

SECOND REGULAR SESSION

SENATE BILL NO. 1223

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR JACOB.

Read 1st time February 26, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

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AN ACT

To repeal sections 169.050 and 169.055, RSMo, relating to part-time members in the teacher and school employee retirement system, and to enact in lieu thereof two new sections relating to the same subject, with an emergency clause.

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

Section A. Sections 169.050 and 169.055, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 169.050 and 169.055, to read as follows:

169.050. 1. On and after the effective date of sections 169.010 to 169.140, all employees as defined in sections 169.010 to 169.141 of districts included in the retirement system thereby created shall be members of the system by virtue of their employment, except as provided by section 104.342, RSMo. 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 person who becomes a member before the end of the school year next following the date on which the system becomes operative may claim credit for service rendered as an employee in Missouri prior to such operative date, or for service rendered in the armed forces of the United States during a period of war, the same as if the person were a teacher, provided the person was a teacher in Missouri at the time the person was inducted, by filing with the board of trustees, within such time as the board may specify, a complete and detailed record of the service for which 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, but the amount of such credit shall not exceed thirty years.

3. No prior service credit shall be granted to any person who becomes a member after the first year of the system's operation, except as provided in subsection 5 of this section unless that person's failure to become a member before or during that year was due either to service in the armed forces of the United States or to attendance at a recognized educational institution for professional improvement; provided, that the board of trustees may grant prior service credit to a teacher who taught prior to August 1, 1945, if the teacher returns to teaching before July 1, 1950, and if such teacher teaches in the public schools of Missouri not less than seven years after returning before retirement, or the board of trustees may grant prior service credit to a teacher who taught prior to August 1, 1945, if the teacher returns to teaching and teaches at least one-half of the number of years between July 1, 1946, and age sixty but not less than seven years after returning before retirement, except that a member who will have thirty-five or more years of teaching service in Missouri at retirement shall be required to teach not less than three years after returning and before retirement. A person serving in the armed forces of the United States shall have the same right to prior service credit as one who became a member before the end of the first year of the system's operation, if the person becomes a member within one year of the date of the person's discharge from such service or within one year of such date plus time spent as a student in a standard college or university in further preparation for service as a public school employee. A person attending a recognized educational institution for the person's professional improvement shall have the same right to prior service credit as one who became a member before the end of the first year of the system's operation, if the person becomes a member within three years following the date on which the system became operative, and within one year of the date on which the person's attendance at such institution ceased.

4. Membership shall be terminated, **except for eligible applicants pursuant to subsection 3 of section 169.055**, by failure of a member to earn any membership credit as a public school employee under this system for five consecutive school years, by death, withdrawal of contributions, or retirement.

5. 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 person may elect to reinstate the creditable service forfeited at times of previous withdrawals or refunds. The reinstatement shall be effected by the member's paying to the retirement system with interest the total 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 may be made over a period not longer than five years or the length of service to be reinstated whichever is longer, beginning from the date of election, or prior to retirement, whichever is earlier, and 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 may be deducted from the member's disability retirement allowance.

6. Any person who elected to purchase creditable service pursuant to section 169.055, 169.056 or 169.057 and failed to complete payment within the time allowed may again elect to purchase creditable service pursuant to those provisions, if the election is made before July 1, 1998. The election may include a purchase of creditable service for the same period for which the earlier election was made.

7. Any person who would be entitled to elect to purchase creditable service pursuant to section 169.055 for unpaid maternity or paternity leave except for the fact that the person returned to employment in a position covered by the retirement system more than five years after the end of the leave period may elect to purchase such creditable service if the election is made before July 1, 1998.

8. Any person who would be entitled to purchase creditable service pursuant to subsection 1 of section 169.055 except for the fact that the application was made on or after June 19, 1997, may elect to purchase such creditable service if the election is made before July 1, 1998.

9. Any person entitled to creditable service pursuant to subsection 3 of section 169.055 may acquire creditable service for creditable service beginning July 1, 1997. Any such person may elect to make reinstatement payments for creditable service pursuant to the payment provisions of subsection 5 of this section.

169.055. 1. A member who is assigned to a leave of absence by the member's employer, with compensation provided in the contract of employment for the leave period to be not less than fifty percent of the amount which would have been paid had the member not been on leave, may acquire creditable service for the period of leave. A member may elect to receive credit for the time spent on leave of absence at the time of the leave of absence and shall retain continued membership in the system during the leave period provided the full contributions are withheld and remitted on the basis of the compensation which would have been received if the member had not been on leave of absence and the employer's matching amount is remitted on the basis of the same amount of compensation which would have been paid if the member had not been on leave of absence.

2. Notwithstanding any provision of this chapter to the contrary, any person employed as of August 28, 1993, by the department of elementary and secondary education whose employment is covered by the retirement system provided by sections 169.010 to 169.141, and who without terminating that employment subsequently becomes a part-time employee of that department in a position requiring services for at least twenty hours per week on a regular basis, may elect within ninety days of August 28, 1993, or within ninety days of the date upon which

the part-time employment begins, whichever is later, to be covered by that retirement system and shall receive pro rata creditable service with that retirement system for such part-time employment. Credit shall not be allowable in both that retirement system and another Missouri public retirement system for such employment.

3. Notwithstanding any provision of this chapter to the contrary, any person employed as of June 30, 1997, by a public school district whose employment is covered by the retirement system provided by sections 169.010 to 169.141, and who without terminating that employment subsequently becomes a part-time employee of that district in a position requiring services no less than the equivalent of one-half of a full-time certificated teacher, receiving a minimum of fifty percent of the salary which would have been paid for full-time services, may elect within ninety days of August 28, 2002, or within ninety days of the date upon which the part-time employment begins, whichever is later, to be covered by that retirement system and shall receive pro rata creditable service with that retirement system for such part-time employment. Credit shall not be allowable in both that retirement system and another Missouri public retirement system for such employment.

4. Any person who establishes eligibility pursuant to subsection 3 of this section may maintain eligibility with part-time employment pursuant to subsection 3 of this section in any public school district covered under the retirement system.

Section B. Because of the immediate need for state emergency powers this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval.

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