

SECOND REGULAR SESSION

# HOUSE BILL NO. 1724

91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FROELKER.

Read 1<sup>st</sup> time January 30, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4027L.02I

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## AN ACT

To repeal section 169.070, RSMo, and to enact in lieu thereof one new section relating to the public school retirement system, with an emergency clause.

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

Section A. Section 169.070, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 169.070, to read as follows:

169.070. 1. The retirement allowance of a member whose age at retirement is sixty years or more and whose creditable service is five years or more, or whose sum of age and creditable service equals eighty years or more, or who has attained age fifty-five and whose creditable service is twenty-five years or more or whose creditable service is thirty years or more regardless of age, may be the sum of the following items, not to exceed one hundred percent of the member's final average salary:

(1) Two and five-tenths percent of the member's final average salary for each year of membership service;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service not exceeding thirty years.

11

In lieu of the retirement allowance otherwise provided in subdivisions (1) and (2) of this subsection, a member may elect to receive a retirement allowance of:

(3) Between July 1, 1998, and July 1, 2003, two and four-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-nine years or more but less than thirty years, and the member has not attained age fifty-five;

(4) Between July 1, 1998, and July 1, 2003, two and thirty-five-hundredths percent of

19 the member's final average salary for each year of membership service, if the member's creditable  
20 service is twenty-eight years or more but less than twenty-nine years, and the member has not  
21 attained age fifty-five;

22 (5) Between July 1, 1998, and July 1, 2003, two and three-tenths percent of the member's  
23 final average salary for each year of membership service, if the member's creditable service is  
24 twenty-seven years or more but less than twenty-eight years, and the member has not attained  
25 age fifty-five;

26 (6) Between July 1, 1998, and July 1, 2003, two and twenty-five-hundredths percent of  
27 the member's final average salary for each year of membership service, if the member's creditable  
28 service is twenty-six years or more but less than twenty-seven years, and the member has not  
29 attained age fifty-five;

30 (7) Between July 1, 1998, and July 1, 2003, two and two-tenths percent of the member's  
31 final average salary for each year of membership service, if the member's creditable service is  
32 twenty-five years or more but less than twenty-six years, and the member has not attained age  
33 fifty-five;

34 (8) Between July 1, 2001, and June 30, 2008, two and fifty-five hundredths percent of  
35 the member's final average salary for each year of membership service, if the member's creditable  
36 service is thirty-one years or more **but less than thirty-two, regardless of age, two and six-**  
37 **tenths percent of the member's final average salary for each year of membership service**  
38 **if the member's creditable service is thirty-two years or more but less than thirty-three,**  
39 **regardless of age, two and sixty-five hundredths percent of the member's final average**  
40 **salary for each year of membership service if the member's creditable service is thirty-**  
41 **three years or more but less than thirty-four, regardless of age, and two and seven-tenths**  
42 **percent of the member's final average salary for each year of membership service if the**  
43 **member's creditable service is thirty-four or more, regardless of age.**

44 2. In lieu of the retirement allowance provided in subsection 1 of this section, a member  
45 whose age is sixty years or more on September 28, 1975, may elect to have the member's  
46 retirement allowance calculated as a sum of the following items:

47 (1) Sixty cents plus one and five-tenths percent of the member's final average salary for  
48 each year of membership service;

49 (2) Six-tenths of the amount payable for a year of membership service for each year of  
50 prior service not exceeding thirty years;

51 (3) Three-fourths of one percent of the sum of subdivisions (1) and (2) of this subsection  
52 for each month of attained age in excess of sixty years but not in excess of age sixty-five.

53 3. (1) In lieu of the retirement allowance provided either in subsection 1 or 2 of this  
54 section, collectively called "option 1", a member whose creditable service is twenty-five years

55 or more or who has attained the age of fifty-five with five or more years of creditable service may  
56 elect in the member's application for retirement to receive the actuarial equivalent of the  
57 member's retirement allowance in reduced monthly payments for life during retirement with the  
58 provision that:

59       Option 2. Upon the member's death the reduced retirement allowance shall be continued  
60 throughout the life of and paid to such person as has an insurable interest in the life of the  
61 member as the member shall have nominated in the member's election of the option, and  
62 provided further that if the person so nominated dies before the retired member, the retirement  
63 allowance will be increased to the amount the retired member would be receiving had the retired  
64 member elected option 1; OR

65       Option 3. Upon the death of the member three-fourths of the reduced retirement  
66 allowance shall be continued throughout the life of and paid to such person as has an insurable  
67 interest in the life of the member and as the member shall have nominated in an election of the  
68 option, and provided further that if the person so nominated dies before the retired member, the  
69 retirement allowance will be increased to the amount the retired member would be receiving had  
70 the member elected option 1; OR

71       Option 4. Upon the death of the member one-half of the reduced retirement allowance  
72 shall be continued throughout the life of, and paid to, such person as has an insurable interest in  
73 the life of the member and as the member shall have nominated in an election of the option, and  
74 provided further that if the person so nominated dies before the retired member, the retirement  
75 allowance shall be increased to the amount the retired member would be receiving had the  
76 member elected option 1; OR

77       Option 5. Upon the death of the member prior to the member having received one  
78 hundred twenty monthly payments of the member's reduced allowance, the remainder of the one  
79 hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as  
80 the member shall have nominated in the member's election of the option or in a subsequent  
81 nomination. If there is no beneficiary so nominated who survives the member for the remainder  
82 of the one hundred twenty monthly payments, the reserve for the remainder of such one hundred  
83 twenty monthly payments shall be paid to the estate of the last person to receive a monthly  
84 allowance; OR

85       Option 6. Upon the death of the member prior to the member having received sixty  
86 monthly payments of the member's reduced allowance, the remainder of the sixty monthly  
87 payments of the reduced allowance shall be paid to such beneficiary as the member shall have  
88 nominated in the member's election of the option or in a subsequent nomination. If there is no  
89 beneficiary so nominated who survives the member for the remainder of the sixty monthly  
90 payments, the reserve of the remainder of such sixty monthly payments shall be paid to the estate

91 of the last person to receive a monthly allowance.

92 (2) The election of an option may be made only in the application for retirement and such  
93 application must be filed prior to the date on which the retirement of the member is to be  
94 effective. If either the member or the person nominated to receive the survivorship payments  
95 dies before the effective date of retirement, the option shall not be effective, provided that:

96 (a) If the member or a person retired on disability retirement dies after acquiring  
97 twenty-five or more years of creditable service or after attaining the age of fifty-five years and  
98 acquiring five or more years of creditable service and before retirement, except retirement with  
99 disability benefits, and the person named by the member as the member's primary beneficiary  
100 has an insurable interest in the life of the deceased member, the designated beneficiary may elect  
101 to receive either survivorship benefits under option 2 or a payment of the accumulated  
102 contributions of the member. If survivorship benefits under option 2 are elected and the member  
103 at the time of death would have been eligible to receive an actuarial equivalent of the member's  
104 retirement allowance, the designated beneficiary may further elect to defer the option 2 payments  
105 until the date the member would have been eligible to receive the retirement allowance provided  
106 in subsection 1 or 2 of this section;

107 (b) If the member or a person retired on disability retirement dies before attaining age  
108 fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the  
109 person named as the member's primary beneficiary has an insurable interest in the life of the  
110 deceased member, the designated beneficiary may elect to receive either a payment of the  
111 member's accumulated contributions, or survivorship benefits under option 2 to begin on the date  
112 the member would first have been eligible to receive an actuarial equivalent of the member's  
113 retirement allowance, or to begin on the date the member would first have been eligible to  
114 receive the retirement allowance provided in subsection 1 or 2 of this section.

115 4. If the total of the retirement allowance paid to an individual before the death of the  
116 individual is less than the accumulated contributions at the time of retirement, the difference  
117 shall be paid to the beneficiary of the individual, or to the estate of the individual, if there be no  
118 beneficiary. If an optional benefit as provided in option 2, 3 or 4 in subsection 3 of this section  
119 had been elected, and the beneficiary dies after receiving the optional benefit, and if the total  
120 retirement allowance paid to the retired individual and the beneficiary of the retired individual  
121 is less than the total of the contributions, the difference shall be paid to the estate of the  
122 beneficiary unless the retired individual designates a different recipient with the board at or after  
123 retirement.

124 5. If a member dies before receiving a retirement allowance, the member's accumulated  
125 contributions at the time of the death of the member shall be paid to the beneficiary of the  
126 member or to the estate of the member, if there be no beneficiary; except that, no such payment

127 shall be made if the beneficiary elects option 2 in subsection 3 of this section, unless the  
128 beneficiary dies before having received benefits pursuant to that subsection equal to the  
129 accumulated contributions of the member, in which case the amount of accumulated  
130 contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the  
131 estate of the beneficiary.

132         6. If a member ceases to be a public school employee as herein defined and certifies to  
133 the board of trustees that such cessation is permanent, or if the membership of the person is  
134 otherwise terminated, the member shall be paid the member's accumulated contributions with  
135 interest.

136         7. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, if a  
137 member ceases to be a public school employee after acquiring five or more years of membership  
138 service in Missouri, the member may at the option of the member leave the member's  
139 contributions with the retirement system and claim a retirement allowance any time after  
140 reaching the minimum age for voluntary retirement. When the member's claim is presented to  
141 the board, the member shall be granted an allowance as provided in sections 169.010 to 169.141  
142 on the basis of the member's age, years of service, and the provisions of the law in effect at the  
143 time the member requests the member's retirement to become effective.

144         8. The retirement allowance of a member retired because of disability shall be  
145 nine-tenths of the allowance to which the member's creditable service would entitle the member  
146 if the member's age were sixty, or fifty percent of one-twelfth of the annual salary rate used in  
147 determining the member's contributions during the last school year for which the member  
148 received a year of creditable service immediately prior to the member's disability, whichever is  
149 greater, except that no such allowance shall exceed the retirement allowance to which the  
150 member would have been entitled upon retirement at age sixty if the member had continued to  
151 teach from the date of disability until age sixty at the same salary rate.

152         9. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, from  
153 October 13, 1961, the contribution rate pursuant to sections 169.010 to 169.141 shall be  
154 multiplied by the factor of two-thirds for any member of the system for whom federal Old Age  
155 and Survivors Insurance tax is paid from state or local tax funds on account of the member's  
156 employment entitling the person to membership in the system. The monetary benefits for a  
157 member who elected not to exercise an option to pay into the system a retroactive contribution  
158 of four percent on that part of the member's annual salary rate which was in excess of four  
159 thousand eight hundred dollars but not in excess of eight thousand four hundred dollars for each  
160 year of employment in a position covered by this system between July 1, 1957, and July 1, 1961,  
161 as provided in subsection 10 of this section as it appears in RSMo 1969, shall be the sum of:

162         (1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for

163 years of membership service;

164 (2) For years of membership service after July 1, 1946, in which the full contribution rate  
165 was paid, full benefits under the formula in effect at the time of the member's retirement;

166 (3) For years of membership service after July 1, 1957, and prior to July 1, 1961, the  
167 benefits provided in this section as it appears in RSMo 1959; except that if the member has at  
168 least thirty years of creditable service at retirement the member shall receive the benefit payable  
169 pursuant to that section as though the member's age were sixty-five at retirement;

170 (4) For years of membership service after July 1, 1961, in which the two-thirds  
171 contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of  
172 the member's retirement.

173 10. The monetary benefits for each other member for whom federal Old Age and  
174 Survivors Insurance tax is or was paid at any time from state or local funds on account of the  
175 member's employment entitling the member to membership in the system shall be the sum of:

176 (1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for  
177 years of membership service;

178 (2) For years of membership service after July 1, 1946, in which the full contribution rate  
179 was paid, full benefits under the formula in effect at the time of the member's retirement;

180 (3) For years of membership service after July 1, 1957, in which the two-thirds  
181 contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of  
182 the member's retirement.

183 11. Any retired member of the system who was retired prior to September 1, 1972, or  
184 beneficiary receiving payments under option 1 or option 2 of subsection 3 of this section, as such  
185 option existed prior to September 1, 1972, will be eligible to receive an increase in the retirement  
186 allowance of the member of two percent for each year, or major fraction of more than one-half  
187 of a year, which the retired member has been retired prior to July 1, 1975. This increased amount  
188 shall be payable commencing with January, 1976, and shall thereafter be referred to as the  
189 member's retirement allowance. The increase provided for in this subsection shall not affect the  
190 retired member's eligibility for compensation provided for in section 169.580 or 169.585, nor  
191 shall the amount being paid pursuant to these sections be reduced because of any increases  
192 provided for in this section.

193 12. If the board of trustees determines that the cost of living, as measured by generally  
194 accepted standards, increases two percent or more in the preceding fiscal year, the board shall  
195 increase the retirement allowances which the retired members or beneficiaries are receiving by  
196 two percent of the amount being received by the retired member or the beneficiary at the time  
197 the annual increase is granted by the board with the provision that the increases provided for in  
198 this subsection shall not become effective until the fourth January first following the member's

199 retirement or January 1, 1977, whichever later occurs, or in the case of any member retiring on  
200 or after July 1, 2000, the increase provided for in this subsection shall not become effective until  
201 the third January first following the member's retirement, or in the case of any member retiring  
202 on or after July 1, 2001, the increase provided for in this subsection shall not become effective  
203 until the second January first following the member's retirement. Commencing with January 1,  
204 1992, if the board of trustees determines that the cost of living has increased five percent or more  
205 in the preceding fiscal year, the board shall increase the retirement allowances by five percent.  
206 The total of the increases granted to a retired member or the beneficiary after December 31,  
207 1976, may not exceed eighty percent of the retirement allowance established at retirement or as  
208 previously adjusted by other subsections. If the cost of living increases less than five percent,  
209 the board of trustees may determine the percentage of increase to be made in retirement  
210 allowances, but at no time can the increase exceed five percent per year. If the cost of living  
211 decreases in a fiscal year, there will be no increase in allowances for retired members on the  
212 following January first.

213         13. The board of trustees may reduce the amounts which have been granted as increases  
214 to a member pursuant to subsection 12 of this section if the cost of living, as determined by the  
215 board and as measured by generally accepted standards, is less than the cost of living was at the  
216 time of the first increase granted to the member; except that, the reductions shall not exceed the  
217 amount of increases which have been made to the member's allowance after December 31, 1976.

218         14. Any application for retirement shall include a sworn statement by the member  
219 certifying that the spouse of the member at the time the application was completed was aware  
220 of the application and the plan of retirement elected in the application.

221         15. Notwithstanding any other provision of law, any person retired prior to September  
222 28, 1983, who is receiving a reduced retirement allowance under option 1 or option 2 of  
223 subsection 3 of this section, as such option existed prior to September 28, 1983, and whose  
224 beneficiary nominated to receive continued retirement allowance payments under the elected  
225 option dies or has died, shall upon application to the board of trustees have his or her retirement  
226 allowance increased to the amount he or she would have been receiving had the option not been  
227 elected, actuarially adjusted to recognize any excessive benefits which would have been paid to  
228 him or her up to the time of application.

229         16. Benefits paid pursuant to the provisions of the public school retirement system of  
230 Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code  
231 except as provided pursuant to this subsection. Notwithstanding any other law to the contrary,  
232 the board of trustees may establish a benefit plan pursuant to Section 415(m) of Title 26 of the  
233 United States Code. Such plan shall be created solely for the purpose described in Section  
234 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate

235 regulations necessary to implement the provisions of this subsection and to create and administer  
236 such benefit plan.

237           17. Notwithstanding any other provision of law to the contrary, any person retired before,  
238 on, or after May 26, 1994, shall be made, constituted, appointed and employed by the board as  
239 a special consultant on the matters of education, retirement and aging, and upon request shall  
240 give written or oral opinions to the board in response to such requests. As compensation for such  
241 duties the person shall receive an amount based on the person's years of service so that the total  
242 amount received pursuant to sections 169.010 to 169.141 shall be at least the minimum amounts  
243 specified in subdivisions (1) to (4) of this subsection. In determining the minimum amount to  
244 be received, the amounts in subdivisions (3) and (4) of this subsection shall be adjusted in  
245 accordance with the actuarial adjustment, if any, that was applied to the person's retirement  
246 allowance. In determining the minimum amount to be received, beginning September 1, 1996,  
247 the amounts in subdivisions (1) and (2) of this subsection shall be adjusted in accordance with  
248 the actuarial adjustment, if any, that was applied to the person's retirement allowance due to  
249 election of an optional form of retirement having a continued monthly payment after the person's  
250 death. Notwithstanding any other provision of law to the contrary, no person retired before, on,  
251 or after May 26, 1994, and no beneficiary of such a person, shall receive a retirement benefit  
252 pursuant to sections 169.010 to 169.141 based on the person's years of service less than the  
253 following amounts:

- 254           (1) Thirty or more years of service, one thousand two hundred dollars;
- 255           (2) At least twenty-five years but less than thirty years, one thousand dollars;
- 256           (3) At least twenty years but less than twenty-five years, eight hundred dollars;
- 257           (4) At least fifteen years but less than twenty years, six hundred dollars.

258           18. Notwithstanding any other provisions of law to the contrary, any person retired prior  
259 to May 26, 1994, and any designated beneficiary of such a retired member who was deceased  
260 prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a  
261 special consultant on the matters of education, retirement or aging and upon request shall give  
262 written or oral opinions to the board in response to such requests. Beginning September 1, 1996,  
263 as compensation for such service, the member shall have added, pursuant to this subsection, to  
264 the member's monthly annuity as provided by this section a dollar amount equal to the lesser of  
265 sixty dollars or the product of two dollars multiplied by the member's number of years of  
266 creditable service. Beginning September 1, 1999, the designated beneficiary of the deceased  
267 member shall as compensation for such service have added, pursuant to this subsection, to the  
268 monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars  
269 or the product of two dollars multiplied by the member's number of years of creditable service.  
270 The total compensation provided by this section including the compensation provided by this

271 subsection shall be used in calculating any future cost-of-living adjustments provided by  
272 subsection 12 of this section.

273           19. Any member who has retired prior to July 1, 1998, and the designated beneficiary  
274 of a deceased retired member shall be made, constituted, appointed and employed by the board  
275 as a special consultant on the matters of education, retirement and aging, and upon request shall  
276 give written or oral opinions to the board in response to such requests. As compensation for such  
277 duties the person shall receive a payment equivalent to eight and seven-tenths percent of the  
278 previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity  
279 and which shall not be subject to the provisions of subsections 12 and 13 of this section for the  
280 purposes of the limit on the total amount of increases which may be received.

281           20. Any member who has retired shall be made, constituted, appointed and employed  
282 by the board as a special consultant on the matters of education, retirement and aging, and upon  
283 request shall give written or oral opinions to the board in response to such request. As  
284 compensation for such duties, the person shall receive as a part of compensation for these duties  
285 a death benefit of five thousand dollars.

286           21. Any member who has retired prior to July 1, 1999, and the designated beneficiary  
287 of a retired member who was deceased prior to July 1, 1999, shall be made, constituted,  
288 appointed and employed by the board as a special consultant on the matters of education,  
289 retirement and aging, and upon request shall give written or oral opinions to the board in  
290 response to such requests. As compensation for such duties, the person shall have added,  
291 pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount  
292 equal to five dollars times the member's number of years of creditable service.

293           22. Any member who has retired prior to July 1, 2000, and the designated beneficiary  
294 of a deceased retired member shall be made, constituted, appointed and employed by the board  
295 as a special consultant on the matters of education, retirement and aging, and upon request shall  
296 give written or oral opinions to the board in response to such requests. As compensation for such  
297 duties, the person shall receive a payment equivalent to three and five-tenths percent of the  
298 previous month's benefit, which shall be added to the member or beneficiary's monthly annuity  
299 and which shall not be subject to the provisions of subsections 12 and 13 of this section for the  
300 purposes of the limit on the total amount of increases which may be received.

301           23. Any member who has retired prior to July 1, 2001, and the designated beneficiary  
302 of a deceased retired member shall be made, constituted, appointed and employed by the board  
303 as a special consultant on the matters of education, retirement and aging, and upon request shall  
304 give written or oral opinions to the board in response to such requests. As compensation for such  
305 duties, the person shall receive a dollar amount equal to three dollars times the member's number  
306 of years of creditable service, which shall be added to the member's or beneficiary's monthly

307 annuity and which shall not be subject to the provisions of subsections 12 and 13 of this section  
308 for the purposes of the limit on the total amount of increases which may be received.

Section B. Because immediate action is necessary to provide equitable treatment and  
2 timely application of certain pension benefits and compensation, section A of this act is deemed  
3 necessary for the immediate preservation of the public health, welfare, peace and safety, and is  
4 hereby declared to be an emergency act within the meaning of the constitution, and section A of  
5 this act shall be in full force and effect on July 1, 2002, or upon its passage and approval,  
6 whichever later occurs.