SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2104

94TH GENERAL ASSEMBLY

Reported from the Special Committee on Retirement March 6, 2008 with recommendation that House Committee Substitute for House Bill No. 2104 Do Pass by Consent. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

Reported from the Committee on Rules March 11, 2008 with recommendation that House Committee Substitute for House Bill No. 2104 Do Pass by Consent with no time limit for debate.

Perfected by Consent March 26, 2008.

D. ADAM CRUMBLISS, Chief Clerk

4888L.02P

AN ACT

To repeal sections 70.600, 86.107, 86.590, 169.020, 169.040, 169.056, 169.070, 169.073, 169.075, 169.090, 169.130, 169.141, 169.630, 169.650, 169.655, 169.670, 169.673, 169.690, and 169.715, RSMo, and to enact in lieu thereof twenty-one new sections relating to public employee retirement systems.

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

Section A. Sections 70.600, 86.107, 86.590, 169.020, 169.040, 169.056, 169.070, 169.073, 169.075, 169.090, 169.130, 169.141, 169.630, 169.650, 169.655, 169.670, 169.673, 169.690, and 169.715, RSMo, are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 70.600, 70.631, 86.107, 86.590, 169.020, 169.040, 169.056, 169.070, 169.073, 169.075, 169.090, 169.130, 169.141, 169.562, 169.630, 169.650, 169.655, 169.670, 169.673, 169.690, and 169.715, to read as follows:

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;

EXPLANATION — Matter enclosed in bold-faced brackets **[**thus**]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

(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**, except as provided in section 70.631**; 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**, except as provided in section 70.631**; 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.

70.631. 1. Each political subdivision may, by majority vote of its governing body, elect to cover emergency police dispatchers and jailors as policemen members of the system and emergency fire dispatchers and emergency medical service personnel as firemen members of the system. The clerk or secretary of the political subdivision shall certify an election concerning the coverage of emergency police dispatchers and jailors as policemen members of the system and emergency fire dispatchers and emergency medical service

personnel as firemen members of the system to the board within ten days after such vote. The date in which the political subdivision's election becomes effective shall be the first day of the calendar month specified by such governing body, the first day of the calendar month next following receipt by the board of the certification of the election, or the effective date of the political subdivision's becoming an employer, whichever is the latest date. Such election shall not be changed after the effective date. If the election is made, the coverage provisions shall be applicable to the past and future employment with the employer by present and future employees.

2. If an employer elects to cover emergency police dispatchers and jailors as policemen members of the system and emergency fire dispatchers and emergency medical service personnel as firemen members of the system, the employer contributions shall be correspondingly changed effective the same date as the effective date of the political subdivision's election.

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 making an election under the provisions of this section.

86.107. The board of trustees shall be the trustees of the several funds created by sections 86.010 to 86.193 as provided in section 86.123 and shall have full power to invest and reinvest such funds **[**subject to all the terms, conditions, limitations and restrictions imposed by law upon life insurance companies in the state of Missouri in making and disposing of their investments, and subject to like terms, conditions, limitations and restrictions said trustees**] and** shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which any of the funds created herein shall have been invested, as well as of the proceeds of said investments and any moneys belonging to said funds. **The board shall invest the funds of the system as permitted by sections 105.687 to 105.690, RSMo.**

86.590. The board of trustees of police and firemen's pension systems, established under the provisions of section 86.583, may invest and reinvest the moneys of the system, and may 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**[**; except that such investment and reinvestments shall be subject to all the terms, conditions, limitations, and restrictions imposed by law upon life insurance or casualty companies in the state of Missouri in making and disposing of their investments, except that the percentage limitations of subsection 2 of section 376.305, RSMo, shall not apply**]**. The board of trustees of police and firemen's pension systems, established under the provisions of section 86.583, shall **[**comply with the prudent investor standard for investment fiduciaries as provided

in section 105.688, RSMo, when investing the assets of the system**] invest the funds of the system as permitted by sections 105.687 to 105.690, RSMo**.

169.020. 1. For the purpose of providing retirement allowances and other benefits for public school teachers, there is hereby created and established a retirement system which shall be a body corporate, shall be under the management of a board of trustees herein described, and shall be known as "The Public School Retirement System of Missouri". Such system shall, by and in such name, sue and be sued, transact all of its business, invest all of its funds, and hold all of its cash, securities, and other property. The system so created shall include all school districts in this state, except those in cities that had populations of four hundred thousand or more according to the latest United States decennial census, and such others as are or hereafter may be included in a similar system or in similar systems established by law and made operative; provided, that teachers in school districts of more than four hundred thousand inhabitants who are or may become members of a local retirement system may become members of this system with the same legal benefits as accrue to present members of such state system on the terms and under the conditions provided for in section 169.021. The system hereby established shall begin operations on the first day of July next following the date upon which sections 169.010 to 169.130 shall take effect.

2. The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of sections 169.010 to 169.141 are hereby vested in a board of trustees of seven persons as follows: four persons to be elected as trustees by the members and retired members of the public school retirement system created by sections 169.010 to 169.141 and the public education employee retirement system created by sections 169.600 to 169.715; and three members appointed by the governor with the advice and consent of the senate. The first member appointed by the governor shall replace the commissioner of education for a term beginning August 28, 1998. The other two members shall be appointed by the governor at the time each member's, who was appointed by the state board of education, term expires.

3. Trustees appointed and elected shall be chosen for terms of four years from the first day of July next following their appointment or election, except that one of the elected trustees shall be a member of the public education employee retirement system and shall be initially elected for a term of three years from July 1, 1991. The initial term of one other elected trustee shall commence on July 1, 1992.

4. Trustees appointed by the governor shall be residents of school districts included in the retirement system, but not employees of such districts or a state employee or a state elected official. At least one trustee so appointed shall be a retired member of the public school retirement system or the public education employee retirement system. Three elected trustees

shall be members of the public school retirement system and one elected trustee shall be a member of the public education employee retirement system.

5. The elections of the trustees shall be arranged for, managed and conducted by the board of trustees of the retirement system.

6. 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.

7. Trustees of the retirement system shall serve without compensation but they shall be reimbursed for expenses necessarily incurred through service on the board of trustees.

8. Each trustee shall be commissioned by the governor, and before entering upon the duties of the trustee's 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 or herself faithfully in the trustee's office. Such oath as subscribed to shall be filed in the office of 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. 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 director a copy of the matter to be decided with full information from the files of the board of trustees. The unanimous decision of four trustees may decide the issue by signing a document declaring their decision and sending such written instrument to the executive director of the board, provided that no other member of the board of trustees shall send a dissenting decision to the executive director of the board within fifteen days after such document and information was mailed to the trustee. If any member is not in agreement with four members the matter is to be passed on at a regular board meeting or a special meeting called for the purpose.

10. The board of trustees shall elect one of their number as chairman, and shall employ a full-time executive director, 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 director.

11. The board of trustees shall employ an actuary who shall be its technical advisor on matters regarding the operation of the retirement system, and shall perform such duties as are essential in connection therewith, including the recommendation for adoption by the board of mortality and other necessary tables, and the recommendation of the level rate of contributions required for operation of the system.

12. As soon as practicable after the establishment of the retirement system, and annually thereafter, the actuary shall make a valuation of the system's assets and liabilities on the basis of such tables as have been adopted.

13. At least once in the three-year period following the establishment of the retirement system, and in each five-year period thereafter, the board of trustees shall cause to be made an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the system, and shall make any changes in the mortality, service, and other tables then in use which the results of the investigation show to be necessary.

14. Subject to the limitations of sections 169.010 to 169.141 and 169.600 to 169.715, the board of trustees shall formulate and adopt rules and regulations for the government of its own proceedings and for the administration of the retirement system.

15. The board of trustees shall determine and decide all questions of doubt as to what constitutes employment within the meaning of sections 169.010 to 169.141 and 169.600 to 169.715, the amount of benefits to be paid to members, retired members, beneficiaries and survivors and the amount of contributions to be paid by employer and employee. The executive director shall notify by certified mail both employer and member, retired member, beneficiary or survivor interested in such determination. Any member, retired member, beneficiary or survivor, district or employer adversely affected by such determination, at any time within thirty days after being notified of such determination, may appeal to the circuit court of Cole County. Such appeal shall be tried and determined anew in the circuit court and such court shall hear and consider any and all competent testimony relative to the issues in the case, which may be offered by either party thereto. The circuit court shall determine the rights of the parties under sections 169.010 to 169.141 and 169.600 to 169.715 using the same standard provided in section 536.150, RSMo, and the judgment or order of such circuit court shall be binding upon the parties and the board shall carry out such judgment or order unless an appeal is taken from such decision of the circuit court. Appeals may be had from the circuit court by the employer, member, retired member, beneficiary, survivor or the board, in the manner provided by the civil code.

16. The board of trustees shall keep a record of all its proceedings, which shall be open to public inspection. It shall prepare annually a comprehensive annual financial report, the financial section of which shall be prepared in accordance with applicable accounting standards and shall include the independent auditor's opinion letter. The report shall also include information on the actuarial status and the investments of the system. The reports shall be preserved by the executive director and made available for public inspection.

17. The board of trustees shall provide for the maintenance of an individual account with each member, setting forth such data as may be necessary for a ready determination of the member's earnings, contributions, and interest accumulations. It shall also collect and keep in convenient form such data as shall be necessary for the preparation of the required mortality and service tables and for the compilation of such other information as shall be required for the

valuation of the system's assets and liabilities. All individually identifiable information pertaining to members, retirees, beneficiaries and survivors shall be confidential.

18. The board of trustees shall meet regularly at least twice each year, with the dates of such meetings to be designated in the rules and regulations adopted by the board. Such other meetings as are deemed necessary may be called by the chairman of the board or by any four members acting jointly.

19. The headquarters of the retirement system shall be in Jefferson City, where suitable office space, utilities and other services and equipment necessary for the operation of the system shall be provided by the board of trustees and all costs shall be paid from funds of the system. All suits **[**in which**] or proceedings directly or indirectly against** the board of trustees, the board's members or employees or the retirement system established by sections 169.010 to 169.141 or 169.600 to 169.715 **[**are parties**]** shall be brought in Cole County.

20. The board may appoint an attorney or firm of attorneys to be the legal advisor to the board and to represent the board in legal proceedings, however, if the board does not make such an appointment, the attorney general shall be the legal advisor of the board of trustees, and shall represent the board in all legal proceedings.

21. The board of trustees shall arrange for adequate surety bonds covering the executive director. When approved by the board, such bonds shall be deposited in the office of the secretary of state of this state.

22. The board shall arrange for annual audits of the records and accounts of the system by a firm of certified public accountants, the state auditor shall review the audit of the records and accounts of the system at least once every three years and shall report the results to the board of trustees and the governor.

23. The board by its rules may establish an interest charge to be paid by the employer on any payments of contributions which are delinquent. The rate charged shall not exceed the actuarially assumed rate of return on invested funds of the pertinent system.

169.040. 1. All funds arising from the operation of sections 169.010 to 169.141 shall belong to the retirement system herein created and shall be controlled by the board of trustees of that system which board shall provide for the collection of such funds, shall see that they are safely preserved, and shall permit their disbursement only for the purposes herein authorized. Such funds and all other funds received by the retirement system are declared and shall be deemed to be the moneys and funds of the retirement system and not revenue collected or moneys received by the state and shall not be commingled with state funds.

2. The board shall invest all funds under its control which are in excess of a safe operating balance. The funds shall be invested only in those investments which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise

of a like character and with like aims, as provided in section 105.688, RSMo. The board of trustees may delegate to duly appointed investment counselors 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 counselors 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 counselors shall be registered as investment advisors 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. 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 a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

3. **Notwithstanding the provisions of section 105.662, RSMo, the board may set up and maintain a public school and education employee retirement systems of Missouri investment fund account in which investment and reinvestment of all or part of the moneys of the system may be placed and be available for investment purposes. For the purpose of investing the funds of the retirement system, the funds may be combined with the funds of the public education employee retirement system of Missouri, but the funds of each system shall be accounted for separately and for all other reporting purposes shall be separate.**

4. The board of trustees may promulgate rules and regulations not inconsistent with the provisions of this section as shall deem necessary for the proper administration under the provisions of this chapter. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

5. No investment transaction authorized by the board shall be handled by any company or firm in which a member of the board has an interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the retirement system, and any securities or other properties obtained by the board of trustees

may be held by a custodian in the name of the retirement system, or in the name of a nominee in order to facilitate the expeditious transfer of such securities or other property. Such securities or other properties which are not available in registered form may be held in bearer form or in book entry form. The retirement system is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the Uniform Commercial Code, sections 400.8-102 and 400.8-109, RSMo. When such eligible securities of the retirement system are so deposited with a central depository system they may be merged and held in the name of the nominee of such securities depository and title to such securities may be transferred by bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

[4.**] 6.** With appropriate safeguards against loss by the system in any contingency, the board may designate a bank or trust company to serve as a depository of system funds and intermediary in the investment of those funds and payment of system obligations.

[5.**] 7.** All retirement allowances or other periodic payments paid by the board shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the board to be appropriate. Each recipient of retirement allowances or other periodic payments shall designate a financial institution or other authorized payment agent and provide the board information necessary for the recipient to receive electronic funds transfer payments through the institution or agent designated. This subsection shall apply to retirement allowances and other periodic payments first paid on or after January 1, 1998, and shall apply to all retirement allowances and other periodic payments on and after January 1, 1999.

[6.**] 8.** The board of trustees may deliberate about, or make tentative or final decisions on, investments or other financial matters in a closed meeting under chapter 610, RSMo, if disclosure of the deliberations or decisions would jeopardize the ability to implement a decision or to achieve investment objectives. A record of the retirement system that discloses deliberations about, or a tentative decision on, investments or other financial matters is not a public record under chapter 610, RSMo, to the extent and so long as its disclosure would jeopardize the ability to implement a decision or to achieve investment objectives.

169.056. 1. Members who have accrued at least one year of membership service credit for employment in a position covered by this retirement system and who have covered employment with this retirement system following the service for which credit is being purchased may purchase membership service credit under the circumstances, terms and conditions provided in this section. With respect to each such purchase authorized by this section the following provisions apply:

(1) The purchase shall be effected by the member paying to the retirement system the amount the member would have contributed and the amount the employer would have contributed had such member been an employee for the number of years for which the member is electing to purchase credit, and had the member's compensation during such period been the highest annual salary rate on record with the retirement system on the date of election to purchase credit. For purposes of this section, "annual salary rate" means the annual salary rate for full-time service for the position of employment. The contribution rate used in determining the amount to be paid shall be the contribution rate in effect on the date of election to purchase credit. Notwithstanding the provisions of this subsection, for all elections to purchase credit received by the retirement system on or after January 1, 2006, the member shall receive credit based on the amount paid by the member for such credit and received by the retirement system by the close of business on June thirtieth of each year. In lieu of charging the member interest on such purchase of credit, the amount to be paid by the member for any remaining credit the member has elected to purchase but has not paid for by **[**June**] September** thirtieth of each year shall be recalculated on the following **[**July**] October** first using the contribution rate in effect on that July first and the highest salary of record for the member as of that July first. For all elections to purchase credit received by the retirement system prior to January 1, 2006, the retirement system shall determine the cost of such purchase using the calculation method in effect for elections to purchase credit received by the retirement system on or after January 1, 2006, provided that the member shall have a one-time, irrevocable option to continue to have the cost of such purchase be determined using the calculation method in effect at the time of such election to purchase such credit. To be effective, such option must be elected by the member on a form approved by the retirement system and such form must be received by the retirement system by the close of business on June 30, 2006. The retirement system **[**reserves the right to**] may prohibit a purchase, impose additional requirements for making a purchase, or** limit the amount of credit purchased **[**by the member in any year if the amounts paid by the member in that year would exceed any applicable contribution limits set forth in**] if necessary for the retirement system to comply with federal law, including but not limited to the provisions of** Section 415 of Title 26 of the United States Code**. The board of trustees may promulgate rules and regulations not inconsistent with the provisions of this section as shall deem necessary for its proper administration under the provisions of this chapter. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective**

date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void;

(2) Membership service credit purchased pursuant to this section shall be deemed to be membership service in Missouri for purposes of subsection **[**7**] 8** of section 169.070;

(3) An election to purchase membership service credit pursuant to this section and payment for the purchase shall be completed prior to termination of membership with the retirement system with interest on the unpaid balance;

(4) Members may purchase membership service credit in increments of one-tenth of a year, and multiple elections to purchase may be made;

(5) Additional terms and conditions applicable to purchase made pursuant to this section including, but not limited to, minimum payments, payment schedules and provisions applicable when a member fails to complete payment may be set by rules of the board.

2. Membership service credit shall not be allowed pursuant to this section or sections 169.570 and 169.577 which exceeds in length the member's membership service credit for employment in a position covered by this system, and in no event may the member receive membership service credit with both this system and another public retirement system for the same service.

3. A member who was employed for at least twenty hours per week on a regular basis by a public school district, public junior college, public community college, public college, or public university, either inside or outside of this state, may elect to purchase equivalent membership service credit.

4. A member who has served in the armed forces of the United States of America and who was discharged or separated from the armed forces by other than a dishonorable discharge may elect to purchase membership service for the period of active duty service in the armed forces.

5. Any member granted unpaid maternity or paternity leave for a period, from a position covered by the retirement system, who returned to employment in such a position, may elect to purchase membership service credit for the period of leave.

6. Any member who is or was certified as a vocational-technical teacher on the basis of having a college degree or who was required to have a period of work experience of at least two years in the area of the subject being taught in order to qualify for such certification may, upon written application to the board, purchase equivalent membership service credit for such work experience which shall not exceed the two years necessary for certification if the work experience was in the area that the member taught or is teaching and was completed in two years.

7. Any member who had membership service credit with the public education employee

retirement system of Missouri governed by sections 169.600 to 169.715 but which membership service credit was forfeited by withdrawal or refund may elect to purchase credit for such service. The public education employee retirement system of Missouri shall transfer to this system an amount equal to the employer contributions for the forfeited service being purchased, plus interest, which shall be applied to reduce the amount the member would otherwise pay for the purchase, provided that the amount transferred shall not exceed one-half of the purchase cost.

8. A member may elect to purchase membership service credit for service rendered while on leave from an employer, as defined in section 169.010, for a not-for-profit corporation or agency whose primary purpose is support of education or education research, if the member was employed by that organization to serve twenty or more hours per week on a regular basis.

9. A member who was employed by a private school, private junior college, private community college, private college, or private university, either inside or outside of this state, for at least twenty hours per week on a regular basis, may elect to purchase equivalent membership service credit for such service rendered.

10. A member who was employed in nonfederal public employment for at least twenty hours a week on a regular basis shall be permitted to purchase equivalent creditable service in the retirement system for such employment subject to provisions of this section.

11. A member who, while eighteen years of age or older, was employed in a position covered by Social Security for at least twenty hours a week on a regular basis shall be permitted to purchase equivalent creditable service in the retirement system for such employment subject to provisions of this section.

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.

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, 2013, 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, 2013, two and thirty-five-hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-eight years or more but less than twenty-nine years, and the member has not attained age fifty-five;

(5) Between July 1, 1998, and July 1, 2013, two and three-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-seven years or more but less than twenty-eight years, and the member has not attained age fifty-five;

(6) Between July 1, 1998, and July 1, 2013, two and twenty-five-hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-six years or more but less than twenty-seven years, and the member has not attained age fifty-five;

(7) Between July 1, 1998, and July 1, 2013, two and two-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-five years or more but less than twenty-six years, and the member has not attained age fifty-five;

(8) Between July 1, 2001, and July 1, 2013, two and fifty-five hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is thirty-one years or more regardless of age.

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

(1) Sixty cents plus one 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;

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

3. (1) In lieu of the retirement allowance provided either in subsection 1 or 2 of this section, collectively called "option 1", a member whose creditable service is twenty-five years or more or who has attained the age of fifty-five with five or more years of creditable service may elect in the member's application for retirement to receive the actuarial equivalent of the member's retirement allowance in reduced monthly payments for life during retirement with the provision that:

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

OR

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

OR

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

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the total of the remainder of such one hundred twenty monthly payments shall be paid to the **surviving spouse, surviving children in equal shares, surviving parents in equal shares, or to the** estate of the last person to receive a monthly allowance **in a lump sum payment**. If the total of the one hundred twenty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum;

OR

Option 6. Upon the death of the member prior to the member having received sixty monthly payments of the member's reduced allowance, the remainder of the sixty monthly

payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the sixty monthly payments, the total of the remainder of such sixty monthly payments shall be paid to the **surviving spouse, surviving children in equal shares, surviving parents in equal shares, or to the** estate of the last person to receive a monthly allowance **in a lump sum payment**. If the total of the sixty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum.

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

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

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

4. If the total of the retirement or disability allowance paid to an individual before the death of the individual is less than the accumulated contributions at the time of retirement, the difference shall be paid to the beneficiary of the individual, or to the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** estate of the

individual in that order of precedence. If an optional benefit as provided in option 2, 3 or 4 in subsection 3 of this section had been elected, and the beneficiary dies after receiving the optional benefit, and if the total retirement allowance paid to the retired individual and the beneficiary of the retired individual is less than the total of the contributions, the difference shall be paid to the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** estate of the beneficiary, in that order of precedence, unless the retired individual designates a different recipient with the board at or after retirement.

5. **If a member dies and his or her financial institution is unable to accept the final payment or payments due to the member, the final payment or payments shall be paid to the beneficiary of the member or, if there is no beneficiary, to the surviving spouse, surviving children in equal shares, surviving parents in equal shares, or to the estate of the member in that order of precedence, unless otherwise stated. If the beneficiary of a deceased member dies and his or her financial institution is unable to accept the final payment or payments, the final payment or payments shall be paid to the surviving spouse, surviving children in equal shares, surviving parents in equal shares, or to the estate of the member in that order of precedence, unless otherwise stated.**

6. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the death of the member shall be paid to the beneficiary of the member or, if there is no beneficiary, to the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** to the estate of the member in that order of precedence; except that, no such payment shall be made if the beneficiary elects option 2 in subsection 3 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** estate of the beneficiary, in that order of precedence.

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

[7.**] 8.** Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, if a member ceases to be a public school employee after acquiring five or more years of membership service in Missouri, the member may at the option of the member leave the member's contributions with the retirement system and claim a retirement allowance any time after reaching the minimum age for voluntary retirement. When the member's claim is presented

to the board, the member shall be granted an allowance as provided in sections 169.010 to 169.141 on the basis of the member's age, years of service, and the provisions of the law in effect at the time the member requests the member's retirement to become effective.

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

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

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

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

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

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

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

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

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

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

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

[12.**] 13.** If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases two percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by two percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board with the provision that the increases provided for in this subsection shall not become effective until the fourth January first following the member's retirement or January 1, 1977, whichever later occurs, or in the case of any member retiring on or after July 1, 2000, the increase provided for in this subsection shall not become effective until the third January first following the member's retirement, or in the case of any member retiring on or after July 1, 2001, the increase provided for in this subsection shall not become effective until the second January first following the member's retirement. Commencing with January 1, 1992, if the board of trustees determines that the cost of living has increased five percent or more in the preceding fiscal year, the board shall increase the retirement allowances by five percent. The total of the increases granted to a retired member or the beneficiary after December 31, 1976, may not exceed eighty percent of the retirement allowance established at retirement or as previously adjusted by other subsections. If the cost of living increases less than five percent, the board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost

of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

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

[14.**] 15.** Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

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

[16.**] 17.** Benefits paid pursuant to the provisions of the public school retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code except as provided pursuant to this subsection. Notwithstanding any other law to the contrary, the board of trustees may establish a benefit plan pursuant to Section 415(m) of Title 26 of the United States Code. Such plan shall be created solely for the purpose described in Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.

[17.**] 18.** Notwithstanding any other provision of law to the contrary, any person retired before, on, or after May 26, 1994, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties the person shall receive an amount based on the person's years of service so that the total amount received pursuant to sections 169.010 to 169.141 shall be at least the minimum amounts specified in subdivisions (1) to (4) of this subsection. In determining the minimum amount to be received, the amounts in subdivisions (3) and (4) of this subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was applied to the person's

retirement allowance. In determining the minimum amount to be received, beginning September 1, 1996, the amounts in subdivisions (1) and (2) of this subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was applied to the person's retirement allowance due to election of an optional form of retirement having a continued monthly payment after the person's death. Notwithstanding any other provision of law to the contrary, no person retired before, on, or after May 26, 1994, and no beneficiary of such a person, shall receive a retirement benefit pursuant to sections 169.010 to 169.141 based on the person's years of service less than the following amounts:

(1) Thirty or more years of service, one thousand two hundred dollars;

(2) At least twenty-five years but less than thirty years, one thousand dollars;

(3) At least twenty years but less than twenty-five years, eight hundred dollars;

(4) At least fifteen years but less than twenty years, six hundred dollars.

[18.**] 19.** Notwithstanding any other provisions of law to the contrary, any person retired prior to May 26, 1994, and any designated beneficiary of such a retired member who was deceased prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement or aging and upon request shall give written or oral opinions to the board in response to such requests. Beginning September 1, 1996, as compensation for such service, the member shall have added, pursuant to this subsection, to the member's monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars or the product of two dollars multiplied by the member's number of years of creditable service. Beginning September 1, 1999, the designated beneficiary of the deceased member shall as compensation for such service have added, pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars or the product of two dollars multiplied by the member's number of years of creditable service. The total compensation provided by this section including the compensation provided by this subsection shall be used in calculating any future cost-of-living adjustments provided by subsection 12 of this section.

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

[20.**] 21.** Any member who has retired shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such request. As compensation for such duties, the beneficiary of the retired member, or, if there is no beneficiary, the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** estate of the retired member, in that order of precedence, shall receive as a part of compensation for these duties a death benefit of five thousand dollars.

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

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

[23.**] 24.** Any member who has retired prior to July 1, 2001, and the designated beneficiary of a deceased retired member shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging, and upon request shall give written or oral opinions to the board in response to such requests. As compensation for such duties, the person shall receive a dollar amount equal to three dollars times the member's number of years of creditable service, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

169.073. 1. Any member eligible for a retirement allowance pursuant to section 169.070 and who has not previously received a retirement allowance, including an allowance under disability retirement under section 169.070, and whose sum of age and creditable service equals eighty-six years or more or whose creditable service is thirty-three years or more or whose age

is sixty-three years or more and who has eight years or more of creditable service may elect a distribution under the partial lump sum option plan provided in this section if the member notifies the retirement system on the application for retirement.

2. A member entitled to make an election pursuant to this section may elect to receive a lump sum distribution in addition to the member's monthly retirement allowance pursuant to section 169.070, as reduced pursuant to this section. Such member may elect the amount of the member's lump sum distribution from one, but not more than one, of the following options:

(1) A lump sum amount equal to twelve times the retirement allowance the member would receive if no election were made pursuant to this section and the member had chosen option 1 pursuant to section 169.070;

(2) A lump sum amount equal to twenty-four times the retirement allowance the member would receive if no election were made pursuant to this section and the member had chosen option 1 pursuant to section 169.070; or

(3) A lump sum amount equal to thirty-six times the retirement allowance the member would receive if no election were made pursuant to this section and the member had chosen option 1 pursuant to section 169.070.

3. When a member makes an election to receive a lump sum distribution pursuant to this section, the retirement allowance that the member would have received in the absence of the election shall be reduced on an actuarially equivalent basis to reflect the payment of the lump sum distribution and the reduced retirement allowance shall be the member's retirement allowance thereafter for all purposes in relation to retirement allowance amounts pursuant to section 169.070. A retirement allowance increased due to the death of a person nominated by the member to receive benefits pursuant to the provisions of option 2, 3, or 4 of subsection 3 of section 169.070 shall be increased pursuant to such provisions to the amount the retired member would be receiving had the retired member elected option 1 as actuarially reduced due to the lump sum distribution made pursuant to this section. Any payment of accumulated contributions pursuant to the provisions of sections 169.010 to 169.141 shall be reduced by the amount of any lump sum distribution made pursuant to this section in addition to any other reductions required by sections 169.010 to 169.141.

4. If the member dies before receiving a lump sum distribution pursuant to this section, the lump sum distribution shall be paid in accordance with rules adopted by the board of trustees.

5. Benefits paid pursuant to this section, in addition to all other provisions of the public school retirement system of Missouri, shall not exceed the limitations of Section 415 of Title 26 of the United States Code except as provided in subsection **[**16**] 17** of section 169.070.

169.075. 1. Certain survivors specified in this section and meeting the requirements of this section may elect to forfeit any payments payable pursuant to subsection 3 or **[**5**] 6** of section

169.070 and to receive certain other benefits described in this section upon the death of a member prior to retirement, except retirement with disability benefits, whose period of creditable service in districts included in the retirement system is (1) five years or more, or (2) two years but less than five years and who dies (a) while teaching in a district included in the retirement system, or (b) as a result of an injury or sickness incurred while teaching in such a district and within one year of the commencement of such injury or sickness, or (c) while eligible for a disability retirement allowance hereunder.

2. Upon an election pursuant to subsection 1 of this section, a surviving spouse sixty years of age, or upon attainment of age sixty, or a surviving spouse who has been totally and permanently disabled for not less than five years immediately preceding the death of a member if designated as the sole beneficiary, and if married to the member at least three years, and if living with such member at the time of the member's death, shall be entitled to a monthly payment equal to twenty percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service as a teacher in a district included in the retirement system until death or recovery prior to age sixty from the disability which qualified the spouse for the benefit, whichever first occurs; provided that the monthly payment shall not be less than five hundred seventy-five dollars or more than eight hundred sixty dollars. A surviving spouse, who is eligible for benefits pursuant to this subsection and also pursuant to subsection 3 of this section may receive benefits only pursuant to subsection 3 of this section as long as the surviving spouse remains eligible pursuant to both subsections, but shall not be disqualified for the benefit provided in this subsection because the surviving spouse may have received payments pursuant to subsection 3 of this section. Beginning August 28, 2001, a surviving spouse who otherwise meets the requirements of this subsection but who remarried prior to August 28, 1995, shall be entitled, upon an election pursuant to subsection 1 of this section, to any remaining benefits that would otherwise have been received had the surviving spouse not remarried before the change in law permitting remarried surviving spouses to continue receiving benefits. Such surviving spouses may, upon application, become special consultants whose benefit will be to receive the remaining benefits described in this subsection. No benefit shall be paid to such surviving spouse unless he or she files a valid application for such benefit with the retirement system postmarked on or before June 30, 2002. In no event shall any retroactive benefits be paid.

3. Upon an election pursuant to subsection 1 of this section, a surviving spouse, if designated as the sole beneficiary, who has in the surviving spouse's care a dependent unmarried child, including a stepchild or adopted child, of the deceased member, under eighteen years of age, shall be entitled to a monthly payment equal to twenty percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service

as a teacher in a district included in the retirement system until the surviving spouse's death, or the first date when no such dependent unmarried child under age eighteen, or age twenty-four if the child is enrolled in school on a full-time basis, remains in the surviving spouse's care, whichever first occurs; provided that the monthly payment shall not be less than five hundred seventy-five dollars or more than eight hundred sixty dollars. In addition the surviving spouse shall be entitled to a monthly payment equal to one-half this amount, provided that the monthly payment shall not be less than three hundred dollars, for each such dependent unmarried child under eighteen years of age, or age twenty-four if the child is enrolled in school on a full-time basis, who remains in the surviving spouse's care. Further, in addition to the monthly payment to the surviving spouse as provided for in this subsection, each dependent unmarried child under the age of eighteen years of the deceased member not in the care of such surviving spouse shall be entitled to a monthly payment equal to one-half of the surviving spouse's monthly payment which shall be paid to the child's primary custodial parent or legal guardian; provided that the payment because of an unmarried dependent child shall be made until the child attains age twenty-four if the child is enrolled in school on a full-time basis; provided, however, that the total of all monthly payments to the surviving spouse, primary custodial parent or legal guardian, including payments for such dependent unmarried children, shall in no event exceed two thousand one hundred sixty dollars, the amount of the children's share to be allocated equally as to each dependent unmarried child eligible to receive payments pursuant to this subsection.

4. Upon an election pursuant to subsection 1 of this section if the designated beneficiary is a dependent unmarried child as defined in this section or automatically upon the death of a surviving spouse receiving benefits pursuant to subsection 3 of this section, each surviving dependent unmarried child, including a stepchild or adopted child, of the deceased member, under eighteen years of age, or such a child under age twenty-four if the child is enrolled in school on a full-time basis, shall be entitled to a monthly payment equal to sixteen and two-thirds percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service as a teacher in a district included in the retirement system until death, marriage, adoption, or attainment of age eighteen or age twenty-four if enrolled in school on a full-time basis, whichever first occurs; provided that the monthly payment shall not be less than five hundred dollars or more than seven hundred twenty dollars, and provided further that any child of the deceased member who is disabled before attainment of age eighteen because of a physical or mental impairment which renders the child unable to engage in any substantial gainful activity and which disability continues after the child has attained age eighteen shall be entitled to a like monthly payment, until death, marriage, adoption, or recovery from the disability, whichever first occurs; provided, however, that the total of all

monthly payments to the surviving dependent unmarried children shall in no event exceed two thousand one hundred sixty dollars.

5. In lieu of receiving any benefit or lump sum from the retirement system, the designated beneficiary may elect under subsection 1 of this section to direct that each surviving dependent unmarried child, including a stepchild or adopted child, of the deceased member, under eighteen years of age, or such a child under age twenty-four if the child is enrolled in school on a full-time basis, shall be entitled to a monthly payment equal to sixteen and two-thirds percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service as a teacher in a district included in the retirement system until death, marriage, adoption, or attainment of age eighteen or age twenty-four if enrolled in school on a full-time basis, whichever first occurs; provided that the monthly payment shall not be less than five hundred dollars or more than seven hundred twenty dollars, and provided further that any child of the deceased member who is disabled before attainment of age eighteen because of a physical or mental impairment which renders the child unable to engage in any substantial gainful activity and which disability continues after the child has attained age eighteen shall be entitled to a like monthly payment, until death, marriage, adoption, or recovery from the disability, whichever first occurs; provided, however, that the total of all monthly payments to the surviving dependent unmarried children shall in no event exceed two thousand one hundred sixty dollars.

6. Upon an election pursuant to subsection 1 of this section, a surviving dependent parent of the deceased member, over sixty-five years of age or upon attainment of age sixty-five if designated as the sole beneficiary, provided such dependent parent was receiving at least one-half of the parent's support from such member at the time of the member's death and provided the parent files proof of such support within two years of such death, shall be entitled to a monthly payment equal to sixteen and two-thirds percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year as a teacher in a district included in the retirement system until death; provided that the monthly payment shall not be less than five hundred dollars or more than seven hundred twenty dollars. If the other parent also is a dependent, as defined in this section, the same amount shall be paid to each until death.

7. All else in this section to the contrary notwithstanding, a survivor may not be eligible to benefit pursuant to this section because of more than one terminated membership, and be it further provided that the board of trustees shall determine and decide all questions of doubt as to what constitutes dependency within the meaning of this section.

8. The provisions added to subsection 3 of this section in 1991 are intended to clarify the scope and meaning of this section as originally enacted and shall be applied in all cases in which such an election has occurred or will occur.

9. After July 1, 2000, all benefits payable pursuant to subsections 1 to 8 of this section shall be payable to eligible current and future survivor beneficiaries in accordance with this section.

10. The system shall pay a monthly retirement allowance for the month in which a retired member, beneficiary or survivor receiving a retirement allowance or survivor benefit dies.

11. If the total of all payments made under this section is less than the total of the member's accumulated contributions, the difference shall be paid to the person making the election under subsection 1 of this section. If such person does not survive until all payments are made under this section, such difference shall be paid in accordance with section 169.076.

169.090. Neither the funds belonging to the retirement system nor any benefit accrued or accruing to any person under the provisions of sections 169.010 to 169.130 shall be subject to execution, garnishment, attachment or any other process whatsoever, nor shall they be assignable, except **in a proceeding instituted for spousal maintenance or child support and** as in sections 169.010 to 169.130 specifically provided.

169.130. 1. Any person, duly certified under the law governing the certification of teachers, employed full time as a teacher by the division of youth services prior to August 13, 1986, who did not become a member of the Missouri state employees' retirement system under section 104.342, RSMo, is a member of the public school retirement system of Missouri. Any such person who becomes a member before the end of the school year next following July 18, 1948, may claim and receive credit for prior service. The contributions required to be made by the member's employer shall be paid from appropriations to the institution by which the member is employed.

2. Any person, duly certified under the law governing the certification of teachers, employed full time as a teacher by a division of the state department of social services prior to August 13, 1986, who did not become a member of the Missouri state employees' retirement system under section 104.342, RSMo, who renders services in a school whose standards of education are set and which is supervised by a public school officer of the county in which the school is located, by the department of elementary and secondary education or by the coordinating board for higher education is a member of the public school retirement system of Missouri. Any such member who becomes a member before the end of the school year next following August 29, 1953, may claim and receive credit for prior service.

3. Any person, duly certified under the law governing the certification of teachers, employed full time as a teacher by the section of inmate education of the department of corrections prior to August 13, 1986, who did not become a member of the Missouri state employees' retirement system under section 104.342, RSMo, is a member of the public school retirement system of Missouri. Any such person who becomes a member before the end of the

school year next following August 29, 1959, may claim and receive credit for prior service. For purposes of this subsection "prior service" means service rendered by a member of the retirement system before the system becomes operative with respect to persons employed by the section of inmate education, and may include service rendered by a member of the armed forces during a period of war, if the member was a teacher at the time he was inducted, for which credit has been approved by the board of trustees.

4. Any person, duly certificated under the law governing the certification of teachers, employed full time by any statewide nonprofit educational association or organization serving on an educational professional basis through its membership the active members of the public school retirement system of Missouri or the public school districts maintaining high schools in this state, may be a member of the public school retirement system of Missouri. Any such person who becomes a member before July 1, 1955, may claim and receive credit for prior service. The contributions required to be made by the member's employer shall be paid by the association or organization. **After June 30, 2009, no additional nonprofit educational associations or organizations shall have its employees become members of the public school retirement system or the public education employee retirement system of Missouri.**

5. Any person, duly certificated under the law governing the certification of teachers, employed full time, and whose duties include participation in the educational program of the department of mental health, in either a teaching or supervisory teaching capacity prior to August 13, 1986, who did not become a member of the Missouri state employees' retirement system under section 104.342, RSMo, shall, after August 7, 1969, be a member of the public school retirement system, but any such person whose employment with the department of mental health commenced prior to August 7, 1969, may elect not to become a member by so notifying the department of mental health in writing within thirty days after August 7, 1969.

169.141. 1. Any person receiving a retirement allowance under sections 169.010 to 169.140, and who elected a reduced retirement allowance under subsection 3 of section 169.070 with his spouse as the nominated beneficiary, may nominate a successor beneficiary under either of the following circumstances:

(1) If the nominated beneficiary precedes the retired person in death, the retired person may, upon remarriage, nominate the new spouse under the same option elected in the application for retirement;

(2) If the marriage of the retired person and the nominated beneficiary is dissolved, and if the dissolution decree provides for sole retention by the retired person of all rights in the retirement allowance, the retired person may, upon remarriage, nominate the new spouse under the same option elected in the application for retirement**;**

(3) If the marriage of the retired person and the nominated beneficiary is dissolved after the effective date of this subdivision, and if the dissolution decree provides for sole retention by the retired person of all rights in the retirement allowance, the nominated beneficiary shall become ineligible to receive a retirement allowance and the retirement allowance of the retired person shall be increased to the amount the retired member would be receiving had the retired person elected option 1 as provided in section 169.070.

2. Any nomination of a successor beneficiary under subdivision (1) or (2) of subsection 1 of this section must be made in accordance with procedures established by the board of trustees, and must be filed within ninety days of May 6, 1993, or within ninety days of the remarriage, whichever later occurs. Upon receipt of a successor nomination filed in accordance with those procedures, the board shall adjust the retirement allowance to reflect actuarial considerations of that nomination as well as previous beneficiary and successor beneficiary nominations.

169.562. 1. To the extent determined appropriate by the board of trustees, the retirement system established under sections 169.020 and 169.610 may indemnify and protect any trustee or employee of the retirement system against any or all claims or liabilities, including defense thereof arising out of his or her responsibilities with respect to the retirement system, provided, however, that no trustee or employee shall be indemnified for his or her gross negligence or willful misconduct. This section shall apply whether the claim is made against the employee or trustee in his or her individual or official capacity.

2. The board of trustees is authorized to obtain and maintain insurance and indemnity policies to insure the trustees and employees of the retirement system against any liability or losses incurred as a result of their responsibilities with respect to the retirement system.

3. No employee or trustee shall be entitled to indemnification under this section unless within fifteen days after receipt of service of process he or she gives written notice of such proceeding to the board of trustees.

169.630. 1. All funds arising from the operation of sections 169.600 to 169.715 shall belong to the retirement system created in sections 169.600 to 169.715 and shall be controlled by the board of trustees and that board shall provide for the collection of these funds, see that they are safely preserved, and shall permit their disbursement only for the purposes authorized in sections 169.600 to 169.715. These funds are declared and shall be deemed to be the moneys and funds of this retirement system and not general funds of the state and shall not be commingled with any state funds or other retirement funds. Solely for the purpose of investing the funds of the retirement system, the funds may be combined with the funds of the public

school retirement system of Missouri, but the funds of each system shall be accounted for separately and for all other purposes shall be separate.

2. The board shall invest all funds under its control which are in excess of a safe operating balance. The investment shall be made only in securities authorized and pursuant to the same standards set for investment by section 169.040.

3. **Notwithstanding the provisions of section 105.662, RSMo, the board may set up and maintain a public school and education employee retirement systems of Missouri investment fund account in which investment and reinvestment of all or part of the moneys of the system may be placed and be available for investment purposes. For the purpose of investing the funds of the public education employee retirement system, the funds may be combined with the funds of the public school retirement system of Missouri, but the funds of each system shall be accounted for separately and for all other reporting purposes shall be separate.**

4. The board of trustees may promulgate rules and regulations not inconsistent with the provisions of section 169.040 as shall deem necessary for its proper administration under the provisions of this chapter. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

5. No investment transaction authorized by the board shall be handled by any company or firm in which a member of the board has an interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the retirement system, and any securities or other properties obtained by the board of trustees may be held by a custodian in the name of the retirement system, or in the name of a nominee in order to facilitate the expeditious transfer of such securities or other property. Such securities or other properties which are not available in registered form may be held in bearer form or in book entry form. The retirement system is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the Uniform Commercial Code, sections 400.8-102 and 400.8-108, RSMo. When such eligible securities of the retirement system are so deposited with a central depository system, the securities may be merged and held in the name of the nominee of such securities depository and title to such securities may be

transferred by bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

[4.**] 6.** With appropriate safeguards against loss by the system in any contingency, the board may designate a bank or trust company to serve as a depository of system funds and intermediary in the investment of those funds and payment of system obligations.

[5.**] 7.** All retirement allowances or other periodic payments paid by the board shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the board to be appropriate. Each recipient of retirement allowances or other periodic payments shall designate a financial institution or other authorized payment agent and provide the board information necessary for the recipient to receive electronic funds transfer payments through the institution or agent designated. This subsection shall apply to retirement allowances and other periodic payments first paid on or after January 1, 1998, and shall apply to all retirement allowances and other periodic payments on and after January 1, 1999.

[6.**] 8.** The board of trustees may deliberate about, or make tentative or final decisions on, investments or other financial matters in a closed meeting under chapter 610, RSMo, if disclosure of the deliberations or decisions would jeopardize the ability to implement a decision or to achieve investment objectives. A record of the retirement system that discloses deliberations about, or a tentative or final decision on, investments or other financial matters is not a public record under chapter 610, RSMo, to the extent and so long as its disclosure would jeopardize the ability to implement a decision or to achieve investment objectives.

169.650. 1. On and after October 13, 1965, all employees as defined in section 169.600 of districts included in this retirement system shall be members of the system by virtue of their employment, and all persons who had five years of prior service who were employees of districts included in sections 169.600 to 169.710 during the school year next preceding October 13, 1965, but who ceased to be employees prior to October 13, 1965, because of physical disability, shall be members of this system by virtue of that prior service. Individuals who qualify as independent contractors under the common law and are treated as such by their employer shall not be considered employees for purposes of membership in or contributions to the retirement system.

2. Any member who rendered service prior to November 1, 1965, as an employee as defined in section 169.600 in a district or junior college district included in the system may claim credit for that service by filing with the board of trustees a complete and detailed record of the service for which the credit is claimed, together with such supporting evidence as the board may require for verification of the record. To the extent that the board finds the record correct, it shall credit the claimant with prior service and shall notify the claimant of its decision.

3. Membership shall be terminated by failure of a member to earn any membership service credit as a public school employee under this system for five consecutive school years, by death, withdrawal of contributions, or retirement.

4. If a member withdraws or is refunded the member's contributions, the member shall thereby forfeit any creditable service the member may have; provided, however, if such person again becomes a member of the system, the member may elect prior to retirement to reinstate any creditable service forfeited at the times of previous withdrawals or refunds. The reinstatement shall be effected by the member paying to the retirement system, with interest, the amount of accumulated contributions withdrawn by the member or refunded to the member with respect to the service being reinstated. A member may reinstate less than the total service previously forfeited, in accordance with rules promulgated by the board of trustees. The payment shall be completed prior to termination of membership with the retirement system with interest on the unpaid balance; provided, however, that if a member is retired on disability before completing such payments, the balance due, with interest, shall be deducted from the member's disability retirement allowance.

5. Any person who is an employee of any statewide nonprofit educational association or organization serving the active membership of the public education employee retirement system of Missouri and who works at least twenty hours per week on a regular basis in a position which is not covered by the public school retirement system of Missouri may be a member of the public education employee retirement system of Missouri. Certificated employees of such statewide nonprofit educational association or organization may not be members of the public school retirement system of Missouri unless such association or organization makes separate application pursuant to subsection 4 of section 169.130. The contributions required to be made by the employee will be deducted from salary and matched by the association or organization. **After June 30, 2009, no additional nonprofit educational associations or organizations may have its employees become members of the public school retirement system or the public education employee retirement system of Missouri.**

169.655. 1. Members who have accrued at least one year of membership service credit for employment in a position covered by this retirement system and who have covered employment with this retirement system following the service for which credit is being purchased may purchase membership service credit under the circumstances, terms and conditions provided in this section. With respect to each such purchase authorized by this section the following provisions apply:

(1) The purchase shall be effected by the member paying to the retirement system the amount the member would have contributed and the amount the employer would have contributed had such member been an employee for the number of years for which the member

is electing to purchase credit, and had the member's compensation during such period been the highest annual salary rate on record with the retirement system on the date of election to purchase credit. The contribution rate used in determining the amount to be paid shall be the contribution rate in effect on the date of election to purchase credit. Notwithstanding the provisions of this subsection, for all elections to purchase credit received by the retirement system on or after January 1, 2006, the member shall receive credit based on the amount paid by the member for such credit and received by the retirement system by the close of business on June thirtieth of each year. In lieu of charging the member interest on such purchase of credit, the amount to be paid by the member for any remaining credit the member has elected to purchase but has not paid for by **[**June**] September** thirtieth of each year shall be recalculated on the following **[**July**] October** first using the contribution rate in effect on that July first and the highest salary of record for the member as of that July first. For all elections to purchase credit received by the retirement system prior to January 1, 2006, the retirement system shall determine the cost of such purchase using the calculation method in effect for elections to purchase credit received by the retirement system on or after January 1, 2006, provided that the member shall have a one-time, irrevocable option to continue to have the cost of such purchase be determined using the calculation method in effect at the time of such election to purchase such credit. To be effective, such option must be elected by the member on a form approved by the retirement system and such form must be received by the retirement system by the close of business on June 30, 2006. The retirement system reserves the right to **prohibit a purchase, impose additional requirements for making a purchase, or** limit the amount of credit purchased **[**by the member in any year if the amounts paid by the member in that year would exceed any applicable contribution limits set forth in**] if necessary for the retirement system to comply with federal law, including but not limited to the provisions of** Section 415 of Title 26 of the United States Code;

(2) Membership service credit purchased pursuant to this section shall be deemed to be membership service as defined in subdivision (10) of section 169.600;

(3) An election to purchase membership service credit pursuant to this section and payment for the purchase shall be completed prior to termination of membership with the retirement system with interest on the unpaid balance;

(4) Members may purchase membership service credit in increments of one-tenth of a year, and multiple elections to purchase may be made;

(5) Additional terms and conditions applicable to purchases made pursuant to this section including, but not limited to, minimum payments, payment schedules and provisions applicable when a member fails to complete payment may be set by rules of the board.

2. Membership service credit shall not be allowed pursuant to this section or sections 169.570 and 169.577 which exceeds in length the member's membership service credit for employment in a position covered by this system, and in no event may the member receive membership service credit with both this system and another public retirement system for the same service.

3. A member who was employed for at least twenty hours per week on a regular basis by a public school district, public junior college, public community college, public college, or public university, either inside or outside of this state, may elect to purchase equivalent membership service credit.

4. A member who has served in the armed forces of the United States of America and who was discharged or separated from the armed forces by other than a dishonorable discharge may elect to purchase membership service credit for the period of active duty service in the armed forces.

5. Any member granted unpaid maternity or paternity leave for a period, from a position covered by the retirement system, who returned to employment in such a position, may elect to purchase membership service credit for the period of leave.

6. Any member who is or was certified as a vocational-technical teacher on the basis of having a college degree or who was required to have a period of work experience of at least two years in the area of the subject being taught in order to qualify for such certification may, upon written application to the board, purchase equivalent membership service credit for such work experience which shall not exceed the two years necessary for certification if the work experience was in the area that the member taught or is teaching and was completed in two years.

7. Any member who had membership service credit with the public school retirement system of Missouri governed by sections 169.010 to 169.141 but which membership service credit was forfeited by withdrawal or refund may elect to purchase credit for such service. The public school retirement system of Missouri shall transfer to this system an amount equal to the employer contributions for the forfeited service being purchased, plus interest, which shall be applied to reduce the amount the member would otherwise pay for the purchase, provided that the amount transferred shall not exceed one-half of the purchase cost.

8. A member may elect to purchase membership service credit for service rendered while on leave from an employer, as defined in section 169.600, for a not-for-profit corporation or agency whose primary purpose is support of education or education research if the member was employed by that organization to serve twenty or more hours per week on a regular basis.

9. A member who was employed by a private school, private junior college, private community college, private college, or private university, either inside or outside of this state,

for at least twenty or more hours per week on a regular basis, may elect to purchase membership service credit for such service rendered.

10. A member who was employed in nonfederal public employment for at least twenty hours a week on a regular basis shall be permitted to purchase equivalent creditable service in the retirement system for such employment subject to provisions of this section.

11. A member who, while eighteen years of age or older, was employed in a position covered by Social Security for at least twenty hours a week on a regular basis shall be permitted to purchase equivalent creditable service in the retirement system for such employment subject to provisions of this section.

169.670. 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 whose creditable service is thirty years or more regardless of age, shall be the sum of the following items:

(1) For each year of membership service, one and sixty-one hundredths percent of the member's final average salary;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service;

(3) Eighty-five one-hundredths of one percent of any amount by which the member's average compensation for services rendered prior to July 1, 1973, exceeds the average monthly compensation on which federal Social Security taxes were paid during the period over which such average compensation was computed, for each year of membership service credit for services rendered prior to July 1, 1973, plus six-tenths of the amount payable for a year of membership service for each year of prior service credit;

(4) In lieu of the retirement allowance otherwise provided by subdivisions (1) to (3) of this subsection, between July 1, 2001, and July 1, 2013, a member may elect to receive a retirement allowance of:

(a) One and fifty-nine hundredths 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 the age of fifty-five;

(b) One and fifty-seven hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-eight years or more but less than twenty-nine years, and the member has not attained the age of fifty-five;

(c) One and fifty-five hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-seven years or more but less than twenty-eight years and the member has not attained the age of fifty-five;

(d) One and fifty-three hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-six years or more but less than twenty-seven years and the member has not attained the age of fifty-five;

(e) One and fifty-one hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-five years or more but less than twenty-six years and the member has not attained the age of fifty-five; and

(5) In addition to the retirement allowance provided in subdivisions (1) to (3) of this subsection, a member retiring on or after July 1, 2001, whose creditable service is thirty years or more or whose sum of age and creditable service is eighty years or more, shall receive a temporary retirement allowance equivalent to eight-tenths of one percent of the member's final average salary multiplied by the member's years of service until such time as the member reaches the minimum age for Social Security retirement benefits.

2. If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases five percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by five percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board; provided that, the increase provided in this subsection shall not become effective until the fourth January first following a member's retirement or January 1, 1982, whichever occurs later, and the total of the increases granted to a retired member or the beneficiary after December 31, 1981, may not exceed eighty percent of the retirement allowance established at retirement or as previously adjusted by other provisions of law. If the cost of living increases less than five percent, the board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

3. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 2 of this section if the cost of living, as determined by the board and as measured by generally accepted standards, is less than the cost of living was at the time of the first increase granted to the member; provided that, the reductions shall not exceed the amount of increases which have been made to the member's allowance after December 31, 1981.

4. (1) In lieu of the retirement allowance provided in subsection 1 of this section, called "option 1", a member whose creditable service is twenty-five years or more or who has attained age fifty-five with five or more years of creditable service may elect, in the application for retirement, to receive the actuarial equivalent of the member's retirement allowance in reduced monthly payments for life during retirement with the provision that:

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

OR

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

OR

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

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the reserve for the remainder of such one hundred twenty monthly payments shall be paid to the **surviving spouse, surviving children in equal shares, surviving parents in equal shares, or to the** estate of the last person to receive a monthly allowance **in a lump sum payment**. If the total of the one hundred twenty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum;

OR

Option 6. Upon the death of the member prior to the member having received sixty monthly payments of the member's reduced allowance, the remainder of the sixty monthly

payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the sixty monthly payments, the reserve for the remainder of such sixty monthly payments shall be paid to the **surviving spouse, surviving children in equal shares, surviving parents in equal shares, or to the** estate of the last person to receive a monthly allowance **in a lump sum payment**. If the total of the sixty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum;

OR

Option 7. A plan of variable monthly benefit payments which provides, in conjunction with the member's retirement benefits under the federal Social Security laws, level or near-level retirement benefit payments to the member for life during retirement, and if authorized, to an appropriate beneficiary designated by the member. Such a plan shall be actuarially equivalent to the retirement allowance under option 1 and shall be available for election only if established by the board of trustees under duly adopted rules.

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

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

(b) If the member or a person retired on disability retirement dies before attaining age fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the person named as the beneficiary has an insurable interest in the life of the deceased member or disability retiree, the designated beneficiary may elect to receive either a payment of the person's accumulated contributions or survivorship benefits under option 2 to begin on the date the

member would first have been eligible to receive an actuarial equivalent of the person's retirement allowance, or to begin on the date the member would first have been eligible to receive the retirement allowance provided in subsection 1 of this section.

5. If the total of the retirement or disability allowances paid to an individual before the person's death is less than the person's accumulated contributions at the time of the person's retirement, the difference shall be paid to the person's beneficiary or, if there is no beneficiary, to the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** person's estate in that order of precedence; provided, however, that if an optional benefit, as provided in option 2, 3 or 4 in subsection 4 **of this section**, had been elected and the beneficiary dies after receiving the optional benefit, then, if the total retirement allowances paid to the retired individual and the individual's beneficiary are less than the total of the contributions, the difference shall be paid to the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** estate of the beneficiary, in that order of precedence, unless the retired individual designates a different recipient with the board at or after retirement.

6. **If a member dies and his or her financial institution is unable to accept the final payment or payments due to the member, the final payment or payments shall be paid to the beneficiary of the member or, if there is no beneficiary, to the surviving spouse, surviving children in equal shares, surviving parents in equal shares, or to the estate of the member in that order of precedence, unless otherwise stated. If the beneficiary of a deceased member dies and his or her financial institution is unable to accept the final payment or payments, the final payment or payments shall be paid to the surviving spouse, surviving children in equal shares, surviving parents in equal shares, or to the estate of the member in that order of precedence, unless otherwise stated.**

7. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the member's death shall be paid to the member's beneficiary or, if there is no beneficiary, to the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** to the member's estate; provided, however, that no such payment shall be made if the beneficiary elects option 2 in subsection 4 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the **[**(1)**]** surviving spouse, **[**(2)**]** surviving children in equal shares, **[**(3)**]** surviving parents in equal shares, or **[**(4)**]** estate of the beneficiary, in that order of precedence.

[7.**] 8.** If a member ceases to be an employee as defined in section 169.600 and certifies to the board of trustees that such cessation is permanent or if the person's membership is

otherwise terminated, the person shall be paid the person's accumulated contributions with interest.

[8.**] 9.** Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, if a member ceases to be an employee as defined in section 169.600 after acquiring five or more years of creditable service, the member may, at the option of the member, leave the member's contributions with the retirement system and claim a retirement allowance any time after the member reaches the minimum age for voluntary retirement. When the member's claim is presented to the board, the member shall be granted an allowance as provided in sections 169.600 to 169.715 on the basis of the member's age and years of service.

[9.**] 10.** The retirement allowance of a member retired because of disability shall be nine-tenths of the allowance to which the member's creditable service would entitle the member if the member's age were sixty.

[10.**] 11.** Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, any member who is a member prior to October 13, 1969, may elect to have the member's retirement allowance computed in accordance with sections 169.600 to 169.715 as they existed prior to October 13, 1969.

[11.**] 12.** Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

[12.**] 13.** Notwithstanding any other provision of law, any person retired prior to August 14, 1984, who is receiving a reduced retirement allowance under option 1 or 2 of subsection 4 of this section, as the option existed prior to August 14, 1984, and whose beneficiary nominated to receive continued retirement allowance payments under the elected option dies or has died, shall upon application to the board of trustees have the person's retirement allowance increased to the amount the person would have been receiving had the person not elected the option actuarially adjusted to recognize any excessive benefits which would have been paid to the person up to the time of the application.

[13.**] 14.** Benefits paid pursuant to the provisions of the public education employee retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code, except as provided under this subsection. Notwithstanding any other law, the board of trustees may establish a benefit plan under Section 415(m) of Title 26 of the United States Code. Such plan shall be credited solely for the purpose described in Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate regulations necessary to implement the provisions of this subsection and to create and administer such benefit plan.

[14.**] 15.** Any member who has retired prior to July 1, 1999, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to seven and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

[15.**] 16.** Any member who has retired prior to July 1, 2000, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to three and four-tenths percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

[16.**] 17.** Any member who has retired prior to July 1, 2001, and the designated beneficiary of a deceased retired member upon request shall be made, constituted, appointed and employed by the board as a special consultant on the matters of education, retirement and aging. As compensation for such duties the person shall receive a payment equivalent to seven and one-tenth percent of the previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

169.673. 1. Any member eligible for a retirement allowance pursuant to section 169.670 and who has not previously received a retirement allowance, including an allowance under disability retirement, pursuant to section 169.670, and whose sum of age and creditable service equals eighty-six years or more or whose creditable service is thirty-three years or more or whose age is sixty-three years or more and has eight years or more creditable service may elect a distribution under the partial lump sum option plan provided in this section if the member notifies the retirement system on the application for retirement of the member's effective date of retirement; provided that the partial lump sum option plan may not be elected if the member elects a retirement allowance under option 7 of subdivision (1) of subsection 4 of section 169.670.

2. A member entitled to make an election pursuant to this section may elect to receive a lump sum distribution in addition to the member's monthly retirement allowance payment

pursuant to section 169.670 as reduced pursuant to this section. Such member may elect the amount of the member's lump sum distribution from one, but not more than one, of the following options:

(1) A lump sum amount equal to twelve times the retirement allowance, less any temporary retirement allowance payable pursuant to subdivision (5) of subsection 1 of section 169.670, the member would receive if no election were made under this section and the member had chosen option 1 under section 169.670;

(2) A lump sum amount equal to twenty-four times the retirement allowance, less any temporary retirement allowance payable pursuant to subdivision (5) of subsection 1 of section 169.670, the member would receive if no election were made pursuant to this section and the member had chosen option 1 under section 169.670; or

(3) A lump sum amount equal to thirty-six times the retirement allowance, less any temporary retirement allowance payable pursuant to subdivision (5) of subsection 1 of section 169.670, the member would receive if no election were made pursuant to this section and the member had chosen option 1 under section 169.670.

3. When a member makes an election to receive a lump sum distribution pursuant to this section, the retirement allowance that the member would have received in the absence of the election shall be reduced on an actuarially equivalent basis to reflect the payment of the lump sum distribution and the reduced retirement allowance shall be the member's retirement allowance thereafter for all purposes in relation to retirement allowance amounts pursuant to section 169.670. If eligible, the member may also receive a temporary benefit, pursuant to subdivision (5) of subsection 1 of section 169.670, for the period of time described therein. A retirement allowance increased due to the death of a person nominated by the member to receive benefits pursuant to the provisions of option 2, 3, or 4 of subsection 4 of section 169.670 shall be increased pursuant to such provisions to the amount the retired member would be receiving had the retired member elected option 1 as actuarially reduced due to the lump sum distribution made pursuant to this section. Any payment of accumulated contributions pursuant to the provisions of sections 169.600 to 169.715 shall be reduced by the amount of any lump sum distribution made pursuant to this section in addition to any other reductions required by sections 169.600 to 169.715.

4. If the member dies before receiving a lump-sum distribution under this section the lump-sum distribution shall be paid in accordance with rules adopted by the board of trustees.

5. Benefits paid pursuant to this section in addition to all other provisions of the public education employee retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code except as provided in subsection **[**13**]** **14** of section 169.670.

169.690. Neither the funds belonging to the retirement system nor any benefit accrued or accruing to any person under the provisions of sections 169.600 to 169.710 shall be subject to execution, garnishment, attachment or any other process whatsoever, nor shall they be assignable, except **in a proceeding for spousal maintenance or child support and** as in sections 169.600 to 169.710 specifically provided.

169.715. 1. Any person receiving a retirement allowance under sections 169.600 to 169.712, and who elected a reduced retirement allowance under subsection 4 of section 169.670 with his spouse as the nominated beneficiary, may nominate a successor beneficiary under either of the following circumstances:

(1) If the nominated beneficiary precedes the retired person in death, the retired person may, upon remarriage, nominate the new spouse under the same option elected in the application for retirement;

(2) If the marriage of the retired person and the nominated beneficiary is dissolved, and if the dissolution decree provides for sole retention by the retired person of all rights in the retirement allowance, the retired person may, upon remarriage, nominate the new spouse under the same option elected in the application for retirement**; and**

(3) If the marriage of the retired person and the nominated beneficiary is dissolved after the effective date of this subdivision, and if the dissolution decree provides for sole retention by the retired person of all rights in the retirement allowance, the nominated beneficiary shall become ineligible to receive a retirement allowance and the retirement allowance of the retired person shall be increased to the amount the retired member would be receiving had the retired person elected option 1 as provided in section 169.070.

2. Any nomination of a successor beneficiary under subdivision (1) or (2) of subsection 1 of this section must be made in accordance with procedures established by the board of trustees, and must be filed within ninety days of May 6, 1993, or within ninety days of the remarriage, whichever later occurs. Upon receipt of a successor nomination filed in accordance with those procedures, the board shall adjust the retirement allowance to reflect actuarial considerations of that nomination as well as previous beneficiary and successor beneficiary nominations.

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