

SENATE BILL NO. 767

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR O'LAUGHLIN.

4299S.01H

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 169.075, RSMo, and to enact in lieu thereof one new section relating to elementary and secondary education.

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

Section A. Section 169.075, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 169.075, to read as follows:

169.075. 1. Certain survivors specified in this section and meeting the requirements of this section may elect to forfeit any payments payable pursuant to subsection 3 or 6 of section 169.070 and to receive certain other benefits described in this section upon the death of a member prior to retirement, except retirement with disability benefits, whose period of creditable service in districts included in the retirement system is (1) five years or more, or (2) two years but less than five years and who dies (a) while teaching in a district included in the retirement system, or (b) as a result of an injury or sickness incurred while teaching in such a district and within one year of the commencement of such injury or sickness, or (c) while eligible for a disability retirement allowance hereunder.

2. Upon an election pursuant to subsection 1 of this section, a surviving spouse sixty years of age, or upon attainment of age sixty, or a surviving spouse who has been

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

19 totally and permanently disabled for not less than five
20 years immediately preceding the death of a member if
21 designated as the sole beneficiary, and if married to the
22 member at least three years, and if living with such member
23 at the time of the member's death, shall be entitled to a
24 monthly payment equal to twenty percent of one-twelfth of
25 the annual salary rate on which the member contributed for
26 the member's last full year of creditable service as a
27 teacher in a district included in the retirement system
28 until death or recovery prior to age sixty from the
29 disability which qualified the spouse for the benefit,
30 whichever first occurs; provided that the monthly payment
31 shall not be less than five hundred seventy-five dollars or
32 more than eight hundred sixty dollars. A surviving spouse,
33 who is eligible for benefits pursuant to this subsection and
34 also pursuant to subsection 3 of this section may receive
35 benefits only pursuant to subsection 3 of this section as
36 long as the surviving spouse remains eligible pursuant to
37 both subsections, but shall not be disqualified for the
38 benefit provided in this subsection because the surviving
39 spouse may have received payments pursuant to subsection 3
40 of this section. Beginning August 28, 2001, a surviving
41 spouse who otherwise meets the requirements of this
42 subsection but who remarried prior to August 28, 1995, shall
43 be entitled, upon an election pursuant to subsection 1 of
44 this section, to any remaining benefits that would otherwise
45 have been received had the surviving spouse not remarried
46 before the change in law permitting remarried surviving
47 spouses to continue receiving benefits. Such surviving
48 spouses may, upon application, become special consultants
49 whose benefit will be to receive the remaining benefits
50 described in this subsection. No benefit shall be paid to

51 such surviving spouse unless he or she files a valid
52 application for such benefit with the retirement system
53 postmarked on or before June 30, 2002. In no event shall
54 any retroactive benefits be paid.

55 3. Upon an election pursuant to subsection 1 of this
56 section, a surviving spouse, if designated as the sole
57 beneficiary, who has in the surviving spouse's care a
58 dependent unmarried child, including a stepchild or adopted
59 child, of the deceased member, under eighteen years of age,
60 shall be entitled to a monthly payment equal to twenty
61 percent of one-twelfth of the annual salary rate on which
62 the member contributed for the member's last full year of
63 creditable service as a teacher in a district included in
64 the retirement system until the surviving spouse's death, or
65 the first date when no such dependent unmarried child under
66 age eighteen, or age twenty-four if the child is enrolled in
67 school on a full-time basis, remains in the surviving
68 spouse's care, whichever first occurs; provided that the
69 monthly payment shall not be less than five hundred seventy-
70 five dollars or more than eight hundred sixty dollars. In
71 addition the surviving spouse shall be entitled to a monthly
72 payment equal to one-half this amount, provided that the
73 monthly payment shall not be less than three hundred
74 dollars, for each such dependent unmarried child under
75 eighteen years of age, or age twenty-four if the child is
76 enrolled in school on a full-time basis, who remains in the
77 surviving spouse's care. Further, in addition to the
78 monthly payment to the surviving spouse as provided for in
79 this subsection, each dependent unmarried child under the
80 age of eighteen years of the deceased member not in the care
81 of such surviving spouse shall be entitled to a monthly
82 payment equal to one-half of the surviving spouse's monthly

83 payment which shall be paid to the child's primary custodial
84 parent or legal guardian; provided that the payment because
85 of an unmarried dependent child shall be made until the
86 child attains age twenty-four if the child is enrolled in
87 school on a full-time basis; provided, however, that the
88 total of all monthly payments to the surviving spouse,
89 primary custodial parent or legal guardian, including
90 payments for such dependent unmarried children, shall in no
91 event exceed two thousand one hundred sixty dollars, the
92 amount of the children's share to be allocated equally as to
93 each dependent unmarried child eligible to receive payments
94 pursuant to this subsection.

95 4. Upon an election pursuant to subsection 1 of this
96 section if the designated beneficiary is a dependent
97 unmarried child as [defined] **described** in this section or
98 automatically upon the death of a surviving spouse receiving
99 benefits pursuant to subsection 3 of this section, each
100 surviving dependent unmarried child, including a stepchild
101 or adopted child, of the deceased member, under eighteen
102 years of age, or such a child under age twenty-four if the
103 child is enrolled in school on a full-time basis, shall be
104 entitled to a monthly payment equal to sixteen and two-
105 thirds percent of one-twelfth of the annual salary rate on
106 which the member contributed for the member's last full year
107 of creditable service as a teacher in a district included in
108 the retirement system until death, marriage, adoption, or
109 attainment of age eighteen or age twenty-four if enrolled in
110 school on a full-time basis, whichever first occurs;
111 provided that the monthly payment shall not be less than
112 five hundred dollars or more than seven hundred twenty
113 dollars, and provided further that any child of the deceased
114 member who is disabled before attainment of age eighteen

115 because of a physical or mental impairment which renders the
116 child unable to engage in any substantial gainful activity
117 and which disability continues after the child has attained
118 age eighteen shall be entitled to a like monthly payment,
119 until death, marriage, adoption, or recovery from the
120 disability, whichever first occurs; provided, however, that
121 the total of all monthly payments to the surviving dependent
122 unmarried children shall in no event exceed two thousand one
123 hundred sixty dollars.

124 5. In lieu of receiving any benefit or lump sum from
125 the retirement system, the designated beneficiary may elect
126 under subsection 1 of this section to direct that each
127 surviving dependent unmarried child, including a stepchild
128 or adopted child, of the deceased member, under eighteen
129 years of age, or such a child under age twenty-four if the
130 child is enrolled in school on a full-time basis, shall be
131 entitled to a monthly payment equal to sixteen and two-
132 thirds percent of one-twelfth of the annual salary rate on
133 which the member contributed for the member's last full year
134 of creditable service as a teacher in a district included in
135 the retirement system until death, marriage, adoption, or
136 attainment of age eighteen or age twenty-four if enrolled in
137 school on a full-time basis, whichever first occurs;
138 provided that the monthly payment shall not be less than
139 five hundred dollars or more than seven hundred twenty
140 dollars, and provided further that any child of the deceased
141 member who is disabled before attainment of age eighteen
142 because of a physical or mental impairment which renders the
143 child unable to engage in any substantial gainful activity
144 and which disability continues after the child has attained
145 age eighteen shall be entitled to a like monthly payment,
146 until death, marriage, adoption, or recovery from the

147 disability, whichever first occurs; provided, however, that
148 the total of all monthly payments to the surviving dependent
149 unmarried children shall in no event exceed two thousand one
150 hundred sixty dollars.

151 6. Upon an election pursuant to subsection 1 of this
152 section, a surviving dependent parent of the deceased
153 member, over sixty-five years of age or upon attainment of
154 age sixty-five if designated as the sole beneficiary,
155 provided such dependent parent was receiving at least one-
156 half of the parent's support from such member at the time of
157 the member's death and provided the parent files proof of
158 such support within two years of such death, shall be
159 entitled to a monthly payment equal to sixteen and two-
160 thirds percent of one-twelfth of the annual salary rate on
161 which the member contributed for the member's last full year
162 as a teacher in a district included in the retirement system
163 until death; provided that the monthly payment shall not be
164 less than five hundred dollars or more than seven hundred
165 twenty dollars. If the other parent also is a dependent, as
166 **[defined] described** in this section, the same amount shall
167 be paid to each until death.

168 7. All else in this section to the contrary
169 notwithstanding, a survivor may not be eligible to benefit
170 pursuant to this section because of more than one terminated
171 membership, and be it further provided that the board of
172 trustees shall determine and decide all questions of doubt
173 as to what constitutes dependency within the meaning of this
174 section.

175 8. The provisions added to subsection 3 of this
176 section in 1991 are intended to clarify the scope and
177 meaning of this section as originally enacted and shall be

178 applied in all cases in which such an election has occurred
179 or will occur.

180 9. After July 1, 2000, all benefits payable pursuant
181 to subsections 1 to 8 of this section shall be payable to
182 eligible current and future survivor beneficiaries in
183 accordance with this section.

184 10. The system shall pay a monthly retirement
185 allowance for the month in which a retired member,
186 beneficiary or survivor receiving a retirement allowance or
187 survivor benefit dies.

188 11. If the total of all payments made under this
189 section is less than the total of the member's accumulated
190 contributions, the difference shall be paid to the person
191 making the election under subsection 1 of this section. If
192 such person does not survive until all payments are made
193 under this section, such difference shall be paid in
194 accordance with section 169.076.

✓