

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 478

98TH GENERAL ASSEMBLY

1256H.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

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

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

Section A. Section 169.070, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 169.070, to read as follows:

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

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

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

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.

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

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

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

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

28 (8) [Between July 1, 2001, and July 1, 2014,] Two and fifty-five hundredths percent of
29 the member's final average salary for each year of membership service, if the member's creditable
30 service is thirty-one years or more regardless of age.

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

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

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

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

40 3. (1) In lieu of the retirement allowance provided either in subsection 1 or 2 of this
41 section, collectively called "option 1", a member whose creditable service is twenty-five years
42 or more or who has attained the age of fifty-five with five or more years of creditable service
43 may elect in the member's application for retirement to receive the actuarial equivalent of the
44 member's retirement allowance in reduced monthly payments for life during retirement with the
45 provision that:

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

52 OR

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

59 OR

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

66 OR

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

79 OR

80 Option 6. Upon the death of the member prior to the member having received sixty
81 monthly payments of the member's reduced allowance, the remainder of the sixty monthly
82 payments of the reduced allowance shall be paid to such beneficiary as the member shall have
83 nominated in the member's election of the option or in a subsequent nomination. If there is no
84 beneficiary so nominated who survives the member for the remainder of the sixty monthly
85 payments, the total of the remainder of such sixty monthly payments shall be paid to the
86 surviving spouse, surviving children in equal shares, surviving parents in equal shares, or estate
87 of the last person, in that order of precedence, to receive a monthly allowance in a lump sum

88 payment. If the total of the sixty payments paid to the retired individual and the beneficiary of
89 the retired individual is less than the total of the member's accumulated contributions, the
90 difference shall be paid to the beneficiary in a lump sum.

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

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

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

114 4. If the total of the retirement or disability allowance paid to an individual before the
115 death of the individual is less than the accumulated contributions at the time of retirement, the
116 difference shall be paid to the beneficiary of the individual, or to the surviving spouse, surviving
117 children in equal shares, surviving parents in equal shares, or estate of the individual in that order
118 of precedence. If an optional benefit as provided in option 2, 3 or 4 in subsection 3 of this
119 section had been elected, and the beneficiary dies after receiving the optional benefit, and if the
120 total retirement allowance paid to the retired individual and the beneficiary of the retired
121 individual is less than the total of the contributions, the difference shall be paid to the surviving
122 spouse, surviving children in equal shares, surviving parents in equal shares, or estate of the

123 beneficiary, in that order of precedence, unless the retired individual designates a different
124 recipient with the board at or after retirement.

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

134 6. If a member dies before receiving a retirement allowance, the member's accumulated
135 contributions at the time of the death of the member shall be paid to the beneficiary of the
136 member or, if there is no beneficiary, to the surviving spouse, surviving children in equal shares,
137 surviving parents in equal shares, or to the estate of the member, in that order of precedence;
138 except that, no such payment shall be made if the beneficiary elects option 2 in subsection 3 of
139 this section, unless the beneficiary dies before having received benefits pursuant to that
140 subsection equal to the accumulated contributions of the member, in which case the amount of
141 accumulated contributions in excess of the total benefits paid pursuant to that subsection shall
142 be paid to the surviving spouse, surviving children in equal shares, surviving parents in equal
143 shares, or estate of the beneficiary, in that order of precedence.

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

148 8. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, if a
149 member ceases to be a public school employee after acquiring five or more years of membership
150 service in Missouri, the member may at the option of the member leave the member's
151 contributions with the retirement system and claim a retirement allowance any time after
152 reaching the minimum age for voluntary retirement. When the member's claim is presented to
153 the board, the member shall be granted an allowance as provided in sections 169.010 to 169.141
154 on the basis of the member's age, years of service, and the provisions of the law in effect at the
155 time the member requests the member's retirement to become effective.

156 9. The retirement allowance of a member retired because of disability shall be
157 nine-tenths of the allowance to which the member's creditable service would entitle the member
158 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.

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.

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.

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.

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.

14. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 13 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.

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.

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.

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.

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;

- 267 (2) At least twenty-five years but less than thirty years, one thousand dollars;
268 (3) At least twenty years but less than twenty-five years, eight hundred dollars;
269 (4) At least fifteen years but less than twenty years, six hundred dollars.

270 19. Notwithstanding any other provisions of law to the contrary, any person retired prior
271 to May 26, 1994, and any designated beneficiary of such a retired member who was deceased
272 prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a
273 special consultant on the matters of education, retirement or aging and upon request shall give
274 written or oral opinions to the board in response to such requests. Beginning September 1, 1996,
275 as compensation for such service, the member shall have added, pursuant to this subsection, to
276 the member's monthly annuity as provided by this section a dollar amount equal to the lesser of
277 sixty dollars or the product of two dollars multiplied by the member's number of years of
278 creditable service. Beginning September 1, 1999, the designated beneficiary of the deceased
279 member shall as compensation for such service have added, pursuant to this subsection, to the
280 monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars
281 or the product of two dollars multiplied by the member's number of years of creditable service.
282 The total compensation provided by this section including the compensation provided by this
283 subsection shall be used in calculating any future cost-of-living adjustments provided by
284 subsection 13 of this section.

285 20. Any member who has retired prior to July 1, 1998, and the designated beneficiary
286 of a deceased retired member shall be made, constituted, appointed and employed by the board
287 as a special consultant on the matters of education, retirement and aging, and upon request shall
288 give written or oral opinions to the board in response to such requests. As compensation for such
289 duties the person shall receive a payment equivalent to eight and seven-tenths percent of the
290 previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity
291 and which shall not be subject to the provisions of subsections 13 and 14 of this section for the
292 purposes of the limit on the total amount of increases which may be received.

293 21. Any member who has retired shall be made, constituted, appointed and employed
294 by the board as a special consultant on the matters of education, retirement and aging, and upon
295 request shall give written or oral opinions to the board in response to such request. As
296 compensation for such duties, the beneficiary of the retired member, or, if there is no beneficiary,
297 the surviving spouse, surviving children in equal shares, surviving parents in equal shares, or
298 estate of the retired member, in that order of precedence, shall receive as a part of compensation
299 for these duties a death benefit of five thousand dollars.

300 22. Any member who has retired prior to July 1, 1999, and the designated beneficiary
301 of a retired member who was deceased prior to July 1, 1999, shall be made, constituted,
302 appointed and employed by the board as a special consultant on the matters of education,

303 retirement and aging, and upon request shall give written or oral opinions to the board in
304 response to such requests. As compensation for such duties, the person shall have added,
305 pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount
306 equal to five dollars times the member's number of years of creditable service.

307 23. Any member who has retired prior to July 1, 2000, and the designated beneficiary
308 of a deceased retired member shall be made, constituted, appointed and employed by the board
309 as a special consultant on the matters of education, retirement and aging, and upon request shall
310 give written or oral opinions to the board in response to such requests. As compensation for such
311 duties, the person shall receive a payment equivalent to three and five-tenths percent of the
312 previous month's benefit, which shall be added to the member or beneficiary's monthly annuity
313 and which shall not be subject to the provisions of subsections 13 and 14 of this section for the
314 purposes of the limit on the total amount of increases which may be received.

315 24. Any member who has retired prior to July 1, 2001, and the designated beneficiary
316 of a deceased retired member shall be made, constituted, appointed and employed by the board
317 as a special consultant on the matters of education, retirement and aging, and upon request shall
318 give written or oral opinions to the board in response to such requests. As compensation for such
319 duties, the person shall receive a dollar amount equal to three dollars times the member's number
320 of years of creditable service, which shall be added to the member's or beneficiary's monthly
321 annuity and which shall not be subject to the provisions of subsections 13 and 14 of this section
322 for the purposes of the limit on the total amount of increases which may be received.

Section B. Because of the importance of providing an additional retirement allowance
2 option to Missouri teachers, section A of this act is deemed necessary for the immediate
3 preservation of the public health, welfare, peace and safety, and is hereby declared to be an
4 emergency act within the meaning of the constitution, and section A of this act shall be in full
5 force and effect upon its passage and approval.

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