

FIRST REGULAR SESSION

SENATE BILL NO. 233

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR FOSTER.

Read 1st time January 9, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0859S.02I

AN ACT

To repeal sections 169.030, 169.050, 169.056, 169.570, 169.577, 169.620, 169.650, and 169.655, RSMo, and to enact in lieu thereof ten new sections relating to the public school retirement system.

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

Section A. Sections 169.030, 169.050, 169.056, 169.570, 169.577, 169.620, 169.650, and 169.655, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 169.030, 169.050, 169.056, 169.073, 169.570, 169.577, 169.620, 169.650, 169.655, and 169.673, to read as follows:

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

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

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.

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 credit 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,] **completed prior to termination of membership with the retirement system** 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) 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;**

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

(6) 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 section 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 college, or university [or who has rendered service in the University of Missouri or Lincoln University after July 1, 1946,], either inside or outside of Missouri,** 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, **college, or university, either inside or outside of Missouri**, 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 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.

169.073. 1. Any member eligible for a retirement allowance pursuant to section

169.070 and who has not previously received a retirement allowance, including an allowance under disability retirement pursuant to section 169.070, and whose sum of age and creditable service equals eighty-six years or more or whose creditable service is thirty-three years or more 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. At any time prior to retirement, the member may request an estimate of the amount of the lump-sum distribution and of the amount by which the member's retirement allowance otherwise payable pursuant to section 169.070 would be reduced in the event of the member's election of the lump-sum distribution pursuant to this section.

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 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 under 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 under 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 under 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.

4. An election under this section to receive a lump-sum distribution and monthly retirement allowance pursuant to this section shall be void if the member dies before receiving a lump-sum distribution under this section or a retirement allowance pursuant to section 169.070 and all amounts due to a surviving spouse, child, or other beneficiary or the member shall be determined without regard to such election.

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.

169.570. 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. A member of [any] a Missouri public school retirement system **as provided by sections 169.270 to 169.400 or 169.410 to 169.540**, 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] a system established by sections **169.010 to 169.141 or 169.600 to 169.715** who has previous credit in one of the Missouri public school retirement systems established by sections **169.010 to 169.141, 169.270 to 169.400 [or], 169.410 to 169.540, or 169.600 to 169.715** 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. 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. Payment **made by a member of any Missouri public school retirement system as provided by sections 169.270 to 169.400 or 169.410 to 169.540**, pursuant to the provisions of this section shall be made before retirement and over a period of time, with interest on the unpaid balance, not to exceed the number of years of credit being purchased, in accordance with rules and regulations established by the respective retirement systems. **Payment made by a member of any Missouri public school retirement system as provided by sections 169.010 to 169.141 or 169.600 to 169.715, pursuant to the provisions of this section shall be completed prior to termination of membership with the retirement system with interest on the unpaid balance, in accordance with rules and regulations 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] **established by sections 169.270 to 169.400 or 169.410 to 169.540**, 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 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. **Any member of a retirement system established by sections 169.010 to 169.141 or 169.600 to 169.715 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 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.** 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. **For members of a retirement system established by sections 169.270 to 169.400 or 169.410 to 169.540,** 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 with interest on the unpaid balance. **For members of a retirement system established by sections 169.010 to 169.141 or 169.600 to 169.715, the payment shall be completed prior to termination of membership with the retirement system and 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.

169.620. 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-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 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.]

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. 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 credit 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] **completed prior to termination of membership with the retirement system** 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) 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**;

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

(6) 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 section 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, **college, or 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] **Missouri**, 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], college, or university, either inside or outside of Missouri, for at least** twenty or more hours per week **on a regular basis,** may elect to purchase membership service credit [for 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.

169.673. 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 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. At any time prior to retirement, the member may request an estimate of the amount of the lump-sum distribution and of the amount by which the member's retirement allowance otherwise payable pursuant to section 169.670 would be reduced in the event of the member's election of the lump-sum distribution pursuant to this section.

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.

4. An election under this section to receive a lump-sum distribution and monthly retirement allowance reduced pursuant to this section shall be void if the member dies before receiving a lump-sum distribution under this section or a retirement allowance pursuant to section 169.670 and all amounts due to a surviving spouse child or other beneficiary of the member shall be determined without regard to such election.

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.