

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 372
98TH GENERAL ASSEMBLY

Reported from the Committee on General Laws and Pensions, March 19, 2015, with recommendation that the Senate Committee Substitute do pass.

1801S.03C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal section 105.915, RSMo, and to enact in lieu thereof one new section relating to the state of Missouri deferred compensation plan.

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

Section A. Section 105.915, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 105.915, to read as follows:

105.915. 1. The board of trustees of the Missouri state employees'
2 retirement system shall administer the deferred compensation fund for the
3 employees of the state of Missouri that was previously administered by the
4 deferred compensation commission, as established in section 105.910, prior to
5 August 28, 2007. The board shall be vested with the same powers that it has
6 under chapter 104 to enable it and its officers, employees, and agents to
7 administer the fund under sections 105.900 to 105.927.

8 2. Except as provided in this subsection, participation in such plan shall
9 be by a specific written agreement between state employees and the state, which
10 shall provide for the deferral of such amounts of compensation as requested by
11 the employee subject to any limitations imposed under federal law. Participating
12 employees must authorize that such deferrals be made from their wages for the
13 purpose of participation in such program. An election to defer compensation shall
14 be made before the beginning of the month in which the compensation is
15 paid. Contributions shall be made for payroll periods occurring on or after the
16 first day of the month after the election is made. Each employee eligible to
17 participate in the plan hired **or rehired** on or after July 1, 2012, shall be
18 enrolled in the plan automatically and his or her employer shall, in accordance

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 with the plan document, withhold and contribute to the plan an amount equal to
20 one percent of eligible compensation received on and after the date of hire, unless
21 the employee elects not to participate in the plan within the first thirty days of
22 employment, and in that event, any amounts contributed and earnings thereon
23 will be refunded by the plan to the employee pursuant to the procedure contained
24 in the plan documents. Employees who are employed by a state college or
25 university shall not be automatically enrolled but may elect to participate in the
26 plan and make contributions in accordance with the terms of the
27 plan. Employees who are enrolled automatically may elect to change the
28 contribution rate in accordance with the terms of the plan. Employees who elect
29 not to participate in the plan may at a later date elect to participate in the plan
30 and make contributions in accordance with the terms of the plan.

31 **3. Effective July 1, 2016, the plan shall offer employees the**
32 **option to automatically increase the amount of compensation deferred**
33 **under subsection 2, subject to any limitations imposed under federal**
34 **law. Each employee hired or rehired on or after such date shall**
35 **automatically be enrolled in the automatic increase feature of the**
36 **plan. Automatic increases shall commence during a period ending no**
37 **later than sixty days after the beginning of the fiscal year following the**
38 **employee's one year anniversary of employment or re-**
39 **employment. Deferrals shall increase annually in the default amount**
40 **of one-half of one percent and continue increasing by one-half of one**
41 **percent each period thereafter until reaching five percent of**
42 **salary. Employees enrolled in the automatic increase feature may elect**
43 **to make an adjustment to increase or decrease the default automatic**
44 **escalation amount in one-tenth of one percent**
45 **increments. Notwithstanding the foregoing, employees may elect to**
46 **terminate participation in the auto increase feature of the plan at any**
47 **time. Employees enrolled in the automatic increase feature shall be**
48 **provided annual notice prior to the beginning of each fiscal year of the**
49 **elections provided under this subsection.** All assets and income of such
50 fund shall be held in trust by the board for the exclusive benefit of participants
51 and their beneficiaries. Assets of such trust, and the trust established pursuant
52 to section 105.927, may be pooled solely for investment management purposes
53 with assets of the trust established under section 104.320.

54 **[3.] 4. Notwithstanding any other provision of sections 105.900 to**

55 105.927, funds held for the state by the board in accordance with written deferred
56 compensation agreements between the state and participating employees may be
57 invested in such investments as are deemed appropriate by the board. All
58 administrative costs of the program described in this section, including staffing
59 and overhead expenses, may be paid out of assets of the fund, which may reduce
60 the amount due participants in the fund. Such investments shall not be
61 construed to be a prohibited use of the general assets of the state.

62 [4.] 5. Investments offered under the deferred compensation fund for the
63 employees of the state of Missouri shall be made available at the discretion of the
64 board.

65 [5.] 6. The board and employees of the Missouri state employees'
66 retirement system shall be immune from suit and shall not be subject to any
67 claim or liability associated with any administrative actions or decisions made by
68 the commission with regard to the deferred compensation program prior to the
69 transfer made to the board under section 105.910.

70 [6.] 7. The board and employees of the system shall not be liable for the
71 investment decisions made or not made by participating employees as long as the
72 board acts with the same skill, prudence, and diligence in the selection and
73 monitoring of providers of investment products, education, advice, or any default
74 investment option, under the circumstances then prevailing that a prudent person
75 acting in a similar capacity and familiar with those matters would use in the
76 conduct of a similar enterprise with similar aims.

77 [7.] 8. The system shall be immune from suit and shall not be subject to
78 any claim or liability associated with the administration of the deferred
79 compensation fund by the board and employees of the system.

80 [8.] 9. Beginning on or after September 1, 2011, if a participant under
81 the deferred compensation plan or the plan established under section 105.927 is
82 married on the date of his or her death, the participant's surviving spouse shall
83 be automatically designated as the primary beneficiary under both plans, unless
84 the surviving spouse consented in writing, witnessed by a notary public, to allow
85 the participant to designate a nonspouse beneficiary. As used in this subsection,
86 "surviving spouse" means the spouse as defined pursuant to section 104.012 to
87 whom the participant is lawfully married on the date of death of the participant,
88 provided that a former spouse shall be treated as the surviving spouse of the
89 participant to the extent provided under a judgment, decree, or order that relates
90 to child support, alimony payments, or marital property rights made under

91 Missouri domestic relations law that creates or recognizes the existence of such
92 former spouse's right to receive all or a portion expressed as a stated dollar
93 amount or specific percentage stated in integers of the benefits payable from such
94 plan upon the death of the participant. This subsection shall not apply to
95 beneficiary designations made prior to September 1, 2011.

96 [9.] **10.** The board may adopt and amend plan documents to change the
97 terms and conditions of the deferred compensation plan and the plan established
98 under section 105.927 that are consistent with federal law.

Unofficial ✓

Bill

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