

FIRST REGULAR SESSION

# SENATE BILL NO. 372

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEAVENY.

Read 1st time February 2, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1801S.011

## 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Section A. Section 105.915, RSMo, is repealed and one new section  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  
19 with the plan document, withhold and contribute to the plan an amount equal to

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

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 increments. Notwithstanding**  
45 **the foregoing, employees may elect to terminate participation in the auto**  
46 **increase feature of the plan at any time.** All assets and income of such fund  
47 shall be held in trust by the board for the exclusive benefit of participants and  
48 their beneficiaries. Assets of such trust, and the trust established pursuant to  
49 section 105.927, may be pooled solely for investment management purposes with  
50 assets of the trust established under section 104.320.

51 [3.] **4. Notwithstanding any other provision of sections 105.900 to**  
52 **105.927, funds held for the state by the board in accordance with written deferred**  
53 **compensation agreements between the state and participating employees may be**  
54 **invested in such investments as are deemed appropriate by the board. All**  
55 **administrative costs of the program described in this section, including staffing**

56 and overhead expenses, may be paid out of assets of the fund, which may reduce  
57 the amount due participants in the fund. Such investments shall not be  
58 construed to be a prohibited use of the general assets of the state.

59 [4.] 5. Investments offered under the deferred compensation fund for the  
60 employees of the state of Missouri shall be made available at the discretion of the  
61 board.

62 [5.] 6. The board and employees of the Missouri state employees'  
63 retirement system shall be immune from suit and shall not be subject to any  
64 claim or liability associated with any administrative actions or decisions made by  
65 the commission with regard to the deferred compensation program prior to the  
66 transfer made to the board under section 105.910.

67 [6.] 7. The board and employees of the system shall not be liable for the  
68 investment decisions made or not made by participating employees as long as the  
69 board acts with the same skill, prudence, and diligence in the selection and  
70 monitoring of providers of investment products, education, advice, or any default  
71 investment option, under the circumstances then prevailing that a prudent person  
72 acting in a similar capacity and familiar with those matters would use in the  
73 conduct of a similar enterprise with similar aims.

74 [7.] 8. The system shall be immune from suit and shall not be subject to  
75 any claim or liability associated with the administration of the deferred  
76 compensation fund by the board and employees of the system.

77 [8.] 9. Beginning on or after September 1, 2011, if a participant under  
78 the deferred compensation plan or the plan established under section 105.927 is  
79 married on the date of his or her death, the participant's surviving spouse shall  
80 be automatically designated as the primary beneficiary under both plans, unless  
81 the surviving spouse consented in writing, witnessed by a notary public, to allow  
82 the participant to designate a nonspouse beneficiary. As used in this subsection,  
83 "surviving spouse" means the spouse as defined pursuant to section 104.012 to  
84 whom the participant is lawfully married on the date of death of the participant,  
85 provided that a former spouse shall be treated as the surviving spouse of the  
86 participant to the extent provided under a judgment, decree, or order that relates  
87 to child support, alimony payments, or marital property rights made under  
88 Missouri domestic relations law that creates or recognizes the existence of such  
89 former spouse's right to receive all or a portion expressed as a stated dollar  
90 amount or specific percentage stated in integers of the benefits payable from such  
91 plan upon the death of the participant. This subsection shall not apply to

92 beneficiary designations made prior to September 1, 2011.

93           **[9.] 10.** The board may adopt and amend plan documents to change the  
94 terms and conditions of the deferred compensation plan and the plan established  
95 under section 105.927 that are consistent with federal law.

✓

Unofficial

Bill

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