

SECOND REGULAR SESSION

# HOUSE BILL NO. 1752

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES CHAPPELLE-NADAL (Sponsor), CASEY, HODGES, SCHIEFFER, PACE, WALTON GRAY, MORRIS, OXFORD, STORCH, HOSKINS (80), NASHEED, CARTER, BIERMANN AND SCHUPP (Co-sponsors).

4414L.02I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 169.410 and 169.450, RSMo, and to enact in lieu thereof two new sections relating to the public school retirement system.

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

Section A. Sections 169.410 and 169.450, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 169.410 and 169.450, to read as follows:

169.410. The following words and phrases as used in sections 169.410 to 169.540,  
2 unless a different meaning is plainly required by the context, shall have the following meanings:

3 (1) "Accumulated contributions", the sum of all amounts deducted from the  
4 compensation of a member and credited to the member's individual account together with interest  
5 allowed on such an account;

6 (2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of  
7 interest and such mortality tables as shall be adopted by the board of trustees;

8 (3) "Average final compensation", the highest average annual compensation of the  
9 member received for any three consecutive years of credited service of the member's last ten  
10 years of credited service or if the member has had less than three years of such credited service,  
11 during the member's entire period of credited service;

12 (4) "Beneficiary", any person other than a retired member receiving a pension benefit,  
13 optional pension benefit or other benefit;

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.

14 (5) "Board of education", the board of education or corresponding board having charge  
15 of the public schools of the school district other than those public schools which are operated by  
16 the board of regents;

17 (6) "Board of regents", the board of regents or corresponding board having charge of a  
18 public city teacher training school within the school district which was operated by its board of  
19 education prior to September 1, 1978;

20 (7) "Board of trustees", the board which administers the retirement system;

21 (8) "Charter school", any charter school established pursuant to sections 160.400 to  
22 160.420, RSMo, and located, at the time it is established, within the school district;

23 (9) "Compensation", the regular compensation which a member has earned as an  
24 employee during any period, excluding, however, any compensation earned by a person who  
25 became a member after December 31, 1995, which is in excess of the limitation set forth in  
26 Section 401(a)(17) of the Internal Revenue Code;

27 (10) "Consumer price index", the Consumer Price Index for All Urban Consumers for  
28 the United States, or its successor index, as approved by the board of trustees, as such index is  
29 defined and officially reported by the United States Department of Labor, or its successor  
30 agency;

31 (11) "Credited service", prior service plus membership service plus service purchased  
32 pursuant to applicable Missouri statute;

33 (12) "Employee", any person regularly employed by (a) the board of education, or (b)  
34 the board of trustees, or (c) the board of regents who was employed at a public teacher training  
35 school within the school district prior to September 1, 1978, and who did not become a member  
36 of the Missouri state employees' retirement system pursuant to section 104.342, RSMo, or (d)  
37 a charter school. In case of doubt as to whether any person is an employee, the decision of the  
38 board of education, or the board of trustees, or the board of regents shall be final and conclusive;

39 (13) "Employer", the board of education, the board of trustees, the board of regents or  
40 a charter school;

41 (14) "Medical board", the board of physicians;

42 (15) "Member", a member of the retirement system defined as an:

43 (a) "Active member", a person who is an employee;

44 (b) "Inactive member", a former active member who has accumulated contributions with  
45 the retirement system; or

46 (c) "Retired member", a former active member who has retired and is receiving benefits;

47 (16) "Membership service", service rendered as an employee for which the employee  
48 received compensation. For the purpose of computing creditable service at retirement,  
49 membership service shall include a member's accumulated and unused days of sick leave. The

50 decision of the employing board as to the number of accumulated and unused days of sick leave  
51 held by a member shall be final and conclusive;

52 (17) "Pension benefit" or "pension", monthly payments for life to a retired member or  
53 to such beneficiary as is entitled to the payments;

54 (18) "Prior service", service prior to the date the system became operative which is  
55 credited;

56 (19) "Public school", any school for elementary, secondary or higher education, open and  
57 public, which is supported and maintained from public funds and which is operated by the board  
58 of education of the school district, by the board of regents, or as a charter school as defined  
59 pursuant to sections 160.400 to 160.420, RSMo;

60 (20) "Retired member", a member receiving a retirement benefit or other benefit;

61 (21) "Retirement system", the public school retirement system of a school district;

62 (22) ["School administrator", an employee whose job classification is included on the  
63 school administrators' position schedule of the employing board;

64 (23)] "School district", any metropolitan school district as defined pursuant to section  
65 160.011, RSMo;

66 [(24)] **(23)** "Teacher", any teacher, substitute teacher, supervisor, principal, supervising  
67 principal, superintendent or assistant superintendent, who shall teach or be employed on a  
68 full-time basis in the public schools of a school district or charter school, except those teachers  
69 electing to become members of the Missouri state employees' retirement system pursuant to  
70 section 104.342, RSMo. In case of doubt as to whether any person is a teacher, the decision of  
71 the board of education, or the board of regents with respect to individuals within its charge, shall  
72 be final and conclusive.

169.450. 1. The general administration and responsibility for the proper operation of the  
2 retirement system and for making effective the provisions of sections 169.410 to 169.540 are  
3 hereby vested in a board of trustees of [eleven] **nine** persons, as follows:

4 (1) [Four] **Two** trustees to be appointed for terms of four years by the board of education;  
5 provided, however, that their terms shall be fixed so the terms of one of the trustees so appointed  
6 shall expire each year. The members of such board of trustees appointed by the board of  
7 education may be members of the board of education or other individuals deemed qualified to  
8 hold such positions by the board of education;

9 (2) [Four] **Two** trustees to be elected for terms of four years by and from the active  
10 members of the retirement system who shall hold office as trustees only while active members;  
11 provided, however, that their terms shall be fixed so that the terms of one of the trustees so  
12 elected shall expire each year; and provided further, that not more than two of such persons shall  
13 be teachers and two shall be nonteachers[. For the purposes of this subsection, a school

14 administrator shall not be eligible for the positions established pursuant to this subdivision and  
15 shall be eligible for the position established pursuant to subdivision (4) of this subsection];

16 (3) [Two] **Five** trustees, who shall be retired members, to be elected for terms of four  
17 years by and from the retired members of the retirement system; provided, however, that the  
18 terms of office of the first two trustees so elected shall begin immediately upon their election and  
19 shall expire two and four years from the date of their election, respectively; and provided further,  
20 that not more than one of such persons shall be a teacher and one shall be a nonteacher];

21 (4) One member, who shall be a school administrator, to be elected for a term of four  
22 years by and from the active members of the retirement system who shall hold office as a trustee  
23 only while an active member; except that, the initial term of office of such trustee shall expire  
24 on December 31, 1999].

25 2. If a vacancy occurs in the office of trustee, the vacancy shall be filled for the  
26 unexpired term in the same manner as the office was previously filled. No vacancy or vacancies  
27 on the board of trustees shall impair the power of the remaining trustees to administer the  
28 retirement system pending the filling of such vacancies.

29 3. In the event of a lapse of a school district's corporate organization as described in  
30 subsections 1 and 4 of section 162.081, RSMo, or for any other reason, the general  
31 administration and the responsibility for the proper operation of the retirement system shall  
32 continue to be fully vested in the trustees then currently serving and such trustees shall continue  
33 to serve and be elected in the same manner as set forth in this statute as if no lapse had occurred,  
34 except that in the event of vacancies occurring in the office of trustees appointed by the board  
35 of education prior to the lapse, the board of trustees shall appoint a qualified person or persons  
36 to fill such vacancy or vacancies for terms of up to four years.

37 4. Trustees shall serve without compensation, and any trustee shall be reimbursed from  
38 the expense fund for all necessary expenses which the trustee may incur through service on the  
39 board of trustees.

40 5. Each trustee shall, within ten days after such trustee's appointment or election, take  
41 an oath of office before the clerk of the circuit court of the judicial circuit in which the school  
42 district is located that, so far as it devolves upon the trustee, the trustee will diligently and  
43 honestly administer the affairs of the board of trustees and that the trustee will not knowingly  
44 violate or willingly permit to be violated any of the provisions of the law applicable to the  
45 retirement system. Such oath shall be subscribed to by the trustee making it and filed in the  
46 office of the clerk of the circuit court.

47 6. The circuit court of the judicial circuit in which the school district is located shall have  
48 jurisdiction over the members of the board of trustees to require them to account for their official  
49 conduct in the management and disposition of the funds and property committed to their charge;

50 to order, decree and compel payment by them to the public school retirement system of their  
51 school district of all sums of money, and of the value of all property which may have been  
52 improperly retained by them, or transferred to others, or which may have been lost or wasted by  
53 any violation of their duties or abuse of their powers as such members of such board; to remove  
54 any such member upon proof that the trustee has abused the trustee's trust or has violated the  
55 duties of the trustee's office; to restrain and prevent any alienation or disposition of property of  
56 such public school retirement system by the members, in cases where it may be threatened, or  
57 there is good reason to apprehend that it is intended to be made in fraud of the rights and interests  
58 of such public school retirement system. The jurisdiction conferred by sections 169.410 to  
59 169.540 shall be exercised as in ordinary cases upon petition, filed by the board of education of  
60 such school district, or by any two members of the board of trustees. Such petition shall be heard  
61 in a summary manner after ten days' notice in writing to the member complained of, and an  
62 appeal shall lie from the judgment of the circuit court as in other causes and be speedily  
63 determined, but such appeal shall not operate under any condition as a supersedeas of a judgment  
64 of removal from office.

65         7. Each trustee shall be entitled to one vote in the board of trustees. Six votes shall be  
66 necessary for a decision by the trustees at any meeting of the board of trustees.

67         8. Subject to the limitations of sections 169.410 to 169.540, the board of trustees shall,  
68 from time to time, establish rules and regulations for the administration of the retirement system,  
69 for eligibility for and determination of benefits under the retirement system, for the investment  
70 of retirement system assets, and for the transaction of the retirement system's business.

71         9. The board of trustees shall elect from its membership a chairman and shall, by  
72 majority vote of its members, appoint a secretary, who may be, but need not be, one of its  
73 members. It shall engage such actuarial and other services as shall be required to transact the  
74 business of the retirement system. It shall also engage an investment counselor who shall be  
75 experienced in the investment of moneys to advise the trustees on investments of the retirement  
76 system. The compensation of all persons engaged by the board of trustees and all other expenses  
77 of the board necessary for the operation of the retirement system shall be paid at such rates and  
78 in such amounts as the board of trustees shall approve.

79         10. The board of trustees shall keep in convenient form such data as shall be necessary  
80 for actuarial valuations of the assets of the retirement system and for checking the experience of  
81 the system.

82         11. The board of trustees shall keep a record of all its proceedings which shall be open  
83 to public inspection. It shall prepare annually and send to the board of education and to each  
84 member of the retirement system a report showing the fiscal transactions of the retirement system  
85 for the preceding fiscal year, a detailed listing of all salaries and expenditures incurred by the

86 trustees for its operation, the amount of the accumulated cash and securities of the system, and  
87 the last balance sheet showing the financial condition of the system by means of an actuarial  
88 valuation of the assets and liabilities of the retirement system. The board of trustees shall also  
89 prepare or cause to be prepared an annual report concerning the operation of the retirement  
90 system herein provided for, which report shall be sent by the chairman of the board of trustees  
91 to the board of education.

92         12. The board of trustees shall arrange for necessary legal advice for the operation of the  
93 retirement system.

94         13. The board of trustees shall designate a medical board to be composed of three  
95 physicians, none of whom shall be eligible for benefits pursuant to sections 169.410 to 169.540,  
96 who shall arrange for and pass upon all medical examinations required pursuant to the provisions  
97 of sections 169.410 to 169.540, shall investigate all essential statements and certificates made  
98 by or on behalf of a member in connection with an application for disability retirement and shall  
99 report in writing to the board of trustees its conclusions and recommendations upon all matters  
100 referred to it.

101         14. The actuary shall be the technical adviser of the board of trustees on matters  
102 regarding the operation of the system created by sections 169.410 to 169.540 and shall perform  
103 such other duties as are required in connection therewith. Such person shall be qualified as an  
104 actuary by membership as a fellow in the Society of Actuaries or by objective standards which  
105 are no less stringent than those established by the Society of Actuaries.

106         15. At least once in each five-year period the actuary shall make an investigation into the  
107 actuarial experience of the retirement system, and taking into account the results of such  
108 investigation of the experience, the board of trustees shall adopt for the retirement system such  
109 actuarial assumptions as shall be deemed necessary.

110         16. On the basis of such actuarial assumptions as the board of trustees shall adopt, the  
111 actuary shall make an annual valuation of the assets and liabilities of the funds of the retirement  
112 system.

113         17. On the basis of the valuation the board of trustees shall certify the rates of  
114 contribution payable by the board of education.

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