

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR

**SENATE BILL NOS. 248, 100, 118,
233, 247, 341 & 420**

92ND GENERAL ASSEMBLY

Reported from the Committee on Retirement May 9, 2003, with recommendation that the House Committee Substitute for Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill Nos. 248, 100, 118, 233, 247, 341 & 420 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

0858L.10C

AN ACT

To repeal sections 84.140, 86.690, 104.010, 104.040, 104.110, 104.271, 104.340, 104.370, 104.460, 104.517, 104.1003, 104.1021, 104.1024, 104.1051, 104.1072, 104.1084, 104.1093, 169.030, 169.050, 169.056, 169.070, 169.570, 169.577, 169.590, 169.620, 169.650, 169.655, 169.670, 169.712, and 287.845, RSMo, and to enact in lieu thereof forty-two new sections relating to the retirement systems and benefits, with penalty provisions and an emergency clause for certain sections.

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

Section A. Sections 84.140, 86.690, 104.010, 104.040, 104.110, 104.271, 104.340, 104.370, 104.460, 104.517, 104.1003, 104.1021, 104.1024, 104.1051, 104.1072, 104.1084, 104.1093, 169.030, 169.050, 169.056, 169.070, 169.570, 169.577, 169.590, 169.620, 169.650, 169.655, 169.670, 169.712, and 287.845, RSMo, are repealed and forty-two new sections enacted in lieu thereof, to be known as sections 84.140, 86.394, 86.445, 86.676, 86.690, 104.010, 104.040, 104.110, 104.271, 104.340, 104.370, 104.460, 104.517, 104.806, 104.1003, 104.1021, 104.1024, 104.1051, 104.1072, 104.1084, 104.1093, 168.303, 169.030, 169.050, 169.056, 169.070, 169.073, 169.331, 169.570,

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

169.577, 169.590, 169.596, 169.620, 169.650, 169.655, 169.670, 169.673, 169.712, 287.813, 287.845, 1, and 2, to read as follows:

84.140. The boards may grant every member of the police force who has served for one year or more a total of three weeks vacation each year with pay, and each member of the police force who has served the department for twelve years or more may receive four weeks vacation each year with pay, and each member of the police force who has served the department for twenty-one years or more shall receive five weeks vacation each year with pay, **and each member of the police force who has served the department for thirty years or more and is eligible to participate in the deferred retirement option plan shall receive six weeks vacation each year with pay**; however the board may grant an additional week of paid vacation to members after one year of service. All members of the police force may receive fifteen holidays with pay, however the board may grant additional holidays with pay, and one hundred four days off duty each year with pay, and the boards may from time to time grant additional days off duty each year with pay when in the judgment of the boards, the granting thereof will not materially impair the efficiency of the department.

86.394. Each member of the retirement board who is in active service with the police department of a city as either a police officer, as defined in section 86.370, or as an employee, as defined in section 86.600, shall be granted authorized leave with pay by such police department to attend any and all educational seminars and like functions that have been authorized by the retirement board, including travel time to and from such functions, not to exceed ten days in any calendar year. Leave granted under this section shall not reduce vacation or other authorized leave time to which such member may be entitled without reference to this section.

86.445. If a city and the police department of such city adopt any program of incentives to authorize or encourage early retirements, whether for employees not yet eligible for regular retirement or for employees who are eligible but have not yet chosen to retire or for both, the retirement board shall be authorized to administer and pay such incentives for retirees who accept such incentives and are members of this retirement system pursuant to sections 86.370 to 86.497, in addition to such other benefits as such members or their beneficiaries are entitled to receive pursuant to sections 86.370 to 86.497 provided such city shall so request and shall agree to increase the city's contribution pursuant to section 86.477 sufficiently to provide the full actuarial cost of any such incentives in addition to the contribution required of such city necessary, in conjunction with members' contributions pursuant to section 86.470, to provide all other benefits provided pursuant to sections 86.370 to 86.497.

86.676. If a city and the police department of such city adopt any program of incentives to authorize or encourage early retirements, whether for employees not yet eligible for regular retirement or for employees who are eligible but have not yet chosen to retire or for both, the retirement board shall be authorized to administer and pay such incentives for retirees who

accept such incentives and are members of this retirement system pursuant to sections 86.600 to 86.790, in addition to such other benefits as such members or their beneficiaries are entitled to receive pursuant to sections 86.600 to 86.790, provided such city shall so request and shall agree to increase said city's contribution pursuant to section 86.760 sufficiently to provide the full actuarial cost of any such incentives in addition to the contribution required of such city necessary, in conjunction with members' contribution pursuant to section 86.760, to provide all other benefits provided pursuant to sections 86.600 to 86.790.

86.690. 1. Upon death after August 28, 2001, of a member for any cause prior to retirement, the following amounts shall be payable subject to subsection 5 of this section, as full and final settlement of any and all claims for benefits under this retirement system:

(1) If the member has less than five years of creditable service, the member's surviving spouse shall be paid, in a lump sum, the amount of accumulated contributions and interest. If there be no surviving spouse, payment shall be made to the member's designated beneficiary, or if none, to the executor or administrator of the member's estate.

(2) If the member has at least five, but less than twenty years of creditable service, the member's surviving spouse may elect, in lieu of the lump sum settlement in subdivision (1) of this subsection, an annuity. Such annuity shall be one-half of the member's accrued annuity at date of death as computed in section 86.650. The effective date of the election shall be the latter of the first day of the month after the member's death or attainment of what would have been the member's early retirement date as provided in section 86.660.

(3) If the member has at least twenty years of creditable service, the member's surviving spouse may elect, in lieu of the lump sum settlement in subdivision (1) of this subsection, the larger of the annuity as computed in subdivision (2) of this subsection or an annuity determined on a joint and survivor's basis from the actuarial value of the member's accrued annuity at date of death.

(4) Any death of a retired member occurring before the date of first payment of the retirement annuity shall be deemed to be a death before retirement.

(5) Benefits payable pursuant to this section shall continue for the lifetime of such surviving spouse without regard to remarriage.

(6) No surviving spouse of a member who dies in service after August 28, 2001, shall be entitled to receive any benefits pursuant to sections 86.600 to 86.790 unless such spouse was married to the member at the time of the member's death in service.

2. Upon death following retirement for any cause after August 28, 2001, of a member who has not elected the optional annuity pursuant to section 86.650, the member's surviving spouse shall receive a pension payable for life, equaling one-half of the member's normal retirement allowance, computed under section 86.650, as of the member's actual retirement date, subject to adjustments provided in subsection 5 of section 86.675, if any; provided, no surviving spouse of a member who retires after August 28, 2001,

shall be entitled to receive any benefits pursuant to sections 86.600 to 86.790 unless such spouse was married to the member at the time of the member's retirement. Any surviving spouse who was married to such a member at the time of the member's retirement shall be entitled to all benefits for surviving spouses pursuant to sections 86.600 to 86.790 for the life of such surviving spouse without regard to remarriage. If there be no surviving spouse, payment of the member's accumulated contributions less the amount of any prior payments from the retirement system to the member or to any beneficiary of the member shall be made to the member's designated beneficiary or, if none, to the personal representative of the member's estate.

3. Any surviving spouse of a member who dies in service or retired prior to August 28, 2001, who otherwise qualifies for benefits pursuant to subsection 1 or 2 of this section and who has not remarried prior to August 28, 2001, but remarries thereafter, shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions in writing or orally in response to such requests, as may be required. For such services, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received pursuant to sections 86.600 to 86.790 in the absence of such remarriage.

4. Should the total amount paid from the retirement system to a member, the member's surviving spouse [and], any other beneficiary of the member, **and the funeral benefit under subsection 6 of this section** be less than the member's accumulated contributions, an amount equal to such difference shall be paid to the member's designated beneficiary or, if none, to the personal representative of the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

5. Any beneficiary of benefits pursuant to sections 86.600 to 86.790 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member, except that any surviving spouse for whom an election has been made for an optional annuity under subsection 2 of section 86.650 shall be entitled to every annuity for which such surviving spouse has so contracted.

6. Upon receipt of the proper proof of death of a member in service after August 28, 2003, or the death of a member in service on or after August 28, 2003, who dies after having been retired and pensioned, there shall be paid in addition to all other benefits a funeral benefit of one thousand dollars.

104.010. 1. The following words and phrases as used in sections 104.010 to 104.800, unless a different meaning is plainly required by the context, shall mean:

(1) "Accumulated contributions", the sum of all deductions for retirement benefit purposes from a member's compensation which shall be credited to the member's individual account and interest allowed thereon;

(2) "Active armed warfare", any declared war, or the Korean or Vietnamese Conflict;

(3) "Actuarial equivalent", a benefit which, when computed upon the basis of actuarial tables and interest, is equal in value to a certain amount or other benefit;

(4) "Actuarial tables", the actuarial tables approved and in use by a board at any given time;

(5) "Actuary", the actuary who is a member of the American Academy of Actuaries or who is an enrolled actuary under the Employee Retirement Income Security Act of 1974 and who is employed by a board at any given time;

(6) "Annuity", annual payments, made in equal monthly installments, to a retired member from funds provided for in, or authorized by, this chapter;

(7) "Average compensation", the average compensation of a member for the thirty-six consecutive months of service prior to retirement when the member's compensation was greatest; or if the member is on workers' compensation leave of absence or a medical leave of absence due to an employee illness, the amount of compensation the member would have received may be used, as reported and verified by the employing department; or if the member had less than thirty-six months of service, the average annual compensation paid to the member during the period up to thirty-six months for which the member received creditable service when the member's compensation was the greatest; or if the member is on military leave, the amount of compensation the member would have received may be used as reported and verified by the employing department or, if such amount is not determinable, the amount of the employee's average rate of compensation during the twelve-month period immediately preceding such period of leave, or if shorter, the period of employment immediately preceding such period of leave;

(8) "Beneficiary", any person entitled to or nominated by a member or retiree who may be legally entitled to receive benefits pursuant to this chapter;

(9) "Biennial assembly", the completion of no less than two years of creditable service or creditable prior service by a member of the general assembly;

(10) "Board of trustees", "board", or "trustees", a board of trustees as established for the applicable system pursuant to this chapter;

(11) "Chapter", sections 104.010 to 104.800;

(12) "Compensation":

(a) All salary and wages payable out of any state, federal, trust, or other funds to an employee for personal services performed for a department; but including only amounts for which contributions have been made in accordance with section 104.436, or section 104.070, whichever is applicable, and excluding any nonrecurring single sum payments or amounts paid after the member's termination of employment unless such amounts paid after such termination are a final installment of salary or wages at the same rate as in

effect immediately prior to termination of employment in accordance with a state payroll system adopted on or after January 1, 2000, or any other one-time payments made as a result of such payroll system;

(b) All salary and wages which would have been payable out of any state, federal, trust or other funds to an employee on workers' compensation leave of absence during the period the employee is receiving a weekly workers' compensation benefit, as reported and verified by the employing department;

(c) Effective December 31, 1995, compensation in excess of the limitations set forth in Internal Revenue Code Section 401(a)(17) shall be disregarded. 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 this purpose, an "eligible employee" is an individual who was a member of the system before the first plan year beginning after December 31, 1995;

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

(14) "Creditable prior service", the service of an employee which was either rendered prior to the establishment of a system, or prior to the date the employee last became a member of a system, and which is recognized in determining the member's eligibility and for the amount of the member's benefits under a system;

(15) "Creditable service", the sum of membership service and creditable prior service, to the extent such service is standing to a member's credit as provided in this chapter; except that in no case shall more than one day of creditable service or creditable prior service be credited any member for any one calendar day of eligible service credit as provided by law;

(16) "Deferred normal annuity", the annuity payable to any former employee who terminated employment as an employee or otherwise withdrew from service with a vested right to a normal annuity, payable at a future date;

(17) "Department", any department or agency of the executive, legislative or judicial branch of the state of Missouri receiving state appropriations, including allocated funds from the federal government but not including any body corporate or politic unless its employees are eligible for retirement coverage from a system pursuant to this chapter as otherwise provided by law;

(18) "Disability benefits", benefits paid to any employee while totally disabled as provided in this chapter;

(19) "Early retirement age", a member's attainment of fifty-five years of age and the completion of ten or more years of creditable service, except for uniformed members of the water patrol;

(20) "Employee":

(a) Any elective or appointive officer or person employed by the state who is employed, promoted or transferred by a department into a new or existing position and earns a salary or wage in a position normally requiring the performance by the person of duties during not less than one thousand hours per

year, including each member of the general assembly but not including any patient or inmate of any state, charitable, penal or correctional institution. Beginning September 1, 2001, the term "year" as used in this subdivision shall mean the twelve-month period beginning on the first day of employment. However, persons who are members of the public school retirement system and who are employed by a state agency other than an institution of higher learning shall be deemed employees for purposes of participating in all insurance programs administered by a board established pursuant to section 104.450. This definition shall not exclude any employee as defined in this subdivision who is covered only under the federal Old Age and Survivors' Insurance Act, as amended. As used in this chapter, the term "employee" shall include:

a. Persons who are currently receiving annuities or other retirement benefits from some other retirement or benefit fund, so long as they are not simultaneously accumulating creditable service in another retirement or benefit system which will be used to determine eligibility for or the amount of a future retirement benefit;

b. Persons who have elected to become or who have been made members of a system pursuant to section 104.342;

(b) Any person who has performed services in the employ of the general assembly or either house thereof, or any employee of any member of the general assembly while acting in the person's official capacity as a member, and whose position does not normally require the person to perform duties during at least one thousand hours per year, with a month of service being any monthly pay period in which the employee was paid for full-time employment for that monthly period;

(c) "Employee" does not include special consultants employed pursuant to section 104.610;

(d) As used in this chapter, the hours governing the definition of employee shall be applied only from August 13, 1988, forward;

(e) The system shall consider a person who is employed in multiple positions simultaneously within a single agency to be working in a single position for purposes of determining whether the person is an employee as defined in this subdivision;

(21) "Employer", a department of the state;

(22) "Executive director", the executive director employed by a board established pursuant to the provisions of this chapter;

(23) "Fiscal year", the period beginning July first in any year and ending June thirtieth the following year;

(24) "Full biennial assembly", the period of time beginning on the first day the general assembly convenes for a first regular session until the last day of the following year;

(25) "Fund", the benefit fund of a system established pursuant to this chapter;

(26) "Interest", interest at such rate as shall be determined and prescribed from time to time by a board;

(27) "Member", as used in sections 104.010 to 104.272 or [104.600] **104.601** to 104.800 shall mean a member of the highways and transportation employees' and highway patrol retirement system without regard to whether or not the member has been retired. "Member", as used in this section and sections 104.312 to 104.800, shall mean a member of the Missouri state employees' retirement system without regard to whether or not the member has been retired;

(28) "Membership service", the service after becoming a member that is recognized in determining a member's eligibility for and the amount of a member's benefits under a system;

(29) "Military service", all active service performed in the United States Army, Air Force, Navy, Marine Corps, Coast Guard, and members of the United States Public Health Service or any women's auxiliary thereof; and service in the Army national guard and Air national guard when engaged in active duty for training, inactive duty training or full-time national guard duty, and service by any other category of persons designated by the President in time of war or emergency;

(30) "Normal annuity", the annuity provided to a member upon retirement at or after the member's normal retirement age;

(31) "Normal retirement age", an employee's attainment of sixty-five years of age and the completion of four years of creditable service or the attainment of age sixty-five years of age and the completion of five years of creditable service by a member who has terminated employment and is entitled to a deferred normal annuity or the member's attainment of age sixty and the completion of fifteen years of creditable service, except that normal retirement age for uniformed members of the highway patrol shall be fifty-five years of age and the completion of four years of creditable service and uniformed employees of the water patrol shall be fifty-five years of age and the completion of four years of creditable service or the attainment of age fifty-five and the completion of five years of creditable service by a member of the water patrol who has terminated employment and is entitled to a deferred normal annuity and members of the general assembly shall be fifty-five years of age and the completion of three full biennial assemblies. Notwithstanding any other provision of law to the contrary, a member of the highways and transportation employees' and highway patrol retirement system or a member of the Missouri state employees' retirement system shall be entitled to retire with a normal annuity and shall be entitled to elect any of the survivor benefit options and shall also be entitled to any other provisions of this chapter that relate to retirement with a normal annuity if the sum of the member's age and creditable service equals eighty years or more and if the member is at least [fifty] **forty-eight** years of age;

(32) "Payroll deduction", deductions made from an employee's compensation;

(33) "Prior service credit", the service of an employee rendered prior to the date the employee became a member which service is recognized in determining the member's eligibility for benefits from a system but not in determining the amount of the member's benefit;

(34) "Reduced annuity", an actuarial equivalent of a normal annuity;

(35) "Retiree", a member who is not an employee and who is receiving an annuity from a system pursuant to this chapter;

(36) "System" or "retirement system", the highways and transportation employees' and highway patrol retirement system, as created by sections 104.010 to 104.270, or sections [104.600] **104.601** to 104.800, or the Missouri state employees' retirement system as created by sections 104.320 to 104.800;

(37) "Uniformed members of the highway patrol", the superintendent, lieutenant colonel, majors, captains, director of radio, lieutenants, sergeants, corporals, and patrolmen of the Missouri state highway patrol who normally appear in uniform;

(38) "Uniformed members of the water patrol", employees of the Missouri state water patrol of the department of public safety who are classified as water patrol officers who have taken the oath of office prescribed by the provisions of chapter 306, RSMo, and who have those peace officer powers given by the provisions of chapter 306, RSMo;

(39) "Vesting service", the sum of a member's prior service credit and creditable service which is recognized in determining the member's eligibility for benefits under the system.

2. Benefits paid pursuant to the provisions of this chapter shall not exceed the limitations of Internal Revenue Code Section 415, the provisions of which are hereby incorporated by reference.

104.040. 1. Any member shall be entitled to creditable prior service within the meaning of sections 104.010 to 104.270 for all service in the United States Army, Navy, or other armed services of the United States, or any women's auxiliary thereof in time of active armed warfare, if such member was a state employee immediately prior to his or her entry into the armed services and became an employee of the state within ninety days after termination of such service by an honorable discharge or release to inactive status; the requirement of section 104.010 of duties during not less than one thousand hours for status as an "employee" shall not apply to persons who apply for creditable prior service pursuant to the provisions of this section.

2. Any member of the system who served as an employee prior to the original effective date of sections 104.010 to 104.270, but was not an employee on that date, shall be entitled to creditable prior service that such member would have been entitled to had such member become a member of the retirement system on the date of its inception if such member has, or hereafter attains, one year of continuous membership service.

3. Any employee who completes one continuous year of creditable service in the system shall receive credit for service with a state department, if such service has not otherwise been credited.

4. Any member who had served in the armed forces of the United States prior to becoming a member, or who is otherwise ineligible pursuant to subsection 1 of this section or other provisions of this chapter, and who became a member after his or her discharge under honorable conditions may elect, prior to retirement, to purchase all of his or her creditable prior service equivalent to such service in the armed forces, but not to exceed four years, if the member is not receiving and is not eligible to receive retirement

credits or benefits from any other public or private retirement plan for the service to be purchased, and an affidavit so stating shall be filed by the member with the retirement system. However, if the member is eligible to receive retirement credits in a United States military service retirement system, the member shall be permitted to purchase creditable prior service equivalent to his or her service in the armed services, but not to exceed four years, any other provision of law to the contrary notwithstanding. The purchase shall be effected by the member's paying to the retirement system an amount equal to what would have been contributed by the state in his or her behalf had the member been a member for the period for which the member is electing to purchase credit and had his or her compensation during such period of membership been the same as the annual salary rate at which the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of his or her employment with simple interest calculated from date of employment from which the member could first receive creditable service to the date of election pursuant to this subsection. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. Payments made for such creditable prior service pursuant to this subsection shall be treated by the retirement system as would contributions made by the state and shall not be subject to any prohibition on member contributions or refund provisions in effect at the time of enactment of this subsection.

5. Any uniformed member of the highway patrol who served as a certified police officer prior to becoming a member may elect, prior to retirement, to purchase all of his or her creditable prior service equivalent to such service in the police force, but not to exceed four years, if he or she is not receiving and is not eligible to receive credits or benefits from any other public or private retirement plan for the service to be purchased, and an affidavit so stating shall be filed by the member with the retirement system. The purchase shall be effected by the member's paying to the retirement system an amount equal to what would have been contributed by the state in his or her behalf had he or she been a member of the system for the period for which the member is electing to purchase credit and had his compensation during such period been the same as the annual salary rate at which the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of his or her employment with simple interest calculated from the date of employment from which the member could first receive creditable service to the date of election pursuant to the provisions of this section. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. Payments made for such creditable prior service pursuant to the provisions of this section shall be treated by the retirement system as would contributions made by the state and shall not be subject to any prohibition on member contributions or refund provisions in effect at the time of enactment of this section.

6. Any uniformed member of the highway patrol who served as a nonfederal full-time public employee in this state prior to becoming a member may elect, prior to retirement, to purchase all of his or her creditable prior service equivalent to such service, but not to exceed

four years, if he or she is not receiving and is not eligible to receive credits or benefits from any other public plan for the service to be purchased, and an affidavit so stating shall be filed by the member with the retirement system. The purchase shall be effected by the member's paying to the retirement system an amount equal to what would have been contributed by the state in his or her behalf had he or she been a member of the system for the period for which the member is electing to purchase credit and had his compensation during such period been the same as the annual salary rate at which the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of his or her employment with simple interest calculated from the date of employment from which the member could first receive creditable service to the date of election pursuant to the provisions of this section. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. Payments made for such creditable prior service pursuant to the provisions of this section shall be treated by the retirement system as would contributions made by the state and shall not be subject to any prohibition on member contributions or refund provisions in effect at the time of enactment of this section.

104.110. 1. Any employee, regardless of the length of time of creditable service, who is affirmatively found by the board to be wholly incapable of performing the duties of the employee's or any other position in the employee's department for which the employee is suited, shall be entitled to receive disability benefits. The disability benefit provided by this subsection shall equal one and six-tenths percent of the employee's average compensation multiplied by the number of years of creditable service of the member. **Effective September 1, 2003, no employee is eligible for or shall request or apply for the disability benefit provided pursuant to this subsection.**

2. Any uniformed member of the highway patrol, highway patrol employee or department of transportation employee, regardless of the length of time of creditable service, who is found by the board to be disabled as a result of injuries incurred in the performance of the employee's duties, shall be entitled to receive an initial disability benefit in an amount equal to seventy percent of the compensation that the employee was receiving on the date preceding the date of disability; provided, however, that the amount of the disability benefit, plus any primary Social Security disability benefits received by such member shall not exceed ninety percent of the monthly compensation such member was receiving on the date preceding the date of disability.

3. Any disability benefits payable pursuant to this section shall be decreased by any amount paid to such member for periodic disability benefits by reason of the workers' compensation laws of this state. After termination of payment under workers' compensation, however, disability benefits shall be paid in the amount required by subsections 1, 2, 7, and 9 of this section.

4. The board of trustees may require a medical examination of a disabled member at any time by a designated physician, and benefits shall be discontinued if the board finds that such member is able to

perform the duties of the member's former position or if such member refuses to submit to a medical examination. Any employee who applies for disability benefits provided pursuant to this section shall provide medical certification acceptable to the board which shall include the date the disability commenced and the expected duration of the disability.

5. Any employee who applies for disability benefits pursuant to subsections 2 and 7 of this section shall provide proof of application for Social Security disability benefits. If Social Security disability benefits are denied, the employee shall also provide proof that the employee has requested reconsideration, and upon denial of the reconsideration, that an appeal process is prosecuted.

6. The disability benefits provided in this section shall not be paid to any member who retains or regains earning capacity as determined by the board. If a member who has been receiving disability benefits again becomes an employee, the member's disability benefits shall be discontinued.

7. The board shall also provide or contract for long-term disability benefits for those members whose disability exists or is diagnosed as being of such nature as to exist for more than one year. The benefits provided or contracted for pursuant to this subsection shall be in lieu of any other benefit provided in this section. The eligibility requirements, benefit period and amount of the disability benefits provided pursuant to this subsection shall be established by the board.

8. Definitions of disability and other rules and procedures necessary for administration of the disability benefits provided pursuant to this section shall be established by the board.

9. Any member receiving disability benefits pursuant to subsections 1 and 2 of this section shall receive the same cost-of-living increases as granted to retired members pursuant to section [104.130] **104.103**.

10. The state highways and transportation commission shall contribute the same amount as provided for all state employees for any person receiving disability benefits pursuant to subsection 2 of this section for medical insurance provided pursuant to section 104.270.

11. Any member who qualified for disability benefits pursuant to subsection 2 or subsection 7 of this section shall continue to accrue normal annuity benefits based on the member's rate of pay immediately prior to the date the member became disabled in accordance with sections 104.090 and 104.615 as in effect on the earlier of the date the member reaches normal retirement age or the date normal annuity payments commence.

12. A member who continues to be disabled as provided in subsection 2 or subsection 7 of this section shall continue to accrue creditable service until the member reaches normal retirement age. The maximum benefits period for benefits pursuant to subsections 2 and 7 of this section shall be established by the board. A member who is eligible to retire and does retire while receiving disability benefits pursuant to subsections 2 and 7 of this section shall receive the greater of the normal annuity or the minimum annuity determined pursuant to sections 104.090 and 104.615, as if the member had continued in the active employ

of the employer until the member's normal retirement age and the member's compensation for such period had been the member's rate of pay immediately preceding the date the member became disabled.

13. Any member who was receiving disability benefits from the board prior to August 28, 1997, or any member who has submitted an application for disability benefits before August 28, 1997, and would have been eligible to receive benefits pursuant to the eligibility requirements which were applicable at the time of application shall be eligible to receive or shall continue to receive benefits in accordance with such prior eligibility requirements until the member again becomes an employee.

14. Any member receiving disability benefits pursuant to subsection 1, subsection 2 or subsection 7 of this section shall be eligible to receive death benefits pursuant to the provisions of subsection 1 of section 104.140. The death benefits provided pursuant to this subsection shall be in lieu of the death benefits available to the member pursuant to subsection 2 of section 104.140.

15. The board is authorized to contract for **benefits in lieu of** the benefits provided pursuant to [subsections 1 and 2 of] this section.

16. To the extent that the board enters or has entered into any contract with any insurer or service organization to provide the disability benefits provided for pursuant to this section:

(1) The obligation to provide such disability benefits shall be primarily that of the insurer or service organization and secondarily that of the board;

(2) Any employee who has been denied disability benefits by the insurer or service organization and has exhausted all appeal procedures provided by the insurer or service organization may appeal such decision by filing a petition against the insurer or service organization in a court of law in the employee's county of residence;

(3) The board and the system shall not be liable for the disability benefits provided for by an insurer or service organization pursuant to this section and shall not be subject to any cause of action with regard to disability benefits or the denial of disability benefits by the insurer or service organization unless the employee has obtained judgment against the insurer or service organization for disability benefits and the insurer or service organization is unable to satisfy that judgment.

17. An employee may elect to waive the receipt of any disability benefit provided for pursuant to this section at any time.

104.271. Notwithstanding any other provision of law to the contrary, a member of the Missouri transportation department and highway patrol retirement system or a member of the Missouri state employees' retirement system shall be entitled to retire with a normal annuity and shall be entitled to elect any of the survivor benefit options and shall also be entitled to any other provisions of this chapter that relate to retirement with a normal annuity if the sum of the member's age and creditable service equals eighty years or more and if the member is at least [fifty] **forty-eight** years of age.

104.340. 1. Any member, on the first day of the first month following the original effective date of sections 104.310 to 104.540, September 1, 1957, shall be entitled to creditable prior service for the purpose of sections 104.310 to 104.620 for all active military service performed in the United States Army, Air Force, Navy, Marine Corps, Coast Guard and members of the United States Public Health Service when in the active military service, or any women's auxiliary thereof in time of active armed warfare, if such member was a state employee immediately prior to the member's entry into the armed services and became an employee of the state within ninety days after termination of such service under honorable conditions or release to inactive status in a reserve component of the armed forces. This includes:

(1) Members of the reserve component of the armed forces (National Guard of the United States, United States Army Reserve, Air National Guard of the United States, United States Air Force Reserve, United States Naval Reserve, United States Marine Corps Reserve, United States Coast Guard);

(2) Reserve components existing prior and subsequent to the original effective date of sections 104.310 to 104.540; and

(3) The reserve of the United States Public Health Service, while in the active military service of the United States.

2. Any former full-time employee of a state board, whether unassigned or assigned to the governor, who becomes a member within one year of termination of employment with the board, shall be entitled to creditable prior service not to exceed eight years for service rendered, provided the member had not become vested in a city or county retirement system and has or attains one or more years of continuous service.

3. Notwithstanding any other provision of law to the contrary, any employee of a political subdivision who becomes a state employee, or gains eligibility to become a member, by an act, or acts, of the general assembly after August 13, 1986, making such employment state employment shall be entitled only to prior service credit for such employment with a political subdivision. Such prior service credit, which cannot exceed eight years, shall be used in the determination of eligibility for benefits pursuant to the provisions of sections 104.310 to 104.612 but not in determining the amount of benefits, if the person makes application to the board for such prior service credit within ninety days of becoming a member of the Missouri state employees' retirement system, and establishes such service to the satisfaction of the board; except that such prior service credit shall not be used for the purposes of computing the minimum benefit provided by section 104.615.

4. Any member who had performed active service in the United States Army, Air Force, Navy, Marine Corps, Army or Air National Guard, Coast Guard, or any reserve component thereof prior to **last** becoming a member, or who is otherwise ineligible under subsection 1 of this section or other provisions of this chapter, and who became a member after the person's discharge under honorable conditions may elect, prior to retirement, to purchase all of the member's creditable prior service equivalent to such service in the armed forces, but not to exceed four years, provided the person is not receiving and is not eligible

to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased[, and an affidavit so stating shall be filed by the member with the retirement system]. However, if the member is eligible to receive retirement credits in a United States military service retirement system, the member shall be permitted to purchase creditable prior service equivalent to such service in the armed forces, but not to exceed four years, any other provision of law to the contrary notwithstanding. The purchase shall be effected by the member's submission of appropriate documentation verifying the member's dates of active service and by paying to the retirement system an amount equal to what would have been contributed by the state in the member's behalf had the member been a member for the period for which the member is electing to purchase credit and had the member's compensation during such period of membership been the same as the annual salary rate at which the member was initially employed by a department, with the calculations based on the contribution rate in effect on the date of employment with simple interest calculated from the date of employment from which the member could first receive creditable service to the date of election under this subsection. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. Payments made for such creditable prior service under this subsection shall be treated by the retirement system as would contributions made by the state and shall not be subject to any prohibition on member contributions or refund provisions in effect at the time of enactment of this subsection.

5. Any member who terminated employment prior to August 13, 1986, who had served in the armed forces of the United States prior to becoming a member, or who is otherwise ineligible pursuant to subsection 1 of this section or other provisions of this chapter, and who became a member after the person's discharge under honorable conditions shall, upon application to the board of trustees of the Missouri state employees' retirement system, be made, constituted and appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the person's life. Upon request of the board of the system or the court from which the person retired, the consultant shall give opinions or be available to give opinions in writing or orally in response to such requests. As compensation for such services, the consultant shall be eligible to purchase, prior to retirement, creditable prior service as provided in this subsection.

6. Any member who is an employee on or after June 30, 1988, shall be entitled to creditable prior service for all full-time service rendered at Lincoln University prior to June 30, 1988, if such service is established to the satisfaction of the board, provided such member elects in writing to forfeit all rights accrued under the Lincoln University retirement plan for such service, and provided such service is not now credited the member under the Missouri state employees' retirement system.

7. Any person who is an employee on or after August 28, 1989, and who has been denied credit for any service because the person was a member of some other retirement system or benefit fund to which the state was a contributor shall receive creditable prior service for all the service rendered which would have otherwise been earned during such period of service by the person except for the denial of credit;

however, in no event shall any person receive service credit for the same period of service under more than one retirement system.

8. Upon application to the board, any member or former member not yet retired previously employed by the Missouri institute of psychiatry prior to July 1, 1974, and who by virtue of such employment was a member of a retirement system or plan other than the Missouri state employees' retirement system but did not become vested in that system or plan shall receive creditable prior service for such service, provided that such service is not used for the calculation of benefits under any other retirement system or plan, excluding Social Security, and that such service is established to the satisfaction of the board.

9. Any retired member previously employed by the Missouri institute of psychiatry prior to July 1, 1974, and who by virtue of such employment was a member of a retirement system or plan other than the Missouri state employees' retirement system but did not become vested in that system or plan may make application to be made, constituted, appointed, and employed by the board as a special consultant on the problems of retirement, aging and other state matters. As compensation the special consultant shall receive beginning the month next following such appointment an amount equal to the retirement benefit the member would have been receiving had such service been included in the original retirement benefit calculation, provided that such service is not used for the calculation of benefits under any other retirement system or plan, excluding Social Security, and that such service is established to the satisfaction of the board.

10. Notwithstanding any other provisions of law to the contrary, if a former employee terminated employment before January 1, 1988, and such former employee had also served as a board member pursuant to the provisions of section 329.190, RSMo, such former employee shall upon application to the board of trustees of the Missouri state employees' retirement system be made a special consultant on the problems of retirement and shall upon request of the board of trustees give opinions in writing or orally in response to such request. As compensation for such services, the former employee shall receive creditable service for all time the former employee was employed by the state and the time the former employee served on the board pursuant to the provisions of section 329.190, RSMo, provided that such service is not used for vesting in any other public employee retirement system.

104.370. 1. Any member of the general assembly who has served at least three full biennial assemblies as a member of the general assembly and who meets the conditions for retirement at or after the member's normal retirement age shall be entitled to a normal annuity in a monthly amount equal to one hundred fifty dollars multiplied by the number of biennial assemblies in which such member has served. For the purpose of calculating benefits due under this subsection:

(1) Service in any portion of a biennial assembly after service in at least three biennial assemblies shall be credited as service in a full biennial assembly; and

(2) Any person who is elected as a member of the general assembly at a special election and who serves the remainder of that term to which he was elected at such special election shall receive credit for a full biennial assembly for such service.

2. If a member of either retirement system established by this chapter, who has served at least three full biennial assemblies as a member of the general assembly, is elected to a state office, appointed to a state office, or employed by the state before, after, or before and after his service as a member of the general assembly, the member may, at the end of such employment, receive upon retirement, at or after the member's normal retirement age, the amount which shall be due the member for creditable service as a member of the general assembly. If he has not fully vested as a result of his employment as other than a member of the general assembly, he shall be credited with additional service as a legislator just as though all of the service combined had in fact been rendered as a member of the general assembly and receive a normal annuity. If the member retires before normal retirement age, the member shall receive the actuarial reduction approved by the board. Nothing in this section shall allow any member to simultaneously accumulate service in more than one state retirement system as a member of the general assembly and an employee or state officer; **provided that, any member who otherwise would accrue simultaneous creditable service as a member of the general assembly and as an employee or state officer, may elect prior to retirement to receive such simultaneous creditable service in the state retirement plan that covered the member's service as an employee or state officer in lieu of receiving such creditable service as a member of the general assembly pursuant to subdivision (1) of subsection 1 of this section. Any member who makes such election shall receive creditable service for the member's remaining legislative service equal to the pro rata portion of the biennial assembly actually served by such member. The provisions of this subsection providing an election with regard to simultaneous creditable service shall apply to any member of the general assembly who is employed on or after August 28, 2003, or any former member of the general assembly who is employed as an employee or state officer on or after August 28, 2003. The term "state officer" as used in this subsection includes a statewide elected official as described in section 104.371, an administrative law judge or legal advisor as defined in section 287.812, RSMo, or a judge as defined in section 476.515, RSMo.**

3. A member who has fully vested as a state officer or employee and has service as a member of the general assembly of less than three full biennial assemblies, upon retirement, at or after the member's normal retirement age, shall be credited with additional service as a state officer or employee for the time he served as a member of the general assembly. If the member retires before normal retirement age, he shall receive the actuarial reduction approved by the board.

4. Any member of the general assembly who has served at least three full biennial assemblies and whose service as such terminates on or after October 1, 1984, and who served as an employee, as that term is defined in section 104.010, prior to the respective dates on which the retirement systems to which

such sections apply originally became effective, but was not such an employee on such dates, shall be entitled to the creditable prior service that such employee would have been entitled to in either or both systems had such employee become a member on the date of inception of either or both systems. The maximum number of years of creditable prior service to which a member may become entitled pursuant to this section is less than ten years. The benefits attributable to such service shall be calculated as if all service was rendered as a member of the general assembly.

5. Any former member of the general assembly who is receiving benefits under the provisions of this section shall, upon written request to the board, be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement and other related matters and shall upon request of the board give opinions in writing or orally in response to such requests. As compensation for such services, the retired member shall have his retirement benefits recalculated the first of the month next following his application under this subsection to reflect that any portion of a year of creditable service shall be counted as one full biennial session.

6. Any retired member who is receiving benefits from the system and is elected to the general assembly but does not serve at least three biennial sessions shall receive creditable service for the time he served in the general assembly and upon leaving the general assembly shall have an additional benefit calculated using such service.

7. Benefits paid for service credited to legislative service shall be funded as provided in section 104.436.

8. Any former member of the general assembly not retired on August 28, 1994, who is fifty-five years of age or more and who has creditable service in the general assembly of at least three full biennial assemblies and has not used such services as creditable services in any other retirement system shall be made and employed by the board as a special consultant on the problems related to retirement and shall, when requested by the board, give opinions either written or orally on such problems. As compensation for such duties the former member of the general assembly shall be entitled to retire with a normal annuity effective the first of the month following receipt by the board of a written application.

9. Notwithstanding any other law to the contrary, any active member of the Missouri state employees' retirement system who is vested, on August 28, 1994, under the provisions of subsection 1 of this section, and who has served as an elected county official and who, by virtue of such service was a member of a retirement system other than the Missouri state employees' retirement system but was not vested in such other retirement system, or was not a member of any retirement system, shall receive creditable prior service in the Missouri state employees' retirement system for such previous service as an elected county official.

104.460. 1. The board shall elect by secret ballot one member as chairman and one member as vice chairman [in January] **during the first board meeting** of each year. The chairman shall preside over

meetings of the board and perform such other duties as may be required by action of the board. The vice chairman shall perform the duties of the chairman in the absence of the latter or upon the chairman's inability or refusal to act. Each person who was elected to membership on the board of trustees or who is a candidate for membership on the board of trustees shall file with the [commissioner of administration] **Missouri ethics commission** a campaign finance disclosure form showing:

(1) The amounts and sources of all contributions received for the purpose of supporting such person's candidacy or for the purpose of opposing any other candidate; and

(2) The amounts and recipients of all expenditures made for the purpose of supporting such person's candidacy or for the purpose of opposing any other candidate.

The disclosure reports shall be filed not later than the fifteenth day prior to the date of the election for the period closing on the twentieth day prior to the election, and not later than the thirtieth day after the date of the election for the period from the nineteenth day prior to the date of the election to the twenty-fifth day after the date of the election. Such reports shall be public records and shall be made available by the [commissioner of administration] **Missouri ethics commission** during normal business hours. Any person who purposefully fails or refuses to file the reports required by this subsection is guilty of a class A misdemeanor.

2. The board shall appoint an executive director who shall be the executive officer of the system and who shall have charge of the offices, records, and employees of the system, subject to the direction of the board. Other employees of the system shall be chosen only upon the recommendation of the executive director.

3. All employees of the system shall be both state employees and members of the system. Except by the unanimous vote of the board, no person who has served as a trustee of the board may become an employee of the system until four years have expired between the date of his or her resignation, termination, or other removal as trustee and the date of his or her appointment as an employee of the system.

4. Employees of the system shall receive such salaries as shall be fixed by the board and their necessary travel expense within and without the state as shall be authorized by the board. 5. Any summons or other writ issued by the courts of the state shall be served upon the executive director or, in his or her absence, on the executive director's designee.

104.517. 1. The board shall provide or contract, or both, for life insurance benefits for employees pursuant to sections 104.320 to 104.540, persons covered by sections 287.812 to 287.855, RSMo, and for employees who are members of the judicial retirement system as provided in section 476.590, RSMo, and at the election of the state highways and transportation commission shall include employees who are members of the state transportation department employees' and highway patrol retirement system [as follows:

(1)]. Employees are entitled to fifteen thousand dollars of life insurance until December 31, 2000. Effective January 1, 2001, the system shall provide or contract or both for basic life insurance for employees covered under any retirement plan administered by the system pursuant to this chapter, persons covered by sections 287.812 to 287.856, RSMo, for employees who are members of the judicial retirement system as provided in section 476.590, RSMo, and, at the election of the state highways and transportation commission, employees who are members of the highways and transportation employees' and highway patrol retirement system, in an amount equal to one times annual pay, subject to a minimum amount of fifteen thousand dollars. The board shall establish by rule or contract the method for determining the annual rate of pay and any other terms of such insurance as it deems necessary to implement the requirements pursuant to this section. Annual rate of pay shall not include overtime or any other irregular payments as determined by the board. Such life insurance shall provide for triple indemnity in the event the cause of death is a proximate result of a personal injury or disease arising out of and in the course of actual performance of duty as an employee.

2. A conversion of such life insurance benefits shall be available. However, a member eligible to receive a lump sum death benefit as provided in subsection 4 of section 104.515 shall be entitled to convert any amount of terminated life insurance benefit in excess of the benefit provided in said section.

3. (1) In addition to the life insurance authorized by the provisions of subsection 1 of this section, any person for whom life insurance is provided or contracted for pursuant to such subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, additional life insurance at a cost to be stipulated in a contract with a private insurance company or as may be required by the system if the board of trustees determines that the system should provide such insurance itself. The maximum amount of additional life insurance which may be so purchased on or after January 1, 1998, **but prior to January 1, 2004**, is that amount which equals six times the amount of the person's annual rate of pay, except that if such maximum amount is not evenly divisible by one thousand dollars, then the maximum amount of additional insurance which may be purchased is the next higher amount evenly divisible by one thousand dollars. **The maximum amount of additional life insurance which may be so purchased on or after January 1, 2004, is an amount to be stipulated in a contract with a private insurance company or as may be required by the system if the board of trustees determines that the system should provide the insurance itself.** The selection of a private insurance company to provide this life insurance shall be on the basis of competitive bidding.

(2) Any person defined in subdivision (1) of this subsection retiring on or after September 1, 1988, may retain an amount not to exceed ten thousand dollars of life insurance following the date of his or her retirement if such person makes written application for such life insurance at the same time such person's application is made to the board for retirement benefits. Any person, defined in subdivision (1) of this subsection, retiring on or after May 1, 1996, may retain an amount not to exceed sixty thousand dollars of life insurance following the date of the person's retirement if such person makes written application for such

life insurance at the same time such person applies to the board for retirement benefits. Such life insurance shall only be provided if such person pays the entire cost of the insurance, as determined by the board, by allowing voluntary deductions from the member's monthly retirement benefits.

(3) Effective January 1, 1998, in addition to the life insurance authorized in subsection 1 of this section, any person for whom life insurance is provided or contracted for pursuant to such subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, life insurance covering the person's children or the person's spouse or both the person's children and the person's spouse at coverage amounts to be determined by the board at a cost to be stipulated in a contract with a private insurance company or as may be required by the system if the board of trustees determines that the system should provide such insurance itself.

4. The highways and transportation employees' and highway patrol retirement system shall provide or contract or both for the death benefit for special consultants in subsection 4 of section 104.515. The highways and transportation employees' and highway patrol retirement system may request the state highways and transportation commission to administer the death benefit. If the state highways and transportation commission accepts the obligation to administer the death benefit, the highways and transportation employees' and highway patrol retirement system shall reimburse the state highways and transportation commission for any costs or expenses of administering the death benefit.

5. To the extent that the board enters or has entered into any contract with any insurer or service organization to provide life insurance provided for pursuant to this section:

(1) The obligation to provide such life insurance shall be primarily that of the insurer or service organization and secondarily that of the board;

(2) Any member who has been denied life insurance benefits by the insurer or service organization and has exhausted all appeal procedures provided by the insurer or service organization may appeal such decision by filing a petition against the insurer or service organization in a court of law in the member's county of residence;

(3) The board and the system shall not be liable for life insurance benefits provided for by an insurer or service organization pursuant to this section and shall not be subject to any cause of action with regard to life insurance benefits or the denial of life insurance benefits by the insurer or service organization unless the member has obtained judgment against the insurer or service organization for life insurance benefits and the insurer or service organization is unable to satisfy that judgment.

104.806. 1. Employees who are earning creditable service in the closed plan of the Missouri state employees' retirement system and who are transferred to the department of transportation as a result of the provisions of executive order 03-05, will not become members of the closed plan of the highways and transportation employees' and highway patrol retirement system unless they elect to transfer membership and creditable service to the closed plan of the

highways and transportation employees' and highway patrol retirement system. The election must be in writing and must be made within ninety days of July 1, 2003. Any election to transfer membership and creditable service to the highways and transportation employees' and highway patrol retirement system shall result in the forfeiture of any rights or benefits in the Missouri state employees' retirement system. Any failure to elect to transfer membership and creditable service pursuant to this subsection will result in the employees remaining in the closed plan of the Missouri state employees' retirement system. If an election is made, the effective date for commencement of membership and transfer of such creditable service shall be January 1, 2004.

2. Employees who are earning credited service in the year 2000 plan of the Missouri state employees' retirement system and who are transferred to the department of transportation as a result of the provisions of executive order 03-05 will remain in the year 2000 plan administered by the Missouri state employees' retirement system unless they elect to transfer membership and credited service to the year 2000 plan administered by the highways and transportation employees' and highway patrol retirement system. The election must be in writing and must be made within ninety days of July 1, 2003. Any election to transfer membership and credited service to the year 2000 plan administered by the highways and transportation employees' and highway patrol retirement system shall result in the forfeiture of any rights or benefits in the Missouri state employees' retirement system. Any failure to elect to transfer membership and credited service pursuant to this subsection will result in the employees remaining in the year 2000 plan administered by the Missouri state employees' retirement system. If an election is made, the effective date for commencement of membership and transfer of such creditable service shall be January 1, 2004.

3. For any employee who elects pursuant to subsection 1 or 2 of this section to transfer to the highways and transportation employees' and highway patrol retirement system, the Missouri state employees' retirement system shall pay to the highways and transportation employees' and highway patrol retirement system, by December 31, 2003, an amount actuarially determined to equal the liability at the time of the transfer to the extent that liability is funded as of the most recent actuarial valuation, not to exceed one hundred percent.

4. In no event shall any employee receive service credit for the same period of service under more than one retirement system as a result of the provisions of this section.

5. For any transferred employee who elects pursuant to subsection 1 or 2 of this section to transfer to the highways and transportation employees' and highway patrol retirement system, the only medical coverage available for the employee shall be the medical coverage provided in section 104.270. The effective date for commencement of medical coverage shall be January 1, 2004. However, this does not preclude medical coverage for the transferred employee as a dependent under any other health care plan.

104.1003. Unless a different meaning is plainly required by the context, the following words and phrases as used in sections 104.1003 to 104.1093 shall mean:

- (1) "Act", the "Year 2000 Plan" created by sections 104.1003 to 104.1093;
- (2) "Actuary", an actuary who is experienced in retirement plan financing and who is either a member of the American Academy of Actuaries or an enrolled actuary under the Employee Retirement Income Security Act of 1974;
- (3) "Annuity", annual benefit amounts, paid in equal monthly installments, from funds provided for in, or authorized by, sections 104.1003 to 104.1093;
- (4) "Annuity starting date" means the first day of the first month with respect to which an amount is paid as an annuity pursuant to sections 104.1003 to 104.1093;
- (5) "Beneficiary", any person or entity entitled to receive an annuity or other benefit pursuant to sections 104.1003 to 104.1093 based upon the employment record of another person;
- (6) "Board of trustees", "board", or "trustees", a governing body or bodies established for the year 2000 plan pursuant to sections 104.1003 to 104.1093;
- (7) "Closed plan", a benefit plan created pursuant to this chapter and administered by a system prior to July 1, 2000. No person first employed on or after July 1, 2000, shall become a member of the closed plan, but the closed plan shall continue to function for the benefit of persons covered by and remaining in the closed plan and their beneficiaries;
- (8) "Consumer price index", the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as approved by the board, as such index is defined and officially reported by the United States Department of Labor, or its successor agency;
- (9) "Credited service", the total credited service to a member's credit as provided in sections 104.1003 to 104.1093;
- (10) "Department", any department or agency of the executive, legislative, or judicial branch of the state of Missouri receiving state appropriations, including allocated funds from the federal government but not including any body corporate or politic unless its employees are eligible for retirement coverage from a system pursuant to this chapter as otherwise provided by law;
- (11) "Early retirement eligibility", a member's attainment of fifty-seven years of age and the completion of at least five years of credited service;
- (12) "Effective date", July 1, 2000;
- (13) "Employee" shall be any person who is employed by a department and is paid a salary or wage by a department in a position normally requiring the performance of duties of not less than one thousand hours per year, provided:
 - (a) The term "employee" shall not include any patient or inmate of any state, charitable, penal or correctional institution, or any person who is employed by a department in a position that is covered by a state-sponsored defined benefit retirement plan not created by this chapter;

(b) The term "employee" shall be modified as provided by other provisions of sections 104.1003 to 104.1093;

(c) The system shall consider a person who is employed in multiple positions simultaneously within a single agency to be working in a single position for purposes of determining whether the person is an employee as defined in this subdivision;

(d) Beginning September 1, 2001, the term "year" as used in this subdivision shall mean the twelve-month period beginning on the first day of employment;

(14) "Employer", a department;

(15) "Executive director", the executive director employed by a board established pursuant to the provisions of sections 104.1003 to 104.1093;

(16) "Final average pay", the average pay of a member for the thirty-six full consecutive months of service before termination of employment when the member's pay was greatest; or if the member was on workers' compensation leave of absence or a medical leave of absence due to an employee illness, the amount of pay the member would have received but for such leave of absence as reported and verified by the employing department; or if the member was employed for less than thirty-six months, the average monthly pay of a member during the period for which the member was employed;

(17) "Fund", a fund of the year 2000 plan established pursuant to sections 104.1003 to 104.1093;

(18) "Investment return", or "interest", rates as shall be determined and prescribed from time to time by a board;

(19) "Member", a person who is included in the membership of the system, as set forth in section 104.1009;

(20) "Normal retirement eligibility", a member's attainment of at least sixty-two years of age and the completion of at least five or more years of credited service or, the attainment of at least [fifty] **forty-eight** years of age with a total of years of age and years of credited service which is at least eighty or, in the case of a member of the highway patrol who shall be subject to the mandatory retirement provisions of section 104.080, the mandatory retirement age and completion of five years of credited service or, the attainment of at least [fifty] **forty-eight** years of age with a total of years of age and years of credited service which is at least eighty;

(21) "Pay" shall include:

(a) All salary and wages payable to an employee for personal services performed for a department; but excluding:

a. Any amounts paid after an employee's employment is terminated, unless the payment is made as a final installment of salary or wages at the same rate as in effect immediately prior to termination of employment in accordance with a state payroll system adopted on or after January 1, 2000;

b. Any amounts paid upon termination of employment for unused annual leave or unused sick leave;

c. Pay in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code of 1986 as amended and other applicable federal laws or regulations; and

d. Any nonrecurring single sum payments;

(b) All salary and wages which would have been payable to an employee on workers' compensation leave of absence during the period the employee is receiving a weekly workers' compensation benefit, as reported and verified by the employing department;

(c) All salary and wages which would have been payable to an employee on a medical leave due to employee illness, as reported and verified by the employing department;

(d) For purposes of members of the general assembly, pay shall be the annual salary provided to each senator and representative pursuant to section 21.140, RSMo, plus any salary adjustment pursuant to section 21.140, RSMo;

(22) "Retiree", a person receiving an annuity from the year 2000 plan based upon the person's employment record;

(23) "State", the state of Missouri;

(24) "System" or "retirement system", the Missouri state employees' retirement system or the transportation department and highway patrol retirement system, as the case may be;

(25) "Vested former member", a person entitled to receive a deferred annuity pursuant to section 104.1036;

(26) "Year 2000 plan", the benefit plan created by sections 104.1003 to 104.1093.

104.1021. 1. The appropriate board shall determine how much credited service shall be given each member consistent with this section.

2. If a member terminates employment and is eligible to receive an annuity pursuant to the year 2000 plan, or becomes a vested former member at the time of termination, the member's or former member's unused sick leave as reported through the financial and human resources system maintained by the office of administration, or if a department's employees are not paid salaries or wages through such system, as reported directly by the department, for which the member has not been paid will be converted to credited service at the time of application for retirement benefits. The member shall receive one-twelfth of a year of credited service for each one hundred and sixty-eight hours of such unused sick leave. The employing department shall not certify unused sick leave unless such unused sick leave could have been used by the member for sickness or injury. The rate of accrual of sick leave for purposes of computing years of service pursuant to this section shall be no greater than ten hours per month. Such credited service shall not be used in determining the member's eligibility for retirement or final average pay. Such credited service shall be added to the credited service in the last position of employment held as a member of the system.

3. If a member is employed in a covered position and simultaneously employed in one or more other covered or noncovered positions, credited service shall be determined as if all such employment were in one position, and covered pay shall be the total of pay for all such positions.

4. In calculating any annuity, "credited service" means a period expressed as whole years and any fraction of a year measured in twelfths that begins on the date an employee commences employment in a covered position and ends on the date such employee's membership terminates pursuant to section 104.1018 plus any additional period for which the employee is credited with service pursuant to this section.

5. A member shall be credited for all military service after membership commences as required by state and federal law.

6. Any member who had active military service in the United States Army, Air Force, Navy, Marine Corps, Army or Air National Guard, Coast Guard, or any reserve component thereof prior to **last** becoming a member, or who is otherwise ineligible to receive credited service pursuant to subsection 1 or 5 of this section, and who became a member after the person's discharge from military service under honorable conditions may elect, prior to retirement, to purchase credited service for all such military service, but not to exceed four years, provided the person is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan, other than a United States military service retirement system, for the military service to be purchased[, and an affidavit so stating is filed by the member with the year 2000 plan] along with the submission of appropriate documentation verifying the member's dates of active service. The purchase shall be effected by the member paying to the system an amount equal to the state's contributions that would have been made to the system on the member's behalf had the member been a member for the period for which the member is electing to purchase credit and had the member's pay during such period of membership been the same as the annual pay rate as of the date the member was initially employed as a member, with the calculations based on the contribution rate in effect on the date of such member's employment with simple interest calculated from the date of employment to the date of election pursuant to this subsection. The payment shall be made over a period of not longer than two years, measured from the date of election, and with simple interest on the unpaid balance. If a member who purchased credited service pursuant to this subsection dies prior to retirement, the surviving spouse may, upon written request, receive a refund of the amount contributed for such purchase of such credited service, provided the surviving spouse is not entitled to survivorship benefits payable pursuant to the provisions of section 104.1030.

7. Any member of the Missouri state employees' retirement system shall receive credited service for the creditable prior service that such employee would have been entitled to under the closed plan pursuant to section 104.339, subsections 2, and 6 to 9 of section 104.340, subsection 12 of section 104.342, section 104.344, subsection 4 of section 104.345, subsection 4 of section 104.372, section

178.640, RSMo, and section 211.393, RSMo, provided such service has not been credited under the closed plan.

8. Any member who has service in both systems and dies or terminates employment shall have the member's service in the other system transferred to the last system that covered such member and any annuity payable to such member shall be paid by that system. Any such member may elect to transfer service between systems prior to termination of employment, provided, any annuity payable to such member shall be paid by the last system that covered such member prior to the receipt of such annuity.

9. In no event shall any person or member receive credited service pursuant to the year 2000 plan if that same service is credited for retirement benefits under any defined benefit retirement system not created pursuant to this chapter.

10. Any additional credited service as described in subsections 5 to 7 of this section shall be added to the credited service in the first position of employment held as a member of the system. Any additional creditable service received pursuant to section 105.691, RSMo, shall be added to the credited service in the position of employment held at the time the member completes the purchase or transfer pursuant to such section.

11. A member may not purchase any credited service described in this section unless the member has met the five-year minimum service requirement as provided in subdivisions (11) and (20) of section 104.1003, the two full biennial assemblies minimum service requirement as provided in section 104.1084, or the four-year minimum service requirement as provided in section 104.1084.

12. Absences taken by an employee without compensation for sickness and injury of the employee of less than twelve months or for leave taken by such employee without compensation pursuant to the provisions of the Family and Medical Leave Act of 1993 shall be counted as years of credited service.

104.1024. 1. Any member who terminates employment may retire on or after attaining normal retirement eligibility by making application in written form and manner approved by the appropriate board. The written application shall set forth the annuity starting date which shall not be earlier than the first day of the second month following the month of the execution and filing of the member's application for retirement nor later than the first day of the fourth month following the month of the execution and filing of the member's application for retirement.

2. A member's annuity shall be paid in the form of a life annuity, except as provided in section 104.1027, and shall be an amount for life equal to one and seven-tenths percent of the final average pay of the member multiplied by the member's years of credited service.

3. The life annuity defined in subsection 2 of this section shall not be less than a monthly amount equal to fifteen dollars multiplied by the member's full years of credited service.

4. If as of the annuity starting date of a member who has attained normal retirement eligibility the sum of the member's years of age and years of credited service equals eighty or more years and if the member's age is at least [fifty] **forty-eight** years but less than sixty-two years, or, in the case of a member

of the highway patrol who shall be subject to the mandatory retirement provision of section 104.080, the mandatory retirement age and completion of five years of credited service, then in addition to the life annuity described in subsection 2 of this section, the member shall receive a temporary annuity equal to eight-tenths of one percent of the member's final average pay multiplied by the member's years of credited service. The temporary annuity and any cost-of-living adjustments attributable to the temporary annuity pursuant to section 104.1045 shall terminate at the end of the calendar month in which the earlier of the following events occurs: the member's death or the member's attainment of the earliest age of eligibility for reduced Social Security retirement benefits.

5. The annuity described in subsection 2 of this section for any person who has credited service not covered by the federal Social Security Act, as provided in sections 105.300 to 105.445, RSMo, shall be calculated as follows: the life annuity shall be an amount equal to two and five-tenths percent of the final average pay of the member multiplied by the number of years of service not covered by the federal Social Security Act in addition to one and seven-tenths percent of the final average pay of the member multiplied by the member's years of credited service covered by the federal Social Security Act.

6. Effective July 1, 2002, any member, except an elected official or a member of the general assembly, who has not been paid retirement benefits and continues employment for at least two years beyond the date of normal retirement eligibility, may elect to receive an annuity and lump sum payment or payments, determined as follows:

(1) A retroactive starting date shall be established which shall be a date selected by the member; provided, however, that the retroactive starting date selected by the member shall not be a date which is earlier than the date when a normal annuity would have first been payable. In addition, the retroactive starting date shall not be more than five years prior to the annuity starting date. The member's selection of a retroactive starting date shall be done in twelve-month increments, except this restriction shall not apply when the member selects the total available time between the retroactive starting date and the annuity starting date;

(2) The prospective annuity payable as of the annuity starting date shall be determined pursuant to the provisions of this section, with the exception that it shall be the amount which would have been payable at the annuity starting date had the member actually retired on the retroactive starting date under the retirement plan selected by the member. Other than for the lump sum payment or payments specified in subdivision (3) of this subsection, no other amount shall be due for the period between the retroactive starting date and the annuity starting date;

(3) The lump sum payable shall be ninety percent of the annuity amounts which would have been paid to the member from the retroactive starting date to the annuity starting date had the member actually retired on the retroactive starting date and received a life annuity. The member shall elect to receive the lump sum amount either in its entirety at the same time as the initial annuity payment is made or in three equal annual installments with the first payment made at the same time as the initial annuity payment;

(4) Any annuity payable pursuant to this section that is subject to a division of benefit order pursuant to section 104.1051 shall be calculated as follows:

(a) Any service of a member between the retroactive starting date and the annuity starting date shall not be considered credited service except for purposes of calculating the division of benefit; and

(b) The lump sum payment described in subdivision (3) of this section shall not be subject to any division of benefit order; and

(5) For purposes of determining annual benefit increases payable as part of the lump sum and annuity provided pursuant to this section, the retroactive starting date shall be considered the member's date of retirement.

104.1051. 1. Any annuity provided pursuant to the year 2000 plan is marital property and a court of competent jurisdiction may divide such annuity between the parties to any action for dissolution of marriage if at the time of the dissolution the member has at least five years of credited service pursuant to sections 104.1003 to 104.1093. A division of benefits order issued pursuant to this section:

(1) Shall not require the applicable retirement system to provide any form or type of annuity or retirement plan not selected by the member;

(2) Shall not require the applicable retirement system to commence payments until the member's annuity starting date;

(3) Shall identify the monthly amount to be paid to the former spouse, which shall be expressed as a percentage and which shall not exceed fifty percent of the amount of the member's annuity accrued during all or part of the period of the marriage of the member and former spouse and which shall be based on the member's vested annuity on the date of the dissolution of marriage or an earlier date as specified in the order, which amount shall be adjusted proportionately upon the annuity starting date if the member's annuity is reduced due to the receipt of an early retirement annuity;

(4) Shall not require the payment of an annuity amount to the member and former spouse which in total exceeds the amount which the member would have received without regard to the order;

(5) Shall provide that any annuity increases, [temporary annuity received pursuant to subsection 4 of section 104.1024,] additional years of credited service, increased final average pay, increased pay pursuant to subsections 2 and 5 of section 104.1084, or other type of increases accrued after the date of the dissolution of marriage **and any temporary annuity received pursuant to subsection 4 of section 104.1024** shall accrue solely to the benefit of the member; except that on or after September 1, 2001, any cost-of-living adjustment (COLA) due after the annuity starting date shall not be considered to be an increase accrued after the date of termination of marriage and shall be part of the monthly amount subject to division pursuant to any order issued after September 1, 2001;

(6) Shall terminate upon the death of either the member or the former spouse, whichever occurs first;

(7) Shall not create an interest which is assignable or subject to any legal process;

(8) Shall include the name, address, date of birth, and Social Security number of both the member and the former spouse, and the identity of the retirement system to which it applies;

(9) Shall be consistent with any other division of benefits orders which are applicable to the same member.

2. A system shall provide the court having jurisdiction of a dissolution of a marriage proceeding or the parties to the proceeding with information necessary to issue a division of benefits order concerning a member of the system, upon written request from either the court, the member, or the member's spouse, citing this section and identifying the case number and parties.

3. A system shall have the discretionary authority to reject a division of benefits order for the following reasons:

- (1) The order does not clearly state the rights of the member and the former spouse;
- (2) The order is inconsistent with any law governing the retirement system.

104.1072. 1. Each board shall provide or contract, or both, for life insurance benefits for employees covered pursuant to the year 2000 plan as follows:

(1) Employees shall be provided fifteen thousand dollars of life insurance until December 31, 2000. Effective January 1, 2001, the system shall provide or contract or both for basic life insurance for employees covered under any retirement plan administered by the system pursuant to this chapter, persons covered by sections 287.812 to 287.856, RSMo, for employees who are members of the judicial retirement system as provided in section 476.590, RSMo, and, at the election of the state highways and transportation commission, employees who are members of the highways and transportation employees' and highway patrol retirement system, in the amount equal to one times annual pay, subject to a minimum amount of fifteen thousand dollars. The board shall establish by rule or contract the method for determining the annual rate of pay and any other terms of such insurance as it deems necessary to implement the requirements pursuant to this section. Annual rate of pay shall not include overtime or any other irregular payments as determined by the board. Such life insurance shall provide for triple indemnity in the event the cause of death is a proximate result of a personal injury or disease arising out of and in the course of actual performance of duty as an employee;

(2) Any member who terminates employment after reaching normal or early retirement eligibility and becomes a retiree within sixty days of such termination shall receive five thousand dollars of life insurance coverage.

2. (1) In addition to the life insurance authorized by the provisions of subsection 1 of this section, any person for whom life insurance is provided or contracted for pursuant to such subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, additional life insurance at a cost to be stipulated in a contract with a private insurance company or as may be required by a system if the board of trustees determines that the system should provide such insurance itself. The maximum amount of additional life insurance which may be so purchased **prior to January 1, 2004**, is that

amount which equals six times the amount of the person's annual rate of pay, subject to any maximum established by a board, except that if such maximum amount is not evenly divisible by one thousand dollars, then the maximum amount of additional insurance which may be purchased is the next higher amount evenly divisible by one thousand dollars. **The maximum amount of additional life insurance which may be so purchased on or after January 1, 2004, is an amount to be stipulated in a contract with a private insurance company or as may be required by the system if the board of trustees determines that the system should provide the insurance itself.**

(2) Any person defined in subdivision (1) of this subsection may retain an amount not to exceed sixty thousand dollars of life insurance following the date of his or her retirement if such person becomes a retiree the month following termination of employment and makes written application for such life insurance at the same time such person's application is made to the board for retirement benefits. Such life insurance shall only be provided if such person pays the entire cost of the insurance, as determined by the board, by allowing voluntary deductions from the member's annuity.

(3) In addition to the life insurance authorized in subdivision (1) of this subsection, any person for whom life insurance is provided or contracted for pursuant to this subsection may purchase, at the person's own expense and only if monthly voluntary payroll deductions are authorized, life insurance covering the person's children or the person's spouse or both at coverage amounts to be determined by the board at a cost to be stipulated in a contract with a private insurer or as may be required by the system if the board of trustees determines that the system should provide such insurance itself.

(4) Effective July 1, 2000, any member who applies and is eligible to receive an annuity based on the attainment of at least [fifty] **forty-eight** years of age with a total of years of age and years of credited service which is at least eighty shall be eligible to retain any optional life insurance described in subdivision (1) of this subsection. The amount of such retained insurance shall not be greater than the amount in effect during the month prior to termination of employment. Such insurance may be retained until the member's attainment of the earliest age for eligibility for reduced Social Security retirement benefits at which time the amount of such insurance that may be retained shall be that amount permitted pursuant to subdivision (2) of this subsection.

3. The state highways and transportation commission may provide for insurance benefits to cover medical expenses for members of the highways and transportation employees' and highway patrol retirement system. The state highways and transportation commission may provide medical benefits for dependents of members and for retired members. Contributions by the state highways and transportation commission to provide the benefits shall be on the same basis as provided for other state employees pursuant to the provisions of section 104.515. Except as otherwise provided by law, the cost of benefits for dependents of members and for retirees and their dependents shall be paid by the members or retirees. The commission may contract with other persons or entities including but not limited to third-party administrators, health network providers and health maintenance organizations for all, or any part of, the

benefits provided for in this section. The commission may require reimbursement of any medical claims paid by the commission's medical plan for which there was third-party liability.

4. The highways and transportation employees' and highway patrol retirement system may request the state highways and transportation commission to provide life insurance benefits as required in subsections 1 and 2 of this section. If the state highways and transportation commission agrees to the request, the highways and transportation employees' and highway patrol retirement system shall reimburse the state highways and transportation commission for any and all costs for life insurance provided pursuant to subdivision (2) of subsection 1 of this section. The person who is covered pursuant to subsection 2 of this section shall be solely responsible for the costs of any additional life insurance. In lieu of the life insurance benefit in subdivision (2) of subsection 1 of this section, the highways and transportation employees' and highway patrol retirement system is authorized in its sole discretion to provide a death benefit of five thousand dollars.

5. To the extent that the board enters or has entered into any contract with any insurer or service organization to provide life insurance provided for pursuant to this section:

(1) The obligation to provide such life insurance shall be primarily that of the insurer or service organization and secondarily that of the board;

(2) Any member who has been denied life insurance benefits by the insurer or service organization and has exhausted all appeal procedures provided by the insurer or service organization may appeal such decision by filing a petition against the insurer or service organization in a court of law in the member's county of residence;

(3) The board and the system shall not be liable for life insurance benefits provided for by an insurer or service organization pursuant to this section and shall not be subject to any cause of action with regard to life insurance benefits or the denial of life insurance benefits by the insurer or service organization unless the member has obtained judgment against the insurer or service organization for life insurance benefits and the insurer or service organization is unable to satisfy that judgment.

104.1084. 1. For members of the general assembly, the provisions of this section shall supplement or replace the indicated other provisions of the year 2000 plan. "Normal retirement eligibility" means attainment of age fifty-five for a member who has served at least three full biennial assemblies or the attainment of at least age fifty for a member who has served at least three full biennial assemblies with a total of years of age and years of credited service which is at least eighty. A member shall receive two years of credited service for every full biennial assembly served. A full biennial assembly shall be equal to the period of time beginning on the first day the general assembly convenes for a first regular session until the last day of the following year. If a member serves less than a full biennial assembly, the member shall receive credited service for the pro rata portion of the full biennial assembly served.

2. For the purposes of section 104.1024, the normal retirement annuity of a member of the general assembly shall be an amount for life equal to one twenty-fourth of the monthly pay for a senator or representative on the annuity starting date multiplied by the years of credited service as a member of the general assembly. In no event shall any such member or eligible beneficiary receive annuity amounts in excess of one hundred percent of pay.

3. To be covered by the provisions of section 104.1030, or section 104.1036, a member of the general assembly must have served at least three full biennial assemblies.

4. For members who are statewide elected officials, the provisions of this section shall supplement or replace the indicated other provisions of the year 2000 plan. "Normal retirement eligibility" means attainment of age fifty-five for a member who has served at least four years as a statewide elected official, or the attainment of age fifty with a total of years of age and years of such credited service which is at least eighty.

5. For the purposes of section 104.1024, the normal retirement annuity of a member who is a statewide elected official shall be an amount for life equal to one twenty-fourth of the monthly pay in the highest office held by such member on the annuity starting date multiplied by the years of credited service as a statewide elected official not to exceed twelve years.

6. To be covered by the provisions of sections 104.1030 and 104.1036, a member who is a statewide elected official must have at least four years as a statewide elected official.

7. The provisions of section 104.1045 shall not apply to persons covered by the general assembly and statewide elected official provisions of this section. Persons covered by the general assembly provisions and receiving a year 2000 plan annuity shall be entitled to a cost-of-living adjustment (COLA) when there are increases in pay for members of the general assembly. Persons covered by the statewide elected official provisions and receiving a year 2000 plan annuity shall be entitled to COLAs when there are increases in the pay for statewide elected officials in the highest office held by such person. The COLA described in this subsection shall be equal to and concurrent with the percentage increase in pay as described in section 105.005, RSMo. No COLA shall be less than zero.

8. Any member who serves under this chapter as a member of the general assembly or as a statewide elected official on or after August 28, 1999, shall not be eligible to receive any retirement benefits from the system under either the closed plan or the year 2000 plan based on service rendered on or after August 28, 1999, as a member of the general assembly or as a statewide elected official if such member is convicted of a felony that is determined by a court of law to have been committed in connection with the member's duties either as a member of the general assembly or as a statewide elected official, unless such conviction is later reversed by a court of law.

9. A member of the general assembly who has purchased or transferred creditable service shall not be subject to the cap on benefits pursuant to subsection 2 of this section for that portion of the benefit attributable to the purchased or transferred service.

10. Effective August 28, 2003, any former member of the general assembly who served at least two full biennial assemblies and had no creditable service for the same period of service in another retirement system shall be made and employed by the board as a special consultant on the problems related to retirement and shall, when requested by the board, give opinions either written or orally on such problems. As compensation for such duties the former member of the general assembly shall be entitled to retire with a normal annuity effective the first of the month following receipt by the board of a written application. In no event shall retroactive benefits be paid.

104.1093. 1. For purposes of this section, the term "benefit recipient" shall include any employee, beneficiary or retiree pursuant to sections 104.010 to 104.1093, any administrative law judge, legal advisor or beneficiary as defined pursuant to section 287.812, RSMo, or any judge or beneficiary as defined pursuant to section 476.515, RSMo, or any special commissioner pursuant to section 476.450, RSMo.

2. Notwithstanding any provision of law to the contrary, any benefit recipient may designate an agent who shall have the same authority as an agent pursuant to a durable power of attorney pursuant to sections 404.700 to 404.737, RSMo, with regard to the application for and receipt of an annuity or any other benefits. The authority of such agent may be revoked at any time by such benefit recipient. The authority of such agent shall not terminate if such benefit recipient becomes disabled or incapacitated. The designation shall be effective only upon the disability or incapacity of the benefit recipient as determined by that person's physician and communicated in writing to the system.

3. In the event a benefit recipient becomes disabled or incapacitated and has not designated an agent pursuant to subsection [2] 1 of this section, the following persons may act as agent as described in subsection [2] 1 of this section upon submission of a written statement from a physician determining that the [beneficiary] **benefit** recipient is disabled or incapacitated:

(1) The spouse of the [beneficiary] **benefit** recipient;

(2) If the spouse is unavailable, to a child of the [beneficiary] **benefit** recipient;

(3) If [a] **no** child is [unavailable] **available**, to a [brother or sister of the beneficiary] **parent of the benefit** recipient;

(4) If [a brother or sister is unavailable] **no parent is available**, to a [parent] **brother or sister** of the [beneficiary] **benefit** recipient; **or**

(5) If no brother or sister is available, to a niece, nephew, or a grandchild of the benefit recipient.

4. The system shall not be liable with regard to any payment made in good faith pursuant to this section.

168.303. The state board of education shall adopt rules to facilitate job-sharing positions for classroom teachers, as the term "job-sharing" is defined in this section. These rules shall

provide that a classroom teacher in a job-sharing position shall receive paid legal holidays, annual vacation leave, sick leave, and personal leave on a pro rata basis. "Job-sharing position" shall mean any position:

- (1) Shared with one other employee;**
- (2) Requiring employment of at least seventeen hours per week but not more than twenty hours per week on a regular basis; and**
- (3) Requiring at least seventy percent of all time spent in classroom instruction as determined by the employer;**

provided that, job-sharing position shall not include instructional support or school services positions including, but not limited to, guidance counselor, media coordinator, psychologist, social worker, audiologist, speech and language pathologist, and nursing positions.

169.030. 1. The funds required for the operation of the retirement system created by sections 169.010 to 169.141 shall come from contributions made in equal amounts by members of the system and their employers, except as provided for certain members and employers by section 104.342, RSMo, and from such interest as may be derived from the investment of any part of such contributions. All contributions shall be transmitted to the board of trustees by employers in such manner and at such time as the board by rule shall require.

2. For each school year following the date on which the system becomes operative, each and every employer of one or more persons who are members of the system shall transmit to the board of trustees, in the manner and accompanied by such supporting data as the board shall prescribe, twice the amount that is deductible from the pay of such employee or employees during the school year. Failure or refusal to transmit such amount as required shall render the person or persons responsible therefor individually liable for twice the amount so withheld. Suits for the recovery of amounts for which individuals are thus rendered liable shall be instituted and prosecuted by the board of trustees in the name of the retirement system. In addition to such civil penalty, and not in lieu thereof, any person or persons made responsible for the payment of contributions who shall willfully and knowingly fail or refuse to transmit such contributions or any part thereof to the board of trustees shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars and not more than two hundred dollars, and each day such person or persons shall so fail or refuse to transmit such contributions shall be deemed a separate offense.

3. The contributions of members of the retirement system shall be collected by their employers through appropriate deductions from paychecks, except as provided for certain members and employers by section 104.342, RSMo. The total amount deducted from the paychecks of members during any school year shall equal such a percent of their salary rates as may be required by the contribution rate then in effect. Contributions transmitted to the retirement system before February 20, 1996, based on salary rates which either included or excluded employer-paid medical benefits for members, shall be deemed to have

been in compliance with this section. The retirement system shall not refund or adjust contributions or adjust benefit determinations with respect to any period before February 20, 1996, solely because of the treatment of employer-paid medical benefits for members. Effective December 31, 1995, compensation in excess of the limitations set forth in section 401(a)(17) of title 26 of the United States Code shall be disregarded for purposes of determining contributions under this section and calculating benefits paid by the public school retirement system of Missouri. 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 this purpose, an "eligible employee" is an individual who was a member of the system before July 1, 1996.

4. The [contribution rate shall be three percent for the first year of the system's operation. After the first year of operation the] board of trustees shall [have authority to] **fix and certify to the employers** the level rate of contribution[, not to exceed eleven and one-half percent, required for the operation of the system and to make adjustments in such rate as may thereafter be necessary; provided that if the level rate required for operation of the system shall exceed eleven and one-half percent for five consecutive years, all benefits provided herein shall be equitably reduced to such an extent that the rate required for the operation of the system shall be eleven and one-half percent.] **subject to the following:**

(1) The level rate of contribution for a fiscal year shall not exceed the level rate of contribution for the prior fiscal year by more than one-half percent;

(2) The board shall fix and certify to the employers the rate of contribution for a fiscal year no later than six months prior to the date such rate is to be effective;

(3) The board shall fix and certify to the employers the rate of contribution for a fiscal year based on an actuarial valuation of the system as of a date not earlier than the last day of the second prior fiscal year. Such actuarial valuation of the system shall be performed using processes and actuarial assumptions that are in accordance with actuarial standards of practice in effect at the time the valuation is performed, as promulgated by the Actuarial Standards Board or its successor; provided that such actuarial valuation shall be based on the entry age normal actuarial cost method and an asset valuation method based on the market value of system assets that may provide for smoothing of investment gains and losses, and, further, that the level rate of contribution shall be the total of the normal cost rate and a rate which shall amortize the unfunded actuarial accrued liability over a period that shall not exceed thirty years from the date of the valuation, subject to the limitations of this subsection; and

(4) Not less than once every ten years the board shall have an actuary, other than the actuary performing the actuarial valuation pursuant to this section, review such actuarial valuation and perform an additional valuation of the system.

5. Regardless of the provisions of any law governing compensation and contracts, every teacher or employee shall be deemed to consent and agree to the deductions provided herein. Payment of salary

or compensation less such deduction shall be a full and complete discharge of all salary or compensation claims and demands during the period covered by such payment, except as to the benefits provided under sections 169.010 to 169.141.

6. Notwithstanding any other provision of sections 169.010 to 169.141 to the contrary, no legislation shall be enacted after July 1, 2003, that increases benefits provided to members or retirees of the public school retirement system of this state above that which may be funded using a rate of contribution of ten and one-half percent as determined using an actuarial valuation as provided in subsection 4 of this section; provided that, notwithstanding the provision of this subsection, legislation may be enacted after July 1, 2003, that provides for an extension of time within which a member may make an election pursuant to subdivisions (3) to (8) of subsection 1 of section 169.070.

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 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] **member** 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] **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 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.]

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 [with interest,] 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 [same as the annual salary rate at which the member is first employed in a position qualifying for membership in the retirement system after the period being purchased, provided that the purchase cost shall not exceed the actuarial value of the credit being purchased] **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[. The interest rate used in determining the amount to be paid shall be the actuarially assumed rate of return on invested funds of the system in effect at the date of election to purchase credit];

(2) [Payment shall be made over a period not longer than the period of membership service credit being purchased, measured from the date of election, and with interest on the unpaid balance;

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

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

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

[(6)] (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 [plan, as defined in section 105.660, RSMo,] **system** for the same service.

3. A member who [has rendered service] **was employed** for at least twenty hours per week [as a teacher outside of this state including service in] **on a regular basis by** a public **school district, public junior college, public community college, public college, or public** university [or who has rendered service in the University of Missouri or Lincoln University after July 1, 1946], **either inside or outside of this state**, may elect [prior to retirement] to purchase equivalent membership service credit [but not in excess of ten years. An affidavit shall be required stipulating that the member is not presently receiving compensation from another teacher retirement system and will not receive credit in another system for the creditable time purchased].

4. [(1)] A member who [enters the service of] **has served in** the armed forces of the United States of America **and** who [is an employee in a district included in the system at the time such member is inducted, enlisted or called to active duty, and who without voluntary reenlistment becomes an employee in a district within one year after discharge from such service shall not be subject to the provisions of subsection 4 of section 169.050 with regard to termination of membership due to the period of actual service in the armed forces of the United States. Such a member may elect prior to retirement to purchase membership service credit for the entire period of service in the armed forces of the United States, but not to exceed five years. The purchase may be made only if the member] was discharged or separated from the armed forces by other than a dishonorable discharge[.

(2) A member who had served in the armed forces of the United States prior to becoming a member, and who becomes employed in a position qualifying for membership in the retirement system after such member's discharge under honorable conditions] may elect, [prior to retirement,] to purchase membership service for the [entire] period of **active duty** service in the armed forces[, but not to exceed five years].

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 [prior to retirement] to purchase membership service credit for the period of leave. [No member may purchase more than four years of membership service credit pursuant to this subsection.]

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 nonteacher school 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[, prior to retirement,] to purchase credit for such service [and receive pro rata credit not to exceed a total of ten years in this system for the service]. The nonteacher school 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, [not to exceed two years] if the member was employed by that organization to serve twenty or more hours per week[; provided the member has returned to service for at least one year as an employee of the employer that granted the leave] **on a regular basis**.

9. A member [having membership service credit in the retirement system provided by sections 169.010 to 169.141, after the 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 [and duly certified under the law governing the certification of teachers during all of such employment] **on a regular basis**, may elect to purchase **equivalent** membership service credit for **such** service rendered [to the private school, but not to exceed three years. As used in this subsection, the term "private school" means a school which is not a part of the public school system of this state and which charges tuition for the rendering of elementary and secondary education services].

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, [2003] **2008**, two and four-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-nine years or more but less than thirty years, and the member has not attained age fifty-five;

(4) Between July 1, 1998, and July 1, [2003] **2008**, 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, [2003] **2008**, 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, [2003] **2008**, 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, [2003] **2008**, 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 June 30, 2008, 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 reserve for the remainder of such one hundred twenty monthly payments shall be paid to the estate of the last person to receive a monthly allowance;

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 of the remainder of such sixty monthly payments shall be paid to the estate of the last person to receive a monthly allowance.

(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 primary 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 primary 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 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 estate of the individual, if there be no beneficiary. 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 estate of the beneficiary unless the retired individual designates a different recipient with the board at or after retirement.

5. 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 to the estate of the member, if there be no beneficiary; 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 estate of the beneficiary.

6. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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. 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 person shall receive as a part of compensation for these duties a death benefit of five thousand dollars.

21. 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. 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. 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, 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 of section 169.070.

169.331. 1. Notwithstanding any other provision of sections 169.270 to 169.400 to the contrary, a retired certificated teacher receiving a retirement benefit from the retirement system established pursuant to sections 169.270 to 169.400 may, without losing his or her retirement benefit, teach full-time for up to two years for a school district covered by such retirement system; provided that the school district has a shortage of certified teachers, as determined by the school district. The total number of such retired certificated teachers shall not exceed, at any one time, fifteen certificated teachers.

2. The employer's contribution rate shall be paid by the hiring school district and the employee's contribution rate shall be paid by the employee.

3. Any additional actuarial costs resulting from the hiring of a retired certificated teacher pursuant to the provisions of this section shall be paid by the hiring school district.

4. In order to hire teachers pursuant to the provisions of this section, the school district shall:

- (1) Show a good faith effort to fill positions with nonretired certificated teachers;
- (2) Post the vacancy for at least one month;
- (3) Have not offered early retirement incentives for either of the previous two years;
- (4) Solicit applications through the local newspaper, other media, or teacher education programs;
- (5) Determine there is an insufficient number of eligible applicants for the advertised position; and
- (6) Declare a critical shortage of certificated teachers that is active for one year.

5. Any person hired pursuant to this section shall be included in the State Director of New Hires for purposes of income and eligibility verification pursuant to 42 U.S.C. Section 1320b-7.

169.570. 1. [An employee having five or more years of membership service under one of the Missouri retirement systems as provided by sections 169.010 to 169.141, 169.270 to 169.400 or 169.410 to 169.540, who is subsequently employed in a position covered by another of the Missouri retirement systems, may leave the employee's contributions with the system under which the employee was first employed and be eligible to receive a benefit based upon the employee's services under that system when the employee becomes eligible for a service retirement benefit from another of such Missouri retirement systems or upon having reached retirement age having previously retired on disability. In the event the member does not become eligible for a retirement benefit, the employee shall be entitled to a refund of the employee's contributions with interest upon demand, or to such other benefits as may be provided by law.

2.] An employee having less than five years of membership service under one of the Missouri retirement systems provided in sections 169.010 to 169.141, 169.270 to 169.400 or 169.410 to 169.540, who is subsequently employed in a position covered by another of the Missouri retirement systems, may elect within five years after employment in a district included in another of the Missouri retirement systems to purchase membership credit for service rendered under the first system; provided, however, that the employee shall be entitled to apply the membership credit thus purchased toward a service retirement only and not for any other benefit. The purchase shall be effected by the member paying to the retirement system the amount required by the rules and regulations established by the respective retirement system, or, absent such rules and regulations, an amount, with interest, based on the annual salary rate of the employee's initial employment in a district under the system in which credit is being purchased and the contribution rate in effect in that system at the date of election to purchase credit. In the retirement systems provided by sections 169.270 to 169.400 and 169.410 to 169.540, the school district shall contribute the amount required by the statutes and by the rules and regulations established by the system for each year of creditable service purchased by the incoming member.

[3.] **2.** A member of any Missouri public school retirement system **established by sections 169.010 to 169.141, 169.270 to 169.400, 169.410 to 169.540, or 169.600 to 169.715** who has previous credit in one of the other Missouri public school retirement systems may elect to purchase equivalent credit[, not to exceed ten years,] in the member's present system provided such credit toward retirement is withdrawn and benefits terminated in the previous system. [A member of the system established by sections 169.600 to 169.715 who has previous credit in one of the Missouri public school retirement systems established by sections 169.270 to 169.400 or, 169.410 to 169.540 may elect to purchase equivalent credit, not to exceed ten years, in the member's present system provided such credit toward retirement is withdrawn and benefits terminated in the previous system.] The purchase shall be effected by the member paying to the retirement system the amount required by the rules and regulations established by the respective retirement system, or absent such rules and regulations, an amount, with interest, based on the annual salary rate of the member's initial employment in a district under the system

in which credit is being purchased and the contribution rate in effect in that system at the date of election to purchase credit.

[4.] **3.** Nothing in this section shall decrease or discontinue the benefits provided by the sections of the statutes relating to any of the public school retirement systems in the state of Missouri.

[5.] **4.** Payment pursuant to the provisions of this section shall be [made before retirement and over a period of time] **completed prior to termination of membership with the retirement system**, with interest on the unpaid balance, [not to exceed the number of years of credit being purchased,] in accordance with rules and regulations **and statutes** established by the respective retirement systems. The individual purchasing credit must have service credit as a member of the retirement system for at least as many years before retirement as the number of years of credit being purchased.

169.577. Any member of a retirement system subject to the provisions of this chapter, who is within five years of being eligible to retire with a retirement allowance as provided in this chapter, may elect to purchase additional creditable service of up to [four-tenths] **five-tenths** of a year which shall, when so purchased, be included in the total of the member's years of creditable service, used to enable the member to achieve the minimum creditable service time required for a retirement allowance, and applied in the computation of the member's annual service retirement allowance. **For any member of a retirement system established by sections 169.010 to 169.141 or 169.600 to 169.715, and notwithstanding any other provision within this section to the contrary, the purchase shall be effected in the same manner as provided in section 169.056.** The request for purchase of the additional creditable service shall be made in writing to the board of trustees of the system in which the applicant is a member. The purchase shall be effected by the member paying to the retirement system the amount required by the rules and regulations established by the respective retirement system, or absent such rules and regulations, the amount, with interest, the member would have contributed thereto and the amount the member's employer would have contributed thereto had the person been employed in a position covered by the retirement system for the number of months for which the member is electing to purchase credit, and had the member's compensation during such period been the same as the annual salary rate at which the member is receiving at the time of application, and the contribution rate in effect on the date of election to purchase credit. The payment [may be made over a period not longer than the period of membership service credit being purchased, measured from the date of election, and] **shall be completed prior to termination of membership with the retirement system** with interest on the unpaid balance. Nothing in this section shall be construed to allow a member to vest in the retirement system by using the creditable service purchased pursuant to the provisions of this section to reach the time of vesting.

169.590. 1. Any insurance contract or plan, including a noninsurance health benefit program, which provides group health insurance or benefits for employees who are members of any retirement system established pursuant to this chapter shall contain provisions that permit:

(1) Any employee who retires, or who has retired, and is receiving or is eligible to receive retirement benefits under this chapter to remain or become a member of the group, including a noninsurance health benefit program, and to receive benefits at the same rate as all other members of the group;

(2) The spouse or surviving spouse of any employee to remain or become a member of the group, including a noninsurance health benefit program, so long as such spouse is receiving or is eligible to receive retirement benefits under this chapter; and

(3) The children or children who survive any employee to remain or become members of the group, including a noninsurance health benefit program, so long as they are receiving or are eligible to receive retirement benefits under this chapter.

2. The plan or contract may provide a different level of coverage for any person electing to remain or become a member of an eligible group, including a noninsurance health benefit program, as provided in subsection 1 of this section if such person is eligible for Medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, as amended.

3. A person electing to become or remain a member of a group, including a noninsurance health benefit program, under subsection 1 of this section shall pay the premium for such coverage, including the premium for any covered dependents.

4. School districts entering into a contract with an insurance company which provides group health insurance or benefits for employees, including provisions for a noninsurance health benefit program, shall specify that such contract provides coverage for persons who have retired, their spouses and unmarried dependent children and that the enrollment period for such coverage shall be clearly stated for a period of time of not less than thirty days. [Those persons who retired prior to August 28, 1992, shall have one year from that date to qualify for the coverage provided. Those persons who retire after August 28, 1992,] **Employees shall have [one year] two years from the date [of retirement to qualify for the coverage provided] last employed by a school district that is subject to coverage pursuant to this section to qualify for the coverage provided.**

5. School districts failing to comply with the provisions of this section shall have deducted from the state aid due such school district an amount equal to the premium for group health insurance, including a noninsurance health benefit program, for those persons denied the benefits required under the provisions of this section.

6. As used in this section, the term "noninsurance health benefit program" includes all group health plans or programs providing coverage on an expense-incurred basis, group service or indemnity type contracts issued by a nonprofit corporation, and all self-insured group health benefit plans or programs, of any type or description.

169.596. 1. Notwithstanding any other provision of this chapter to the contrary, a retired certificated teacher receiving a retirement benefit from the retirement system established pursuant to sections 169.010 to 169.141 may, without losing his or her retirement benefit, teach

full-time for up to two years for a school district covered by such retirement system; provided that the school district has a shortage of certified teachers, as determined by the school district. The total number of such retired certificated teachers shall not exceed, at any one time, the lesser of ten percent of the total teacher staff for that school district, or five certificated teachers.

2. Notwithstanding any other provision of this chapter to the contrary, a person receiving a retirement benefit from the retirement system established pursuant to sections 169.600 to 169.715 may, without losing his or her retirement benefit, be employed full-time for up to two years for a school district covered by such retirement system; provided that the school district has a shortage of noncertificated employees, as determined by the school district. The total number of such retired noncertificated employees shall not exceed, at any one time, the lesser of ten percent of the total noncertificated staff for that school district, or five employees.

3. The employer's contribution rate shall be paid by the hiring school district.

4. In order to hire teachers and noncertificated employees pursuant to the provisions of this section, the school district shall:

(1) Show a good faith effort to fill positions with nonretired certificated teachers or nonretired noncertificated employees;

(2) Post the vacancy for at least one month;

(3) Have not offered early retirement incentives for either of the previous two years;

(4) Solicit applications through the local newspaper, other media, or teacher education programs;

(5) Determine there is an insufficient number of eligible applicants for the advertised position; and

(6) Declare a critical shortage of certificated teachers or noncertificated employees that is active for one year.

5. Any person hired pursuant to this section shall be included in the State Director of New Hires for purposes of income and eligibility verification pursuant to 42 U.S.C. Section 1320b-7.

169.620. 1. The funds required for the operation of the retirement system created by sections 169.600 to 169.715 shall come from contributions made in equal amounts by employees as herein defined and their employers, beginning November 1, 1965, and from such interest or income as may be derived from the investment of funds of the system. All contributions shall be transmitted to the board of trustees by employers in such manner and at such times as the board by rule shall require.

2. For each school year following the date on which the system becomes operative, each and every employer of one or more persons who are members of the system shall transmit to the board of trustees, in the manner and accompanied by such supporting data as the board shall prescribe, twice the amount that is deductible from the pay of such employee or employees during the school year. Failure or refusal to transmit such amount as required shall render the person or persons responsible therefor

individually liable for twice the amount so withheld. Suits for the recovery of amounts for which individuals are thus rendered liable shall be instituted and prosecuted by the board of trustees in the name of the retirement system. In addition to such civil penalty, and not in lieu thereof, any person or persons made responsible for the remittance of contributions who shall willfully and knowingly fail or refuse to transmit such contributions or any part thereof to the board of trustees shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars and not more than two hundred dollars. Each day such person or persons shall so fail or refuse to transmit such contributions shall be deemed a separate offense. The board of trustees may request the employer to provide the information necessary to administer the system and to advise each member of such member's status.

3. The contributions of members of the retirement system shall be collected by their employers through appropriate deductions from paychecks. The total amount deducted from the paychecks of members during any school year shall equal such a percent of their salary rates as may be required by the contribution rate then in effect. For contribution purposes any annual salary rate less than one thousand two hundred dollars shall be regarded as one thousand two hundred dollars. Contributions transmitted to the retirement system before February 20, 1996, based on salary rates which either included or excluded employer-paid medical benefits for members, shall be deemed to have been in compliance with this section. The retirement system shall not refund or adjust contributions or adjust benefit determinations with respect to any period before February 20, 1996, solely because of the treatment of employer-paid medical benefits for members. Effective December 31, 1995, compensation in excess of the limitations set forth in Section 401(a)(17) of Title 26 of the United States Code shall be disregarded for purposes of determining contributions pursuant to this section and calculating benefits paid by the nonteacher school employee retirement system of Missouri. 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 the purpose of this subsection, an "eligible employee" is an individual who was a member of the system before July 1, 1996.

4. [The contribution rate shall be three percent of earnings until July 1, 1982.] The board of trustees [is authorized to] **shall fix and certify to the employers** the level rate of contribution[, which shall not exceed five percent, required for the operation of the system and to make adjustments in such rate as may thereafter be necessary; provided that, if the level rate required for the operation of the system shall exceed five percent for five consecutive years, all benefits herein provided shall be equitably reduced to such an extent that the rate required for the operation of the system shall be five percent.] **subject to the following:**

(1) The level rate of contribution for a fiscal year shall not exceed the level rate of contribution for the prior fiscal year by more than one-quarter percent;

(2) The board shall fix and certify to the employers the rate of contribution for a fiscal year no later than six months prior to the date such rate is to be effective;

(3) The board shall fix and certify to the employers the rate of contribution for a fiscal year based on an actuarial valuation of the system as of a date not earlier than the last day of the second prior fiscal year. Such actuarial valuation of the system shall be performed using processes and actuarial assumptions that are in accordance with actuarial standards of practice in effect at the time the valuation is performed, as promulgated by the Actuarial Standards Board or its successor; provided that such actuarial valuation shall be based on the entry age normal actuarial cost method and an asset valuation method based on the market value of system assets that may provide for smoothing of investment gains and losses, and further, that the level rate of contribution shall be the total of the normal cost and a rate which shall amortize the unfunded actuarial accrued liability over a period that shall not exceed thirty years from the date of the valuation, subject to the limitations of this subsection; and

(4) Not less than once every ten years the board shall have an actuary, other than the actuary performing the actuarial valuation pursuant to this section, review such actuarial valuation and perform an additional actuarial valuation of the system.

5. Regardless of the provisions of any law governing compensation and contracts, every employee shall be deemed to consent and agree to the deductions provided herein. Payment of salary or compensation less such deduction shall be a full and complete discharge of all salary or compensation claims and demands during the period covered by such payment, except as to the benefits provided pursuant to sections 169.600 to 169.715.

6. A person serving as an employee as defined in section 169.600, who became a member after November 1, 1965, and before July 1, 1974, and who was regularly employed to serve for twenty or more hours per week at some time during the period November 1, 1965, to July 1, 1974, may receive membership service credit for such service by paying into the system the amount, with interest at such rate as may be set by the board within the limits set by law for interest rates, the person would have contributed had the person been eligible for membership.

7. [Any member who rendered service as an employee as defined in section 169.600 for a junior college district at any time between October 31, 1965, and the effective date of an agreement between the junior college and the board of trustees as provided in section 169.600 may elect to purchase membership service credit for that service. The election shall include all service for which the member is eligible to purchase credit, and shall be made prior to retirement. The purchase shall be effected by the member's paying to the system with interest, and within the time period allowed by law for the election, the contributions which would have been deducted from the employee's salary had the employee been a member during the period or periods of such service, and had the contribution rate in effect at the date of election been in effect at the time the service was rendered. Other provisions of law to the contrary notwithstanding, no membership credit shall be allowed pursuant to the provisions of this section which exceeds in length the member's creditable service for employment rendered after October 31, 1965.]

Notwithstanding any other provision of sections 169.600 to 169.715 to the contrary, no legislation shall be enacted after July 1, 2003, that increases benefits provided to members or retirees of the nonteacher school employee retirement system of Missouri above that which may be funded using a rate of contribution of five percent as determined using an actuarial valuation as provided in subsection 4 of this section; provided that, notwithstanding the provisions of this subsection, legislation may be enacted after July 1, 2003, that provides for an extension of time within which a member may make an election pursuant to subdivision (4) of subsection 1 of section 169.670.

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 [time of withdrawal or refund] **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 [may be made over a period not to exceed the length of the service to be reinstated, beginning from the date of election, or prior to retirement, whichever is earlier, and] **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 nonteacher school 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 nonteacher school 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.

169.655. 1. [Effective January 1, 1997,] Members who have accrued at least one year of membership service credit for employment in a position covered by this [section] **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 [with interest,] 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 [same as the annual salary rate at which the member is first employed in a position qualifying for membership in the retirement system after the period being purchased, provided that the cost shall not exceed the actuarial value of the credit being purchased] **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[. The interest rate used in determining the amount to be paid shall be the actuarially assumed rate of return on invested funds of the system in effect at the date of election to purchase credit];

(2) [Payment shall be made over a period not longer than the period of membership service credit being purchased, measured from the date of election, and with interest on the unpaid balance;

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

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

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

[(6)] (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 [plan, as defined in section 105.660, RSMo.] **system** for the same service.

3. A member who [had rendered service as an employee] **was employed** for at least twenty hours per week [for] **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 [including service in a public university or who has rendered service in the University of Missouri or Lincoln University after November 1, 1965], may elect [prior to retirement] to purchase equivalent membership service credit [but not in excess of ten years. An affidavit shall be required stipulating that the member is not presently receiving compensation from another school employee retirement system and will not receive credit in another system for the creditable time purchased].

4. [(1)] A member who [enters the service of] **has served in** the armed forces of the United States of America **and** who [is an employee in a district included in the system at the time such member is inducted, enlisted or called to active duty, and who without voluntary reenlistment becomes an employee in a district within one year after discharge from such service shall not be subject to the provisions of subsection 3 of section 169.650 with regard to termination of membership due to the period of actual service in the armed forces of the United States. Such a member may elect prior to retirement to purchase membership service credit for the entire period of service in the armed forces of the United States, but not to exceed five years. The purchase may be made only if the member] was discharged or separated from the armed forces by other than a dishonorable discharge[.

(2) A member who had served in the armed forces of the United States prior to becoming a member, and who becomes employed in a position qualifying for membership in the retirement system after such member's discharge under honorable conditions] may elect[, prior to retirement,] to purchase membership service credit for the [entire] period of **active duty** service in the armed forces[, but not to exceed five years].

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 [prior to retirement] to purchase membership service credit for the period of leave. [No member may purchase more than four years of membership service credit pursuant to this subsection.]

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 [prior to retirement,] to purchase credit for such service [and receive pro rata credit not to exceed a total of ten years in this system for the 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[, not to exceed two years] if the member was employed by that organization to serve twenty or more hours per week[; provided the member has returned to service for at least one year as an employee of the employer that granted the leave] **on a regular basis**.

9. A member [having membership service credit in the retirement system provided by sections 169.600 to 169.715, after the member] **who** was employed by a private school [to serve], **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 [to the private school, but not to exceed three years. As used in this subsection, the term "private school" means a school which is not a part of the public school system of this state and which charges tuition for the rendering of elementary and secondary educational services].

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, [2003] **2008**, 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 estate of the last person to receive a monthly allowance;

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 estate of the last person to receive a monthly allowance;

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 primary 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 primary 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 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 to the person's estate; provided, however, that if an optional benefit, as provided in option 2, 3 or 4 in subsection 4, 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 estate of the beneficiary unless the retired individual designates a different recipient with the board at or after retirement.

6. 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 to the member's estate, if there be no beneficiary; 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 estate of the beneficiary.

7. 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. 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. 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. 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. 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. 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. Benefits paid pursuant to the provisions of the nonteacher school employee retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code.

14. 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. 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. 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 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 of the member's effective date of retirement and election at least thirty days prior to retirement; provided that the partial lump sum option plan may not be elected if the member elects a retirement allowance under option 7 of paragraph (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 nonteacher school 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 of section 169.670.

169.712. **1.** Notwithstanding any provision of law to the contrary, any person duly certificated under the law governing the certification of teachers **in Missouri** who, after August 28, 1997, is first employed in a position which would otherwise qualify the person for membership in the nonteacher school employee retirement system pursuant to the provisions of sections 169.600 to 169.710 shall be a member of the public school retirement system pursuant to the provisions of sections 169.010 to 169.141, and shall receive creditable service on a pro rata basis in that system for subsequent certificated services which would otherwise have been creditable in the nonteacher school employee retirement system. Any such person shall have the option of being a member of the nonteacher school employee retirement system. The option election must be filed with the board of trustees of the public school retirement system within ninety days of first such employment following August 28, 1997.

2. Notwithstanding any provision of law to the contrary, any person duly certificated under the law governing the certification of teachers in Missouri who, on or after August 28, 2003, is employed by a public school, as defined in section 169.010, for at least seventeen but less than twenty hours per week on a regular basis shall be a member of the public school retirement system pursuant to the provisions of sections 169.010 to 169.141, and shall receive creditable service on a pro rata basis in that system. Any such person shall have the option of being a member of the nonteacher school employee retirement system. The option election must be filed with the board of trustees of the public school retirement system within ninety days of first such employment or within ninety days of August 28, 2003, whichever later occurs.

3. Any person who is a member of the public school retirement system or the nonteacher school employee retirement system pursuant to subsection 2 of this section may purchase credit in such system for service after August 28, 1991, that would have qualified such person for membership in either retirement system pursuant to subsection 2 of this section had such subsection been in effect prior to August 28, 2003; provided that such purchase of credit in the public school retirement system shall be subject to the provisions of section 169.056 and such purchase of credit in the nonteacher school employee retirement system shall be subject to the provisions of section 169.655.

287.813. Any administrative law judge or legal advisor who is employed on or after January 1, 2004, and who has not previously been covered by the administrative law judge's and legal advisor's retirement system under sections 287.812 to 287.856, shall not be eligible to

participate in that system. Such administrative law judge or legal advisor shall participate in the state employees' retirement system under chapter 104, RSMo, if otherwise eligible under the applicable provisions of law contained in that chapter.

287.845. 1. The board shall administer the provisions of sections 287.812 to 287.855 and shall have the same powers, duties, and obligations in regard to the funds and the system provided for in such sections as it has in regard to the Missouri state employees' retirement system. The system shall calculate the annuity for an administrative law judge or legal advisor, as defined in section 287.812 based on the law in effect at the time the administrative law judge's or legal [advisory's] **advisor's** employment was terminated.

2. The commissioner of administration, the state treasurer, and the secretary of the Missouri state employees' retirement system shall perform the same duties in regard to the retirement system established pursuant to the provisions of sections 287.812 to 287.855 that are prescribed for such officers in sections 104.436 and 104.438, RSMo, in regard to the Missouri state employees' retirement system. Funds so certified and transferred for the retirement system established pursuant to the provisions of sections 287.812 to 287.855 shall be deposited in a separate account of the Missouri state employees' retirement fund and shall be disbursed only for the purposes of sections 287.812 to 287.855.

3. Effective January 1, 2004, the liabilities and assets of the administrative law judge's and legal advisor's retirement system shall be transferred and combined with the state employees' retirement system. The contribution rate certified by the board pursuant to section 104.1066, RSMo, for the state employees' retirement system after January 1, 2004, shall include amounts necessary to cover the costs of the administrative law judge's and legal advisor's retirement system. No alteration, amendment, or repeal of the administrative law judge's and legal advisor's retirement system shall affect the then existing rights of members, or their spouses, beneficiaries or former spouses, but shall be effective only as to rights which would otherwise accrue hereunder as a result of services rendered by a member after such alteration, amendment, or repeal.

Section 1. 1. Any state employee or retiree who retires pursuant to section 2 of this act, and is also eligible for medical coverage as described in section 103.115, RSMo, shall be eligible to have the following provisions apply to such coverage:

(1) Such retiree may elect to continue coverage for himself or herself and any eligible dependents at the same cost as if such retiree was an active employee;

(2) Such retiree may continue to pay the applicable rate as if the retiree were an active employee for a maximum period of five years or upon becoming eligible for Medicare, whichever occurs first;

(3) After five years or upon becoming eligible for Medicare, the cost for medical coverage for such retiree and any dependents shall revert to the applicable rate in place at that time; and

(4) Any additional years of service credited to such retiree's annuity pursuant to section 2 of this act, shall also be applicable, as appropriate, to the cost of medical coverage upon cessation of the Medical coverage provided pursuant to this section.

2. Any employee or retiree of a participating member agency who retires pursuant to section 2 of this act, shall only be eligible to have the provisions of subsection 1 of this section applied to his or her coverage if the governing body of the participating member agency elects to provide such benefits.

3. The governing boards of Truman State University, Lincoln University, the educational institutions described in section 174.020, RSMo, the Missouri department of transportation and the Missouri state highway patrol, and the conservation commission of the department of conservation may elect to provide its employees or retirees who retire pursuant to section 2 of this act, the same benefits as described in subsection 1 of this section under the respective medical plans of those institutions and departments.

Section 2. 1. An employee who has not been a retiree of the system in which such employee is currently receiving creditable or credited service may elect to apply for retirement pursuant to this section and, for purposes of calculating a normal annuity pursuant to section 104.080, 104.090, 104.100, 104.271, or 104.400, RSMo, or a life and any temporary annuity pursuant to section 104.1024, RSMo, may purchase and receive three additional years of creditable or credited service. The additional years of creditable service, at the employee's option, may be added to either the total years of service, or to the employee's age, or any combination of age and service and may be used in meeting the normal retirement eligibility requirements. The election to purchase service and retire shall be subject to the following limitations:

(1) An employee shall have been employed continuously for at least one year on and immediately prior to the effective date of this section;

(2) An employee shall not elect to retire pursuant to this section unless the employee's annuity payments will commence prior to February 1, 2004;

(3) The purchase of creditable service shall be subject to the provisions of subsection 2 of this section;

(4) In no event shall an employee who retires pursuant to this section receive an annuity and lump sum payment pursuant to section 104.625 or 104.1024, RSMo, except that such employee shall not be prohibited from the medical coverage provided pursuant to section 1 of this act;

(5) This section shall not apply to any early retirement annuity;

(6) A retiree shall not elect to retire pursuant to this section unless the retiree has elected to be a special consultant pursuant to subdivision (8) of this subsection prior to February 1, 2004;

(7) An employee who is a member of the general assembly or a statewide elected official shall not elect to retire pursuant to this section;

(8) A retiree shall be eligible to receive retirement benefits pursuant to this section if the retiree:

(a) Is not receiving retirement benefits pursuant to section 104.370, 104.371, or 104.1084, RSMo;

(b) Terminated employment and within thirty days of such termination retired effective on or after February 1, 2003;

(c) Did not make an election to receive an annuity and lump sum payment pursuant to section 104.625 or 104.1024, RSMo, except that any retiree who retires on or after February 1, 2003, but prior to February 1, 2004, shall not be prohibited from the medical coverage provided pursuant to section 1 of this act; and

(d) Has elected or does elect to be made, constituted, appointed, and employed by the board as a special consultant on the problems of retirement, aging, and other state matters for compensation and for the remainder of the person's life, and upon request of the board, give opinions, and be available to give opinions in writing, or orally, in response to such requests. The system shall recalculate the retiree's annuity in accordance with this section and shall make a lump sum payment so that the retiree receives an amount equal to the amount the retiree would have received had the retiree originally received retirement benefits pursuant to this section on the retiree's annuity starting date and provide medical coverage pursuant to section 1 of this act, effective on the annuity starting date.

2. The purchase of creditable service pursuant to the provisions of subsection 1 of this section shall be affected by the person paying to the system an amount equal to thirty-six multiplied by the contribution rate in effect on the effective date of this section times the final average compensation of the employee or retiree at date of termination or retirement. Such amount shall be collected by the system making twenty-four monthly deductions from the retirement benefits paid pursuant to this section during the first twenty-four months of payment plus simple interest on the unpaid balance unless the person elects to pay such amounts in cash or by using an eligible rollover distribution from an eligible retirement plan in accordance with the provisions of the Internal Revenue Code of 1986, as amended. Payments by cash or rollover must be completed within ninety days of termination of employment, otherwise the system shall collect the amount under the foregoing deduction method. If the retiree dies prior to completing the purchase of service, the amount shall be collected to the extent possible out of the retiree's last monthly payment and out of any survivor benefits payable to a spouse or other beneficiary.

3. The state may hire employees to replace those employees retiring pursuant to this section and section 1 of this act during the time period of February 1, 2003, to February 1, 2004,

except that departments shall not fill more than twenty-five percent of those positions vacated. Exceptions to the twenty-five percent restriction may be made for critical or seasonal positions or positions which are entirely federally funded. Such determination shall be made by rule and regulation promulgated by the personnel advisory board. No rule or portion of a rule promulgated pursuant to the authority of this section or section 1 of this act shall become effective unless it has been promulgated pursuant to chapter 536, RSMo. The provisions of this subsection shall not apply to Truman University, Lincoln University, or the educational institutions described in section 174.020, RSMo.

4. Any employee making an election pursuant to the provisions of this section with annual leave accruals in excess of two thousand dollars pursuant to section 36.350, RSMo, shall receive payment for such accruals over a two-year period, with the first payment payable on July 1, 2004, and the second and final payment payable on July 1, 2005. These payments may be contributed into the retiree or employee's section 457 deferred compensation plan in which the retiree or employee is a participant, subject to applicable federal tax law, regulations, and rulings. Any sick leave accrual shall be administered subject to the provisions of section 104.601 and subsection 2 of section 104.1021.

5. Any employee or retiree making an election pursuant to the provisions of this section shall be prohibited from employment with any department as defined in this chapter for a period of three years from date of election.

6. The Missouri state employees' retirement system and the highways and transportation employees' and highway patrol retirement system shall make a report in writing to the governor, commissioner of administration, and the general assembly by April 1, 2004, of the effect of state employee retirements pursuant to this section and section 1 of this act. The report shall cover the time period of February 1, 2003, to January 31, 2004. The report shall include the number of such retirements, the amount of payroll affected as a result of retirements, and the financial effect of such retirements as expressed in a report by each system's actuary.

7. The office of administration shall make a report in writing to the governor and the general assembly by April 1, 2004, of the budgetary effect of state employee retirements pursuant to this section and section 1 of this act. The report shall include the amount of payroll reduced as a result of such retirements, the number of positions that are core cut as a result of such retirements, the number of employees employed to replace those who retired pursuant to this section, and the financial effect on the budget, including any costs associated with payment of medical premiums by the state.

8. The Missouri consolidated health care plan shall make a report in writing to the governor and the general assembly by April 1, 2004, of the effect of state employee retirements pursuant to this section and section 1 of this act. The report may include, and not be limited to,

the amount of payroll reduced as a result of such retirements, the number of positions that are core cut as a result of such retirements, the number of employees employed to replace those who retired pursuant to this section, and the financial effect on the budget, including any costs associated with payment of medical premiums by the state.

9. Notwithstanding any provisions of law to the contrary, any purchase of creditable or credited service pursuant to this section and any other section pursuant to chapter 104, RSMo, shall not exceed any applicable service credit purchase limitations contained in Internal Revenue Code Section 415(n).

Section B. Because the provisions of sections 169.070 and 169.670 of section A of this act will expire June 30, 2003, the repeal and reenactment of sections 169.070, 169.670, and the enactment of sections 1 and 2, of section A of this act, are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 169.07, 169.670, and the enactment of sections 1 and 2, of section A of this act, shall be in full force and effect upon its passage and approval or July 1, 2003, whichever later occurs.

Bill

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