

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 270
98TH GENERAL ASSEMBLY

Reported from the Committee on General Laws and Pensions, March 5, 2015, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

Senate Committee Substitute adopted March 12, 2015.

Taken up March 12, 2015. Read 3rd time and placed upon its final passage; bill passed.

ADRIANE D. CROUSE, Secretary.

1396S.02P

AN ACT

To repeal sections 169.291 and 169.450, RSMo, and to enact in lieu thereof two new sections relating to members of the boards of trustees of public school retirement systems.

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

Section A. Sections 169.291 and 169.450, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 169.291 and 169.450, to
3 read as follows:

169.291. 1. The general administration and the responsibility for the
2 proper operation of the retirement system are hereby vested in a board of trustees
3 of twelve persons who shall be resident taxpayers of the school district, as follows:

4 (1) Four trustees to be appointed for terms of four years by the board of
5 education; provided, however, that the terms of office of the first four trustees so
6 appointed shall begin immediately upon their appointment and shall expire one,
7 two, three, and four years from the date the retirement system becomes operative,
8 respectively;

9 (2) **Until the election in 2016**, four trustees to be elected for terms of
10 four years by and from the members of the retirement system; provided, however,
11 that the terms of office of the first four trustees so elected shall begin
12 immediately upon their election and shall expire one, two, three, and four years
13 from the date the retirement system becomes operative, respectively, **but**
14 **beginning at the election in 2016, three trustees;**

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

15 (3) **Beginning at the election in 2016, one trustee shall be a**
16 **person employed as a teacher or administrator at a charter school, as**
17 **"charter school" is defined in section 169.270, elected for a term of four**
18 **years by and from the members of the retirement system;**

19 (4) The ninth trustee shall be the superintendent of schools of the school
20 district;

21 [(4)] (5) The tenth trustee shall be one retirant of the retirement system
22 elected for a term of four years beginning the first day of January immediately
23 following August 13, 1986, by the retirants of the retirement system;

24 [(5)] (6) The eleventh trustee shall be appointed for a term of four years
25 beginning the first day of January immediately following August 13, 1990, by the
26 board of trustees described in subdivision (3) of section 182.701;

27 [(6)] (7) The twelfth trustee shall be a retirant of the retirement system
28 elected for a term of four years beginning the first day of January immediately
29 following August 28, 1992, by the retirants of the retirement system.

30 2. If a vacancy occurs in the office of a trustee, the vacancy shall be filled
31 for the unexpired term in the same manner as the office was previously filled,
32 except that the board of trustees may appoint a qualified person to fill the
33 vacancy in the office of an elected member until the next regular election at which
34 time a member shall be elected for the unexpired term. No vacancy or vacancies
35 on the board of trustees shall impair the power of the remaining trustees to
36 administer the retirement system pending the filling of such vacancy or
37 vacancies.

38 3. In the event of a lapse of the school district's corporate organization as
39 described in subsections 1 and 4 of section 162.081, the general administration
40 and responsibility for the proper operation of the retirement system shall
41 continue to be vested in a twelve-person board of trustees, all of whom shall be
42 resident taxpayers of a city, other than a city not within a county, of four hundred
43 thousand or more. In such event, if vacancies occur in the offices of the four
44 trustees appointed, prior to the lapse, by the board of education, or in the offices
45 of the four trustees elected, prior to the lapse, by the members of the retirement
46 system, or in the office of trustee held, prior to the lapse, by the superintendent
47 of schools in the school district, as provided in subdivisions (1), (2) and (3) of
48 subsection 1 of this section, the board of trustees shall appoint a qualified person
49 to fill each vacancy and subsequent vacancies in the office of trustee for terms of
50 up to four years, as determined by the board of trustees.

51 4. Each trustee shall, before assuming the duties of a trustee, take the
52 oath of office before the court of the judicial circuit or one of the courts of the
53 judicial circuit in which the school district is located that so far as it devolves
54 upon the trustee, such trustee shall diligently and honestly administer the affairs
55 of the board of trustees and that the trustee will not knowingly violate or
56 willingly permit to be violated any of the provisions of the law applicable to the
57 retirement system. Such oath shall be subscribed to by the trustee making it and
58 filed in the office of the clerk of the circuit court.

59 5. Each trustee shall be entitled to one vote in the board of
60 trustees. Seven trustees shall constitute a quorum at any meeting of the board
61 of trustees. At any meeting of the board of trustees where a quorum is present,
62 the vote of at least seven of the trustees in support of a motion, resolution or
63 other matter is necessary to be the decision of the board; provided, however, that
64 in the event of a lapse in the school district's corporate organization as described
65 in subsections 1 and 4 of section 162.081, a majority of the trustees then in office
66 shall constitute a quorum at any meeting of the board of trustees, and the vote
67 of a majority of the trustees then in office in support of a motion, resolution or
68 other matter shall be necessary to be the decision of the board.

69 6. The board of trustees shall have exclusive original jurisdiction in all
70 matters relating to or affecting the funds herein provided for, including, in
71 addition to all other matters, all claims for benefits or refunds, and its action,
72 decision or determination in any matter shall be reviewable in accordance with
73 chapter 536 or chapter 621. Subject to the limitations of sections 169.270 to
74 169.400, the board of trustees shall, from time to time, establish rules and
75 regulations for the administration of funds of the retirement system, for the
76 transaction of its business, and for the limitation of the time within which claims
77 may be filed.

78 7. The trustees shall serve without compensation. The board of trustees
79 shall elect from its membership a chairman and a vice chairman. The board of
80 trustees shall appoint an executive director who shall serve as the administrative
81 officer of the retirement system and as secretary to the board of trustees. It shall
82 employ one or more persons, firms or corporations experienced in the investment
83 of moneys to serve as investment counsel to the board of trustees. The
84 compensation of all persons engaged by the board of trustees and all other
85 expenses of the board necessary for the operation of the retirement system shall
86 be paid at such rates and in such amounts as the board of trustees shall approve,

87 and shall be paid from the investment income.

88 8. The board of trustees shall keep in convenient form such data as shall
89 be necessary for actuarial valuations of the various funds of the retirement
90 system and for checking the experience of the system.

91 9. The board of trustees shall keep a record of all its proceedings which
92 shall be open to public inspection. It shall prepare annually and furnish to the
93 board of education and to each member of the retirement system who so requests
94 a report showing the fiscal transactions of the retirement system for the
95 preceding fiscal year, the amount of accumulated cash and securities of the
96 system, and the last balance sheet showing the financial condition of the system
97 by means of an actuarial valuation of the assets and liabilities of the retirement
98 system.

99 10. The board of trustees shall have, in its own name, power to sue and
100 to be sued, to enter into contracts, to own property, real and personal, and to
101 convey the same; but the members of such board of trustees shall not be
102 personally liable for obligations or liabilities of the board of trustees or of the
103 retirement system.

104 11. The board of trustees shall arrange for necessary legal advice for the
105 operation of the retirement system.

106 12. The board of trustees shall designate a medical board to be composed
107 of three or more physicians who shall not be eligible for membership in the
108 system and who shall pass upon all medical examinations required under the
109 provisions of sections 169.270 to 169.400, shall investigate all essential
110 statements and certificates made by or on behalf of a member in connection with
111 an application for disability retirement and shall report in writing to the board
112 of trustees its conclusions and recommendations upon all matters referred to it.

113 13. The board of trustees shall designate an actuary who shall be the
114 technical advisor of the board of trustees on matters regarding the operation of
115 the retirement system and shall perform such other duties as are required in
116 connection therewith. Such person shall be qualified as an actuary by
117 membership as a Fellow of the Society of Actuaries or by similar objective
118 standards.

119 14. At least once in each five-year period the actuary shall make an
120 investigation into the actuarial experience of the members, retirants and
121 beneficiaries of the retirement system and, taking into account the results of such
122 investigation, the board of trustees shall adopt for the retirement system such

123 actuarial assumptions as the board of trustees deems necessary for the financial
124 soundness of the retirement system.

125 15. On the basis of such actuarial assumptions as the board of trustees
126 adopts, the actuary shall make annual valuations of the assets and liabilities of
127 the funds of the retirement system.

128 16. The rate of contribution payable by the employers shall equal one and
129 ninety-nine one-hundredths percent, effective July 1, 1993; three and ninety-nine
130 one-hundredths percent, effective July 1, 1995; five and ninety-nine
131 one-hundredths percent, effective July 1, 1996; seven and one-half percent
132 effective January 1, 1999, and for subsequent calendar years through 2013. For
133 calendar year 2014 and each subsequent year, the rate of contribution payable by
134 the employers for each year shall be determined by the actuary for the retirement
135 system in the manner provided in subsection 4 of section 169.350 and shall be
136 certified by the board of trustees to the employers at least six months prior to the
137 date such rate is to be effective.

138 17. In the event of a lapse of a school district's corporate organization as
139 described in subsections 1 and 4 of section 162.081, no retirement system, nor any
140 of the assets of any retirement system, shall be transferred to or merged with
141 another retirement system without prior approval of such transfer or merge by
142 the board of trustees of the retirement system.

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

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

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

17 not be eligible for the positions established pursuant to this subdivision and shall
18 be eligible for the position established pursuant to subdivision (4) of this
19 subsection;

20 (3) Two trustees, who shall be retired members, to be elected for terms of
21 four years by and from the retired members of the retirement system; provided,
22 however, that the terms of office of the first two trustees so elected shall begin
23 immediately upon their election and shall expire two and four years from the date
24 of their election, respectively; and provided further, that not more than one of
25 such persons shall be a teacher and one shall be a nonteacher;

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

30 **(5) One trustee shall be a person employed as a teacher or**
31 **administrator at a charter school, as "charter school" is defined in**
32 **section 169.410, to be elected for a term of four years by and from the**
33 **members of the retirement system.**

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

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

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

51 5. Each trustee shall, within ten days after such trustee's appointment or
52 election, take an oath of office before the clerk of the circuit court of the judicial

53 circuit in which the school district is located that, so far as it devolves upon the
54 trustee, the trustee will diligently and honestly administer the affairs of the
55 board of trustees and that the trustee will not knowingly violate or willingly
56 permit to be violated any of the provisions of the law applicable to the retirement
57 system. Such oath shall be subscribed to by the trustee making it and filed in the
58 office of the clerk of the circuit court.

59 6. The circuit court of the judicial circuit in which the school district is
60 located shall have jurisdiction over the members of the board of trustees to
61 require them to account for their official conduct in the management and
62 disposition of the funds and property committed to their charge; to order, decree
63 and compel payment by them to the public school retirement system of their
64 school district of all sums of money, and of the value of all property which may
65 have been improperly retained by them, or transferred to others, or which may
66 have been lost or wasted by any violation of their duties or abuse of their powers
67 as such members of such board; to remove any such member upon proof that the
68 trustee has abused the trustee's trust or has violated the duties of the trustee's
69 office; to restrain and prevent any alienation or disposition of property of such
70 public school retirement system by the members, in cases where it may be
71 threatened, or there is good reason to apprehend that it is intended to be made
72 in fraud of the rights and interests of such public school retirement system. The
73 jurisdiction conferred by sections 169.410 to 169.540 shall be exercised as in
74 ordinary cases upon petition, filed by the board of education of such school
75 district, or by any two members of the board of trustees. Such petition shall be
76 heard in a summary manner after ten days' notice in writing to the member
77 complained of, and an appeal shall lie from the judgment of the circuit court as
78 in other causes and be speedily determined, but such appeal shall not operate
79 under any condition as a supersedeas of a judgment of removal from office.

80 7. Each trustee shall be entitled to one vote in the board of trustees. [Six]
81 **Seven** votes shall be necessary for a decision by the trustees at any meeting of
82 the board of trustees.

83 8. Subject to the limitations of sections 169.410 to 169.540, the board of
84 trustees shall, from time to time, establish rules and regulations for the
85 administration of the retirement system, for eligibility for and determination of
86 benefits under the retirement system, for the investment of retirement system
87 assets, and for the transaction of the retirement system's business.

88 9. The board of trustees shall elect from its membership a chairman and

89 shall, by majority vote of its members, appoint a secretary, who may be, but need
90 not be, one of its members. It shall engage such actuarial and other services as
91 shall be required to transact the business of the retirement system. It shall also
92 engage an investment counselor who shall be experienced in the investment of
93 moneys to advise the trustees on investments of the retirement system. The
94 compensation of all persons engaged by the board of trustees and all other
95 expenses of the board necessary for the operation of the retirement system shall
96 be paid at such rates and in such amounts as the board of trustees shall approve.

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

100 11. The board of trustees shall keep a record of all its proceedings which
101 shall be open to public inspection. It shall prepare annually and send to the
102 board of education and to each member of the retirement system a report showing
103 the fiscal transactions of the retirement system for the preceding fiscal year, a
104 detailed listing of all salaries and expenditures incurred by the trustees for its
105 operation, the amount of the accumulated cash and securities of the system, and
106 the last balance sheet showing the financial condition of the system by means of
107 an actuarial valuation of the assets and liabilities of the retirement system. The
108 board of trustees shall also prepare or cause to be prepared an annual report
109 concerning the operation of the retirement system herein provided for, which
110 report shall be sent by the chairman of the board of trustees to the board of
111 education.

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

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

122 14. The actuary shall be the technical adviser of the board of trustees on
123 matters regarding the operation of the system created by sections 169.410 to
124 169.540 and shall perform such other duties as are required in connection

125 therewith. Such person shall be qualified as an actuary by membership as a
126 fellow in the Society of Actuaries or by objective standards which are no less
127 stringent than those established by the Society of Actuaries.

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

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

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

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Bill

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