with each employer immediately preceding the termination of his or her membership.

AUTHORITY: section 70.605.21, RSMo Supp. 2007. Original rule filed Sept. 9, 1985, effective Dec. 15, 1985. Amended: Filed Feb. 28, 2008, effective Aug. 30, 2008. *Original authority: 70.605, RSMo 1967, amended 1974, 1992, 2000, 2003.*

16 CSR 20-2.020 Actuarial Valuations

PURPOSE: The purpose of this rule is to establish guidelines relative to actuarial valuations.

(1) Any political subdivision wishing to affiliate with the Missouri Local Government Employees' Retirement System must first furnish a complete and current actuarial valuation prepared by the system's actuary. The board of trustees shall not accept any application from a political subdivision which has not completed a preliminary actuarial valuation.

(2) The cost of a preliminary actuarial valuation prepared pursuant to section (1) for any political subdivision prior to joining the system shall be borne by the political subdivision.

(3) Regular annual actuarial valuations prepared for participating political subdivisions, after the preliminary actuarial valuation has been prepared, will be at the expense of the system.

(4) The cost of supplemental actuarial valuations used to determine contribution rates for optional benefit programs shall be determined as follows:

(A) The cost of the actuarial valuation for the first optional benefit program in any one (1)

system fiscal year shall be borne by the system; and

(B) The cost of any other optional benefit program in that one (1) system fiscal year shall be borne by the employer.

AUTHORITY: section 70.605.21, RSMo 1994. Original rule filed Dec. 29, 1975, effective Jan. 8, 1976. Amended: Filed Feb. 16, 1999, effective July 30, 1999. *Original authority 70.605, RSMo 1967, amended 1974, 1992.*

16 CSR 20-2.030 Prior Service Credit

PURPOSE: The purpose of this rule is to establish a guideline relative to the election by an employer to cover a certain percent of prior service.

(1) Once a political subdivision has elected a percentage of prior service credit and has certified its election to the board of trustees, it cannot change the percentage certified.

(2) The percentage of prior service credit so certified by the political subdivision shall be the same for all employees of that political subdivision.

AUTHORITY: section 70.605.21, RSMo 1986. Original rule filed Dec. 29, 1975, effective Jan. 8, 1976. Amended: Filed Oct. 6, 1983, effective Jan. 11, 1984. *Original authority: 70.605, RSMo 1967, amended 1974, 1992 and 2000.*

16 CSR 20-2.040 Refunds

PURPOSE: The purpose of this rule is to establish guidelines regarding refunds of employee contributions.

(1) The executive secretary is authorized to make refunds of member's accumulated contributions upon termination of employment with an employer.

(2) The employee must submit a written request for the refund of his/her accumulated contributions, the request to be made out on a form furnished by the board.

(3) The member's employer must certify, in writing, that the employee has left the employ of the employer.

(4) Missouri Local Government Employees' Retirement System (LAGERS) will not refund a

member's accumulated contributions until the employer has remitted the employer statement certifying that the member is no longer receiving remuneration or making contributions to the system. Refunds will not be made before the expiration of sixty (60) days from the date of a member's termination of employment. Refunds are issued on the first working day of a month.

(5) The executive secretary shall report to the board at each meeting of the board, the refunds of employees' accumulated contributions made by him/her since the last meeting of the board. The reports shall be attached to and made a part of the minutes of the board meeting.

(6) The executive secretary may grant a six (6)-month period of time for the repayment of previously refunded contributions.

AUTHORITY: section 70.605.21, RSMo 1994. Original rule filed Dec. 29, 1975, effective Jan. 8, 1976. Amended: Filed Oct. 6, 1983, effective Jan. 11, 1984. Amended: Filed Feb. 16, 1999, effective July 30, 1999. *Original authority 70.605, RSMo 1967, amended 1974, 1992.*

16 CSR 20-2.045 Application for Retirement

PURPOSE: This rule sets forth the factors that will determine the date a member's application for retirement will be considered to have been filed, for purposes of determining the retirement effective date.

(1) Any vested member who has attained the minimum retirement age, or, if an election has been made in accordance with section 70.646, RSMo 1994 to provide for alternate eligibility, have years of attained age and credited service in force which total eighty (80) or more, may file a written application for retirement with the system, including the date on which the member desires his/her retirement to be effective.

(2) For purposes of section 70.645, RSMo 1994, and this rule, the following factors shall determine the date that an application for retirement shall be deemed to have been filed with Missouri Local Government Employees' Retirement System (LAGERS):

(A) If the application is mailed to LAGERS via the U.S. Postal Service, the postmark date, or

postal meter date;

(B) If the application is sent to LAGERS via private/commercial delivery service, the date the application is shipped by the commercial delivery service;

(C) If the application is sent to LAGERS electronically or through facsimile transmission, the date and time the fax transmission is received by LAGERS; and

(D) If the application is personally given to a LAGERS board member or employee, the date of personal delivery.

(3) LAGERS will process applications for retirement in accordance with the effective date indicated by the member, unless there are reasons the retirement cannot become effective on the date selected. Notwithstanding the retirement effective date indicated by the member in his/her application, the retirement effective date shall be not less than thirty (30) days nor more than ninety (90) days from the date the member's application is filed with the system.

AUTHORITY: sections 70.605.21, and 70.645, RSMo 1994. Original rule filed Feb. 16, 1999, effective July 30, 1999. *Original authority 70.605, RSMo 1967, amended 1974, 1992 and 70.645, RSMo 1967, amended 1975, 1977, 1988.*

16 CSR 20-2.050 Waiting Period for Contributions on New Employees

PURPOSE: The purpose of this rule is to clarify the procedures to follow in determining when contributions are to begin for new employees.

(1) If the date of employment of a new employee is any day other than the first calendar day of a month, the six (6)-month waiting period will begin with the first calendar day of the month following the month of employment.

(2) A member is allowed only one (1) six (6)-month waiting period while participating in the system.

(3) If a member was employed in a position requiring less than the number of hours adopted by his/her employer for participation, the date of employment for system purposes would be the date of full-time employment.

AUTHORITY: section 70.605.21, RSMo 1986. Original rule*

*filed Dec. 29, 1975, effective Jan. 8, 1976. Amended: Filed Oct. 6, 1983, effective Jan. 11, 1984. *Original authority: 70.605, RSMo 1967, amended 1974, 1992 and 2000.*

16 CSR 20-2.055 Election of Optional Retirement Benefits

PURPOSE: This rule clarifies the circumstances under which failure to elect an optional retirement benefit will result in payment of a single lifetime benefit.

(1) Under section 70.660, RSMo 1994, after a member's application for retirement has been received by Missouri Local Government Employees' Retirement System (LAGERS), and prior to the effective date of retirement, but not thereafter, a member may elect one of several benefit options, which will provide for payment of an allowance to his/her designated beneficiary in the event of the member's death, thereby reducing the member's allowance for life.

(2) Election of a benefit option pursuant to the provisions of section 70.660, RSMo must be made in writing on a form provided to the member by LAGERS. To be effective, the completed election form must be returned to LAGERS no later than six (6) months from the date the election form is mailed to the member.

(3) If the member fails to make an optional benefit election and/or to return the completed election form to LAGERS within six (6) months from the date the election form is mailed to the member, his or her allowance for life shall be paid as a single lifetime benefit.

(4) For purposes of determining whether an optional benefit election has been made in a timely manner, the following factors shall be determinative:

(A) If the election form is returned to LAGERS via the postal service, the postmark date;

(B) If the election form is returned to LAGERS via private/commercial delivery service, the date the form is shipped by the private/commercial delivery service;

(C) If the election form is sent to LAGERS

via facsimile transmission, the date and time the fax transmission is received by LAGERS; or

(D) If the election form is personally given to a LAGERS board member or employee, the date of personal delivery.

*AUTHORITY: sections 70.605.21, RSMo 1994 and 70.660, RSMo Supp. 1998.*Original rule filed Feb. 16, 1999, effective July 30, 1999.*

**Original authority: 70.605, RSMo 1967, amended 1974, 1992 and 70.660, RSMo 1967, amended 1971, 1972, 1977, 1992, 1998.*

16 CSR 20-2.056 Lump-Sum Cash Payout of Retirement Allowance PURPOSE: This rule establishes the circumstances under which a member or former member may receive a lump-sum cash payout in lieu of a monthly benefit, as provided for in section 70.660.1(4), RSMo 2000 regarding optional retirement elections.

(1) A member or former member who is entitled to a retirement allowance, as defined in section 70.655 or section 70.765, RSMo 2000, may, in accordance with section 70.660.1(4), elect to receive a lump-sum cash payout at retirement that is the actuarial equivalent of the retirement allowance otherwise payable, provided that the value of the reserve at the time of payment is less than ten thousand dollars (\$10,000).

(2) The election to receive a lump-sum cash payment must be made before the first payment of a retirement allowance becomes due and payable, but not thereafter.

(3) The reserve value of the lump-sum payout shall be calculated at the time of the member or former member's retirement.

(4) A member or former member electing to receive a lump-sum cash payout pursuant to the provisions of this rule shall do so by electing payment under Option "D" on the LRS-9, "Election of Allowance Option" form.

AUTHORITY: section 70.605.21, RSMo 2000. Original rule filed Oct. 17, 2001, effective May 30, 2002. *Original authority: 70.605, RSMo 1967, amended 1974, 1992 and 2000.*

16 CSR 20-2.057 Qualified Government Excess Benefit Arrangement (QGEBA)

PURPOSE: This rule implements section 70.655, RSMo and section 415(m) of Title 26 of the United States Code and allows for the payment of benefits in excess of the limits imposed by section 415 of Title 26 of the United States Code to which retirees and beneficiaries are otherwise entitled pursuant to Chapter 70, RSMo.

(1) Definitions.

(A) "Allowance" shall mean the total of a retiree's annuity and pension.

(B) "Annuity" shall mean a monthly amount derived from the accumulated contributions of a member and payable by the system throughout the life of one (1) or more persons or for a temporary period.

(C) "Pension" shall mean a monthly amount derived from contributions of an employer and payable by the system throughout the life of one (1) or more persons or for a temporary period.

(D) "Maximum benefit" shall mean the monthly allowance a retiree or beneficiary is entitled to receive from the retirement system, to the extent the pension component of such allowance does not exceed the annual benefit limit set forth in section 415 of Title 26 of the United States Code, as amended.

(E) "Retirement System" shall mean the Missouri Local Government Employees' Retirement System established pursuant to Chapter 70, RSMo.

(F) "Section 415(m) benefit plan participant" shall mean any retiree or beneficiary whose pension otherwise payable pursuant to Chapter 70, RSMo, would exceed the maximum benefit permitted under section 415 of Title 26 of the United States Code, as amended. Eligibility as a section 415(m) benefit plan participant shall be determined by the retirement system at the time of retirement and annually thereafter.

(G) "Section 415(m) benefit plan" shall mean the separate, unfunded qualified government excess benefit arrangement within the meaning of section 415(m) of Title 26 of the United States Code, as amended, and

established pursuant to administrative rule, and that is separate from the retirement system.

(H) "Unrestricted benefit" shall mean the monthly pension a retiree or beneficiary would have been entitled to receive without giving effect to the limits imposed by section 415 of Title 26 of the United States Code.

(2) A section 415(m) benefit plan participant receiving an allowance from the retirement system pursuant to Chapter 70, RSMo, is entitled to a monthly benefit under the section 415(m) benefit plan in an amount equal to the section 415(m) benefit plan participant's unrestricted benefit less the maximum benefit. In no event shall a retiree or beneficiary receive a total monthly allowance from the retirement system and the section 415(m) benefit plan in excess of the monthly allowance he or she would have been entitled to receive from the retirement system under Chapter 70, RSMo without giving effect to the limits imposed by section 415 of Title 26 of the United States Code.

(3) Any benefit to which a retiree or beneficiary is entitled pursuant to this rule shall be paid at the same time and in the same manner as the benefit would have been paid from the retirement system if the payment of the benefit from the retirement system had not been subject to the limits imposed by section 415 of Title 26 of the United States Code.

(4) Any other provision of law to the contrary notwithstanding, contributions may not be accumulated under the section 415(m) benefit plan to pay future monthly benefits to section 415(m) benefit plan participants. Instead, a portion of each payment of employer contributions made to the retirement system pursuant to the provisions of section 70.730, RSMo shall be paid to the section 415(m) benefit plan in an amount necessary to satisfy the retirement system's obligation to pay section 415(m) benefit plan participants the amount calculated pursuant to section (2), above, as

those amounts become due and payable, as well as those amounts needed to pay reasonable expenses necessary to administer the section 415(m) benefit plan.

(5) The section 415(m) benefit plan is a separate component of the retirement system plan qualified pursuant to section 401(a) of Title 26 of the United States Code and is maintained solely for the purpose of funding and providing benefits to retirees and beneficiaries when the retirees' or beneficiaries' unrestricted benefits would otherwise exceed the limits imposed by section 415 of Title 26 of the United States Code.

(6) A member, retiree, or beneficiary of the retirement system may not directly or indirectly elect to defer payment of benefits or allowances payable pursuant to this rule.

(7) The section 415(m) benefit plan shall be administered in the same manner as the retirement system, pursuant to section 70.605, RSMo.

AUTHORITY: section 70.605.21, RSMo Supp. 2004. Original rule filed Nov. 17, 2004, effective May 30, 2005. *Original authority: 70.605, RSMo 1967, amended 1974, 1992, 2000, 2003.*

16 CSR 20-2.060 Correction of Errors

PURPOSE: The purpose of this rule is to make express the implied authority of the board of trustees to assure that payments in the correct amount are made to former members and their beneficiaries.

(1) Should any change in records or error result in any person receiving from the system more or less than s/he would have been entitled to receive had the records been corrector the error not been made, the executive secretary shall make corrections to the records and as far as is practicable shall adjust the amount of the benefit in such a manner that the correct amount of the benefit to which the person is entitled shall be paid.

(2) In the event that an error, oversight, or miscalculation of benefits results in an active or former member, retirant, or beneficiary being paid less than the amount which s/he was

entitled to receive, the amount of retroactive benefits payable, if any, shall be calculated, and the system shall pay such amount in a lump-sum payment, in addition to adjusting the amount of the current benefit, as otherwise provided in this section.

(3) In the event that an error, oversight, or miscalculation of benefits results in an active or former member, retirant, or beneficiary being paid more than the amount which s/he was entitled to receive, the executive secretary shall notify the individual of the amount of the overpayment, which shall be recovered by the system in accordance with the following policy:

(A) If the active or former member, retirant, or beneficiary is receiving a monthly benefit or other type of recurring payment from the system, Missouri Local Government Employees' Retirement System (LAGERS) will recover the overpayment by reducing the amount of the monthly benefit or recurring payment in an amount equal to twenty-five percent (25%) of the monthly payment or recurring benefit until the full amount of the overpayment has been recovered. The active or former member, retirant, or beneficiary, at their discretion, may authorize LAGERS to reduce their monthly benefit or recurring payments by additional amounts until the full amount of the overpayment has been recovered.

(B) If the benefit reduction provided for in subsection (3)(A) of this rule will not result in a complete recovery of the overpayment within a period of five years from the date of the first reduction of the monthly benefit or recurring payment, LAGERS may further reduce the monthly benefit or recurring payment, up to and including a complete suspension of the monthly benefit or recurring payment, in order to recoup the overpayment, provided that such further reduction may not result in a recovery of the overpayment in a period of less than five years from the date of the initial reduction.

(4) Any correction of errors to member records concerning, but not limited to, name,

remuneration, contributions, marriage, dates of employment, termination or birth, Social Security number, tax status, address or service credit adjustments must be certified to the system in writing.

AUTHORITY: section 70.605.21, RSMo 1994. Original rule filed June 25, 1976, effective Oct. 11, 1976. Amended: Filed Oct. 6, 1983, effective Jan. 11, 1984. Amended: Filed Feb. 16, 1999, effective July 30, 1999. Amended: Filed Aug. 30, 2000, effective Feb. 28, 2001.*Original authority: 70.605, RSMo 1967, amended 1974, 1992.*

16 CSR 20-2.070 Collection of Delinquent Payments PURPOSE: This rule clarifies the procedures to follow when a political subdivision is delinquent in payments to the system.

(1) The system shall notify each political subdivision when its employer statement and remittance is due the system.

(2) If any political subdivision fails to make any payment due, the system shall make the payment due a receivable or shortage on the employer's statement and notify the political subdivision in writing. The political subdivision shall remit the shortage to the system within forty-five (45) days.

AUTHORITY: sections 70.605.21. and 70.735, RSMo 1986. Original rule filed Oct. 6, 1983, effective Jan. 11, 1984. *Original authority: 70.605, RSMo 1967, amended 1974, 1992 and 2000; and 70.735, RSMo 1967, amended 1988.*

16 CSR 20-2.080 Determination of Credited Service for Periods of Absence

PURPOSE: This rule clarifies conditions and procedures for granting credited service for periods of absence from employment resulting from military leave, workers' compensation leave, and educational leave.

(1) In the event the member is on military leave, workers' compensation leave, or educational leave, the member may receive credited service for the period of the absence under the following conditions:

(A) The absence from employment due to the leave, of the type specified in this rule, must extend for one (1) full day or more during the calendar month being considered for credited service; and

(B) The member or member's agent makes application with the board for such credited service.

(2) Member and employer contributions shall be suspended for any month in which a member received credited service pursuant to section(1) of this rule.

(3) Any month of credited service granted pursuant to this rule, pertaining to worker's compensation leave or educational leave, shall not be considered for purposes of determining final average salary.

(4) Any month of credited service granted pursuant to this rule, pertaining to military leave, shall be considered for purposes of determining final average salary in accordance with The Uniformed Services Employment and Re-Employment Rights Act of 1994 (USERRA).

AUTHORITY: section 70.605.21, RSMo Supp. 2009 and section 70.640, RSMo 2000. Original rule filed Oct. 6, 1983, effective Jan. 13, 1984. Rescinded and readopted: Filed Jan. 7, 1988, effective April 1, 1988. Rescinded and readopted: Filed Dec. 10, 2009, effective July 1, 2010. *Original authority: 70.605, RSMo 1967, amended 1974, 1992, 2000, 2003 and 70.640, RSMo 1967, amended 1971, 1973, 1974, 1975, 1979, 1980, 1988, 1992.*

16 CSR 20-2.085 Disability Retirement Applications and Other Relief

PURPOSE: This rule sets forth the procedures to be followed by members filing applications for disability retirement benefits or other types of relief.

(1) A member who makes a written application for disability retirement benefits pursuant to section 70.680, RSMo, or for other relief pursuant to section 70.605.16, RSMo, shall file the application within one (1) year from the date of alleged disability or within one (1) year of the date of the event from which relief is sought under section 70.605.16, RSMo.

(2) For good cause shown, the time period

for filing an application for disability retirement benefits, or application for other relief, ay be extended, at the sole discretion of the board, except as otherwise limited herein.

(A) Requests for extension of time for filing an application for disability retirement benefits or other relief shall be in writing; shall be filed by the member or on the member's behalf; and shall state the reason(s) why the member did not file the application within the one- (1-) year time period specified in section(1).

(B) Requests for extension of time for filing shall be accompanied by the completed application for disability retirement benefits or other relief filed by the member or on the member's behalf and shall include all medical information required by section 70.680, RSMo, if applicable.

(C) In no event shall requests for extension of time for filing an application for disability retirement benefits or other relief be considered after two (2) years from the date of the alleged disability or event from which other relief is sought.

(3) Upon receipt of a request for extension of time to file an application for disability retirement benefits or other relief, the board may grant the extension of time, or deny the request in accordance with the provisions of this rule. If the request is granted, the board will review the application and make its determination. If the request is denied, the member may request a hearing pursuant to the provisions of rule 16 CSR 20-3.010. A member may appeal an adverse determination following such a hearing, in accordance with the provisions of section 70.605.16, RSMo.

(4) Notwithstanding other provisions of this rule to the contrary, the board of trustees, in its sole discretion, may allow the filing of an application for disability retirement benefits by a member without regard to the time frames specified in sections (1) and (2) in those instances where the member submits competent medical evidence that the member

sustained a work-related injury or illness which, due to the latent, chronic, progressive, or debilitating nature of the injury/illness, did not result in the member's permanent disability for an extended period of time, such that the member would otherwise be precluded from filing an application for disability retirement benefits.

AUTHORITY: sections 70.605.16 and 70.605.21, RSMo Supp. 2011, and section 70.680.1, RSMo 2000. Original rule filed Feb. 16, 1999, effective July 30, 1999. Amended: Filed Sept. 26, 2011, effective March 30, 2012. *Original authority 70.605, RSMo 1967, amended 1974, 1992, 2000, 2003 and 70.680, RSMo 1967, amended 1971, 1972, 1975, 1980, 1988, 1992, 2000.*

16 CSR 20-2.090 Nondiscrimination Among Members

PURPOSE: This rule further implements the intent of the statutes and rules which govern the system regarding discrimination among members of a political subdivision.

(1) The provisions of the Local Government Employees' Retirement System shall apply equally to all members without regard to a member's race, color, creed, national origin, or sex.

(2) A participating political subdivision may not discriminate among its employees with respect to any option under the system available to the political subdivision.

AUTHORITY: section 70.605.21, RSMo 1994. Original rule filed Oct. 6, 1983, effective Jan. 11, 1984. Amended: Filed Feb. 16, 1999, effective July 30, 1999. *Original authority 70.605, RSMo 1967, amended 1974, 1992.*

16 CSR 20-2.095 Member Deposit Fund Interest Procedure

PURPOSE: The purpose of this rule is to clarify the procedures to be used in crediting interest to member deposit fund accounts.

(1) The member's date of employment and date of termination shall be used in determining eligibility for interest.

(2) A member who is vested upon termination shall be considered a deferred retirant for the purposes of interest crediting, provided the member elects in writing to wait

to receive any refund until after the interest processing is completed for that fiscal year.

(3) In determining eligibility for interest, should a member be employed long enough in the month of June to receive service credit for that month, s/he shall be considered a member as of June 30 for interest purposes.

(4) A member certified to be on leave of absence by his/her employer shall be considered a member for interest purposes.

16 CSR 20-2.105 Determination of Amount Otherwise Payable During Deflation
PURPOSE: The purpose of this rule is to provide Missouri Local Government Employees' Retirement System's (LAGERS') interpretation of section 70.655.7-.10 et. seq., RSMo, regarding deflation.

(1) For purposes of calculating the redetermined amount of the allowance as set forth under section 70.655.7-.10 et. seq., RSMo, the Missouri Local Government Employees' Retirement System's (LAGERS') Board of Trustees interprets sections 70.655.7-.10 et. seq., RSMo, to not require an actual reduction in the redetermined amount of the retirant's allowance during periods of deflation. If the annual Consumer Price Index (CPI) is negative, there shall be no actual reduction in the redetermined amount of the retiree's allowance.

AUTHORITY: section 70.605.21, RSMo Supp. 2009. Original rule filed Nov. 12, 2009, effective May 30, 2010. *Original authority: 70.605.21, RSMo 1967, amended 1974, 1992, 2000, 2003.*

16 CSR 20-2.110 Military Benefits Payable

PURPOSE: The purpose of this rule is to provide LAGERS' interpretation of the Uniformed Services Employment and Reemployment Rights Act (USERRA)(38 USC 4301 et seq.) and applicable LAGERS' statutes regarding LAGERS' benefits for a member serving in the United States Armed Forces.

(1) For purposes of determining the applicability of Missouri Local Government Employees Retirement System (LAGERS)

benefits to members serving in the United States Armed Forces as set forth in the Uniformed Services Employment and Reemployment Rights Act (USERRA) (38 USC 4301 et seq.), 38 USC 4318 requires the applicability of LAGERS' provided retirement benefits in such a manner that the member on qualified military service pursuant to USERRA and/or applicable Missouri statutes is treated as not having incurred a break in service by reason of such person's period or periods of service in the uniformed services. The LAGERS' Board of Trustees interprets Missouri statutes sections 70.600-70.655 et seq. and section 105.270, RSMo, to provide benefits for death or disability incurred while on such qualified military service. If the death or disability occurred in the line of duty, then benefits will be provided as if the death or disability arose out of and in the course of duty as an employee.

AUTHORITY: section 70.605.21, RSMo Supp. 2010. Original rule filed March 31, 2011, effective Sept. 30, 2011. *Original authority: 70.605, RSMo 1967, amended 1974, 1992, 2000, 2003.*

Chapter 3—Hearings and Proceedings

16 CSR 20-3.010 Hearings and Proceedings

PURPOSE: The purpose of these rules is to facilitate a fair and orderly hearing respecting questions arising from the administration of sections 70.600-70.760, RSMo 1986 and the system membership status of any person, all as provided in the sections and, in particular, by sections 70.605.16, 70.605.21, and 70.630.3, RSMo 1986.

(1) Definitions. The definitions found in section 70.600, RSMo (1986) are applicable to these rules unless otherwise specifically provided or unless plainly contrary to the intent of the rule.

(2) Powers and Duties.

(A) The board of trustees shall cause hearings to be conducted and shall make findings of fact and conclusions of law respecting questions arising from the administration

of sections 70.600-70.760, RSMo 1994 and questions concerning the system membership status of any person.

(B) The conduct of hearings and proceedings by the board of trustees shall be governed by these rules and the provisions of sections 70.600-70.760, RSMo 1994.

(C) Hearings may be conducted by a hearing officer who shall be appointed by the board. The hearing officer shall preside at the hearing and hear all evidence and rule on the admissibility of evidence. The hearing officer shall make recommended findings of fact and may make recommended conclusions of law to the board. All final orders or determinations or other final actions by the board shall be approved in writing by at least four members of the board. Any board member approving in writing any final order, determination, or other final action, who did not attend the hearing, shall do so only after certifying that he or she reviewed all exhibits and read the entire transcript of the hearing.

(3) Initiation of Hearings and Proceedings.

(A) A hearing or proceeding may be initiated by a beneficiary, the board of trustees, an employer, a member, a retirant, the legal advisor of the board of trustees or any person who seeks to become or claims to be a beneficiary, employer, member or retirant.

(B) All hearings and proceedings shall be initiated by petition in writing filed with the executive secretary of the board of trustees. No technical forms of pleadings are required. The petition shall give the full name and address of the petitioner and his/her counsel and shall be signed by the petitioner or his/her counsel. Sufficient copies of the petition shall be furnished by the petitioner to provide a copy for each member of the board of trustees, the executive secretary of the board, the legal advisor of the board and for each necessary party to the proceeding. Suitable space shall remain on the caption of the petition for appropriate identification. All averments

shall be in numbered paragraphs. A petition shall state briefly and concisely the relevant facts from which arise and which present the question(s) respecting the administration of sections 70.600–70.760, RSMo (1986), or the system membership status of any person or rules pertaining to same.

(C) Upon receipt of a petition, the executive secretary of the board of trustees shall cause a copy of the petition to be furnished to each member of the board of trustees and to the legal advisor of the board of trustees and shall cause a copy of the petition to be served upon all necessary parties by certified mail. Necessary parties shall mean interested parties as that term is used in section 70.605.16., RSMo (1986).

(D) Any petition seeking an administrative hearing pursuant to the provisions of this section shall be filed with the executive secretary of the board of trustees no later than sixty (60) days from the date of notification of the decision or action upon which the petition is based.

(4) Answers and Other Pleadings. An interested party has the right to file an answer in response to any petition, which answer shall be in writing and must admit or deny the various averments of the petition. The answer may also contain an affirmative statement of facts believed to be relevant to the issues raised in the petition. The answer shall be signed by the interested party or his/her counsel and filed with the executive secretary of the board of trustees. Sufficient copies shall be furnished to provide a copy for each member of the board of trustees, the executive secretary and the legal advisor. A copy shall be mailed by the interested party to the petitioner. Answers must be filed within twenty (20) days following the mailing of the petition by the executive secretary to the interested parties unless a shorter time is specified in a notice accompanying the petition which shall not be less than five (5) days.

(5) Amendments and Supplementary Pleadings. Petitions may be amended without leave prior to the filing of an answer and

thereafter, by leave or by agreement. Answers may be amended without leave at any time prior to five (5) days preceding the hearing and thereafter only by leave. Motions and additional pleadings may be filed when appropriate with copies to be furnished and distributed as provided for answers in 16 CSR 20-3.010(4).

(6) Prehearing Conferences. Prehearing conferences may be held at the direction and with or without the presence of the board of trustees upon the request of the legal advisor to the board, the petitioner, or any interested party for the purpose of the simplification of the issues, the stipulation of facts and documents to avoid unnecessary proof and other appropriate matters.

(7) Hearings and Notice.

(A) All hearings shall be held in Jefferson City, Missouri, at a place and at a time specified in the notice, unless the convenience of the board of trustees and the parties requires a special setting at another place.

(B) Each petition mailed to an interested party by the executive secretary may be accompanied, at his/her discretion, by a notice of the place, date and time the hearing on the petition will be held. A copy of the notice of hearing will also be mailed to the petitioner and to the legal advisor to the board of trustees. The notice of hearing may be served at a later date if the circumstances warrant at the discretion of the executive secretary. In such case, a notice of the filing of the petition, without a hearing date, shall accompany the petition and be furnished each interested party and the legal advisor to the board of trustees. The notice shall also identify the proceeding and inform each interested party of his/her right to file an answer within twenty (20) days of the date of the notice.

(C) The hearing date may be continued from time-to-time by the board of trustees and upon notice to the parties. Any party may request a continuance for good cause. Notice shall be given to all parties by ordinary mail of a continuance and any new hearing place, date

and time.

(D) All hearings shall be open to the public. All parties have the right to be present and to be represented by legal counsel.

(E) The petitioner will present his/her proof, following which other parties shall present their proof in an order determined by the board of trustees. Written stipulations may be filed respecting the facts.

(F) The proceedings in all hearings shall be suitably recorded and preserved by the board of trustees who shall cause to be prepared one (1) copy of the transcript of the hearing, unless the preparation is waived by all parties. Additional copies of the transcript will be prepared at the request and expense of the party(ies) requesting the copies.

(8) Decisions. The board of trustees shall make findings of fact and conclusions of law and enter its decision. A copy shall be mailed to all parties or their counsel, by certified mail, on or prior to the effective date of the decision.

(9) Judicial Review. Any party adversely affected by the decision may seek judicial review under the provisions of chapter 536, RSMo (1986).

AUTHORITY: sections 70.605.16 and 70.605.21, RSMo 2000. Original rule filed Dec. 29, 1975, effective Jan. 8, 1976. Amended: Filed Aug. 30, 2000, effective Feb. 28, 2001. Amended: Filed Oct. 17, 2001, effective May 30, 2002. *Original authority: 70.605, RSMo 1967, amended 1974, 1992, 2000.*

Chapter 4—Actuarial Assumptions

16 CSR 20-4.010 Actuarial Assumptions

PURPOSE: This rule complies with the provisions of section 70.605.14., RSMo 1986, regarding the adoption of mortality and other tables of experience relative to employees.

(1) The investment return rate used in making the valuations is seven and twenty-five hundredths percent (7.25%) per year, compounded annually. This rate of return is not the assumed real rate of return. The real rate of return is the rate of investment return in excess of the inflation rate. Considering other

financial assumptions, the seven and twentyfive hundredths percent (7.25%) investment return rate translates to an assumed real rate of return of three and seventy-five hundredths percent (3.75%). Adopted 2011.

(2) The mortality table used in evaluating allowances to be paid is one hundred five percent (105%) of the 1994 Group Annuity Mortality Table setback zero (0) years for men and zero (0) years for women. Adopted 2011.

(3) The probabilities of retirement with an age and service allowance are shown in Table 1, included herein. Adopted 2011.

(4) The probabilities of withdrawal from service together with individual pay increase assumptions are shown in Table 2, included herein. Adopted 2011.

(5) Total active member payroll is assumed to increase three and fifty hundredths percent (3.5%) per year, which is the portion of the individual pay increase assumptions attributable to inflation. In effect, this assumes no change in the number of active members per employer. Adopted 2011.

(6) An individual entry-age normal cost method of valuation is used in determining age and service allowance actuarial liabilities and normal cost. Adopted 1986.

(7) The actuarial valuation computations are made by or under the supervision of a Member of the American Academy of Actuaries (MAAA).

AUTHORITY: section 70.605.14, RSMo Supp. 2011. Original rule filed Dec. 29, 1975, effective Jan. 8, 1976. Amended: Filed July 1, 1977, effective Oct. 13, 1977. Amended: Filed Oct. 31, 1979, effective Feb. 11, 1980. Amended: Filed Sept. 9, 1985, effective Dec. 15, 1985. Rescinded and readopted: Filed Aug. 3, 1987, effective Nov. 23, 1987. Amended: Filed Feb. 16, 1999, effective July 30, 1999. Amended: Filed Sept. 26, 2011, effective March 30, 2012.*

Notes:

The logo is a large, light blue circular seal with a scalloped outer edge. Inside the seal, the words "MISSOURI" and "LAGERS" are written in a serif font, following the curve of the top and bottom respectively. In the center of the seal is a map of the state of Missouri. Two white five-pointed stars are positioned on the left and right sides of the seal, between the words "MISSOURI" and "LAGERS".

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