8-2 Compliance with Internal Revenue Code and Regulations

1) Sections 104.010 and 104.1003 require that benefits paid by the system not exceed the limitations of Internal Revenue Code Section 415.

In no event shall the annual benefit under this Plan maintained by the Employer exceed the amount specified in Code Section 415(b)(1)(A), as adjusted for any applicable increases in the cost of living in accordance with Code Section 415(d), as in effect on the last day of the Plan Year. Notwithstanding anything to the contrary in this board rule, the annual benefit, when paid in the form of a joint and survivor annuity, can be as great as that of a single life annuity for the member, not in excess of the limitations contained in the first sentence of this board rule, plus a survivor annuity at the same level for the member’s spouse.

Code Section 415 is hereby incorporated by reference; provided that the repeal of Code Section 415(e), which is effective for limitation years beginning on or after July 1, 2000, shall apply only to a member whose accrued benefit increases on or after July 1, 2000. The reduced limitation for early retirement benefits shall be determined in accordance with applicable regulations using the actuarial assumptions prescribed in the Plan, except as otherwise required by Section 415(b)(2)(E) of the Code. The reduced limitation for early retirement benefits and the adjustment for any form of benefit subject to Section 417(e)(3) of the Code shall be determined in accordance with applicable regulations using the actuarial assumptions prescribed in the Plan, except as otherwise required by Section 415(b)(2)(E) of the Code. With respect to distributions made during the Plan Year beginning in 2004 or the Plan Year beginning in 2005, the applicable interest rate shall be 5.5%. With respect to distributions made for Plan Years beginning on or after July 1, 2006, the applicable interest shall be the greater of (i) 5.5%; (ii) the rate that provides for a benefit of not more than 105% of the benefit that would be provided if the applicable rate (as defined in Code Section 417(e)(3)) were the interest rate assumption, or (iii) the rate specified in the Plan. With respect to Plan Years beginning on or after July 1, 2008, the mortality table used shall be the applicable mortality table (within the meaning of Code Section 417(e)(3)(B)).

To the extent permitted by Treas. Reg. §1.415(b)-1(c)(5), no adjustment shall be required to a benefit that is paid in a form that is not a straight life annuity to take into account the inclusion of an automatic benefit increase feature in such form of benefit. In no event will the amount payable in any limitation year to a member under a form of benefit with an automatic benefit increase feature be greater than the Code Section 415(b) limit applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the Code and Treas. Reg. §1.415(d)-1. In the case of a member who received any portion of his or her benefit in the form of payment that is subject to Code Section 417(e)(3), the exception provided for in this paragraph shall not apply to his or her entire benefit.

Reduction of benefits or contributions to all plans, where required to comply with this board rule, shall be accomplished by reducing the member’s benefit under any defined benefit plans maintained by the employer in which he or she participated, such reduction to be made first with respect to the plan in which he or she most recently accrued benefits and thereafter in such priority as shall be determined by the system.
2) Sections 104.330 and 104.1021 require that employees shall receive creditable service and salary credit mandated by federal law under the Uniformed Services Employment and Reemployment Rights Act.

Notwithstanding any provision of the Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code. If a member dies while performing qualified military service on or after January 1, 2007, the survivors of the member are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the member had resumed employment and then experienced a termination of employment on account of death. For years beginning after December 31, 2008: (a) an individual performing service in the uniformed services (as described in Section 3401(h)(2)(A) of the Code) for a period of more than 30 days receiving a differential wage payment from an employer shall be treated as an employee of such employer; and (b) the differential wage payment (as described in Section 3401(h)(2) of the Code) shall be treated as compensation.

3) Sections 104.401, 104.415, and 104.1048 require that the system comply with minimum distribution requirements in Section 401(a)(9) of the Internal Revenue Code.

Regardless of any election of the member, the member’s entire interest under the Plan shall be distributed in the form of nonincreasing periodic annuity payments over the life of the member or the joint lives of the member and a designated beneficiary (or over a period not extending beyond the life expectancy of the member or the joint life expectancy of the member and a designated beneficiary), beginning no later than the member’s required beginning date. The term “required beginning date” means the April 1 of the calendar year following the later of (a) the calendar year in which the member attains age \(70\frac{1}{2}\); and (b) the calendar year in which the member incurs a termination of employment.

If a member dies after payments have begun in accordance with the immediately preceding paragraph but before the member’s entire interest has been distributed, the remaining portion of such interest shall be distributed at least as rapidly as under the method of distribution in effect as of the date of the member’s death. If a member dies before payments have begun in accordance with the immediately preceding paragraph, the entire interest of the member shall be distributed:

a) if payable to (or for the benefit of) a designated beneficiary in a form other than a single sum distribution, over the life of the designated beneficiary (or over a period not extending beyond the life expectancy of such beneficiary), beginning not later than one year after the date of the member’s death, or if the sole designated beneficiary is the member’s surviving spouse, by December 31st of the calendar year in which the member would have attained age \(70\frac{1}{2}\), if later; and
b) if payable to (or for the benefit of) a designated beneficiary in the form of a single sum distribution, the entire interest of the member shall be distributed within five years after the member’s death.

If the surviving spouse described in subparagraph (a) above dies before the distributions to such spouse begin, this subsection shall be applied as if the surviving spouse were the member.

Section 401(a)(9) of the Code, including the incidental death benefit requirements of Section 401(a)(9)(G), is hereby incorporated by reference, and distributions under this Plan shall be made no later than the times and no less than in the amounts determined in accordance with a reasonable and good faith interpretation of such Code Section. All distributions required under this subsection will be determined and made in accordance with a reasonable and good faith interpretation of Section 401(a)(9) of the Code. The requirements of this board rule will take precedence over any inconsistent provisions of the Plan. The provisions of this paragraph shall apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.

For members who attained age 70 ½ on or before December 31, 2019, age 70 ½ shall be used in place of age 72 for purposes of this section.

4) Section 104.605 allows the system to make certain rollover distributions in compliance with the Internal Revenue Code and regulations.

A distributee may elect, at the time and in the manner prescribed by the system, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee (a “direct rollover”). A distributee includes an employee or former employee. In addition, the employee’s or former employee’s surviving spouse and the employee’s or former employee’s spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee’s designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and any hardship distribution. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or effective January 1, 2007, such amount may be transferred in a direct trustee-to-trustee transfer to a qualified trust described in Section 401(a) of the Code or an annuity contract described in Section 403(b) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the
portion of such distribution which is includible in gross income and the portion of such
distribution which is not so includible.

An eligible retirement plan is an individual retirement account described in
Section 408(a) of the Code, an individual retirement annuity described in Section
408(b) of the Code, a Roth IRA described in Section 408A(b) of the Code (effective for
distributions after December 31, 2007), an annuity plan described in Section 403(a) of
the Code, or a qualified plan described in Section 401(a) of the Code, that accepts the
distributee’s eligible rollover distribution. An eligible retirement plan shall also mean
an annuity contract described in Section 403(b) of the Code and an eligible plan under
Section 457(b) of the Code which is maintained by a state, political subdivision of a
state, or any agency or instrumentality of a state or political subdivision of a state and
which agrees to separately account for amounts transferred into such plan from this
Plan.

Effective for distributions after December 31, 2009, a non-spouse beneficiary may elect
to receive his or her distribution from the Plan in the form of a direct trustee- to-trustee
transfer to an eligible retirement plan in accordance with Section
402(c)(11) of the Code.

5) Sections 104.320 and 104.1006 provide the board authority to administer the
system including making investments of system assets. Sections 105.915 and
105.927 provide the board authority to designate the investments available under the
plans established pursuant to Sections 105.900 to 105.927 (the State of Missouri
Deferred Compensation 457(b) Plan for Public Employees and the State of Missouri
Deferred Compensation Incentive 401(a) Plan for Public Employees, hereinafter the
“Deferred Compensation Plans”). Section 105.915 provides that the assets of the
Deferred Compensation Plans may be pooled solely for investment management
purposes with assets of the trust established by the board’s authority under Section
104.320. For these purposes, assets of the system may be commingled with the assets
of the Deferred Compensation Plans in any collective investment fund, including
common and group trust funds that consist exclusively of assets of exempt pension and
profit sharing trusts and individual retirement accounts, custodial accounts, retirement
income accounts, governmental plans and tax-exempt trusts under the Internal Revenue
2011-1. The assets so invested shall be subject to all the provisions of the
instruments establishing and governing such funds. Those instruments of group
trusts, including any subsequent amendments, are hereby incorporated by reference
and made a part of the closed plan, MSEP 2000 plan, or (inclusive) each of the
Deferred Compensation Plans, as applicable, to the extent of the system’s investment
therein.

6) The provisions of this board rule will apply to the closed plan and the MSEP 2000 plan.
The provisions of paragraph 5 of this board rule will also apply to the Deferred Compensation
Plans.