

SECOND REGULAR SESSION

# SENATE BILL NO. 1258

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR NURRENBERN.

3903S.011

KRISTINA MARTIN, Secretary

## AN ACT

To repeal section 169.070, RSMo, and to enact in lieu thereof one new section relating to public school retirement systems.

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

Section A. Section 169.070, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 169.070,  
3 to read as follows:

169.070. 1. The retirement allowance of a member  
2 whose age at retirement is sixty years or more and whose  
3 creditable service is five years or more, or whose sum of  
4 age and creditable service equals eighty years or more, or  
5 who has attained age fifty-five and whose creditable service  
6 is twenty-five years or more or whose creditable service is  
7 thirty years or more regardless of age, may be the sum of  
8 the following items, not to exceed one hundred percent of  
9 the member's final average salary:

10 (1) Two and five-tenths percent of the member's final  
11 average salary for each year of membership service;

12 (2) Six-tenths of the amount payable for a year of  
13 membership service for each year of prior service not  
14 exceeding thirty years.

15 In lieu of the retirement allowance otherwise provided in  
16 subdivisions (1) and (2) of this subsection, a member may  
17 elect to receive a retirement allowance of:

(3) 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) 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) 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) 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) 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) 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-two years or more **but less than thirty-three years**, regardless of age;

(9) **Two and six-tenths percent of the member's final average salary for each year of membership service, if the**

50 **member's creditable service is thirty-three years or more**  
51 **regardless of age.**

52       2. In lieu of the retirement allowance provided in  
53 subsection 1 of this section, a member whose age is sixty  
54 years or more on September 28, 1975, may elect to have the  
55 member's retirement allowance calculated as a sum of the  
56 following items:

57       (1) Sixty cents plus one and five-tenths percent of  
58 the member's final average salary for each year of  
59 membership service;

60       (2) Six-tenths of the amount payable for a year of  
61 membership service for each year of prior service not  
62 exceeding thirty years;

63       (3) Three-fourths of one percent of the sum of  
64 subdivisions (1) and (2) of this subsection for each month  
65 of attained age in excess of sixty years but not in excess  
66 of age sixty-five.

67       3. (1) In lieu of the retirement allowance provided  
68 either in subsection 1 or 2 of this section, collectively  
69 called "option 1", a member whose creditable service is  
70 twenty-five years or more or who has attained the age of  
71 fifty-five with five or more years of creditable service may  
72 elect in the member's application for retirement to receive  
73 the actuarial equivalent of the member's retirement  
74 allowance in reduced monthly payments for life during  
75 retirement with the provision that:

76                               Option 2.

77       Upon the member's death the reduced retirement  
78 allowance shall be continued throughout the life of and paid  
79 to such person as has an insurable interest in the life of  
80 the member as the member shall have nominated in the  
81 member's election of the option, and provided further that

82 if the person so nominated dies before the retired member,  
83 the retirement allowance will be increased to the amount the  
84 retired member would be receiving had the retired member  
85 elected option 1; or

86 Option 3.

87 Upon the death of the member three-fourths of the  
88 reduced retirement allowance shall be continued throughout  
89 the life of and paid to such person as has an insurable  
90 interest in the life of the member and as the member shall  
91 have nominated in an election of the option, and provided  
92 further that if the person so nominated dies before the  
93 retired member, the retirement allowance will be increased  
94 to the amount the retired member would be receiving had the  
95 member elected option 1; or

96 Option 4.

97 Upon the death of the member one-half of the reduced  
98 retirement allowance shall be continued throughout the life  
99 of, and paid to, such person as has an insurable interest in  
100 the life of the member and as the member shall have  
101 nominated in an election of the option, and provided further  
102 that if the person so nominated dies before the retired  
103 member, the retirement allowance shall be increased to the  
104 amount the retired member would be receiving had the member  
105 elected option 1; or

106 Option 5.

107 Upon the death of the member prior to the member having  
108 received one hundred twenty monthly payments of the member's  
109 reduced allowance, the remainder of the one hundred twenty  
110 monthly payments of the reduced allowance shall be paid to  
111 such beneficiary as the member shall have nominated in the  
112 member's election of the option or in a subsequent  
113 nomination. If there is no beneficiary so nominated who

survives the member for the remainder of the one hundred twenty monthly payments, the total of the remainder of such one hundred twenty monthly payments shall be paid to the surviving spouse, surviving children in equal shares, surviving parents in equal shares, or estate of the last person, in that order of precedence, to receive a monthly allowance in a lump sum payment. If the total of the one hundred twenty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum; 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 total of the remainder of such sixty monthly payments shall be paid to the surviving spouse, surviving children in equal shares, surviving parents in equal shares, or estate of the last person, in that order of precedence, to receive a monthly allowance in a lump sum payment. If the total of the sixty payments paid to the retired individual and the beneficiary of the retired individual is less than the total of the member's accumulated contributions, the difference shall be paid to the beneficiary in a lump sum.

(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 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 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 or disability 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 surviving spouse, surviving children in equal shares, surviving parents in equal shares, or estate of the individual in that order of precedence. 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 surviving spouse, surviving children in equal shares, surviving parents in equal shares, or estate of the beneficiary, in that order of precedence, unless the retired individual designates a different recipient with the board at or after retirement.

5. If a member dies and his or her financial institution is unable to accept the final payment or payments due to the member, the final payment or payments shall be paid to the beneficiary of the member or, if there is no beneficiary, to the surviving spouse, surviving children in equal shares, surviving parents in equal shares, or estate of the member, in that order of precedence, unless otherwise stated. If the beneficiary of a deceased member dies and his or her financial institution is unable to accept the final payment or payments, the final payment or payments shall be paid to the surviving spouse, surviving children in equal shares, surviving parents in equal shares,

or estate of the member, in that order of precedence, unless otherwise stated.

6. 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, if there is no beneficiary, to the surviving spouse, surviving children in equal shares, surviving parents in equal shares, or to the estate of the member, in that order of precedence; 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 surviving spouse, surviving children in equal shares, surviving parents in equal shares, or estate of the beneficiary, in that order of precedence.

7. 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.

8. 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.

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, 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.

10. 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

274 this section as it appears in RSMo, 1969, shall be the sum  
275 of:

276 (1) For years of service prior to July 1, 1946, six-  
277 tenths of the full amount payable for years of membership  
278 service;

279 (2) For years of membership service after July 1,  
280 1946, in which the full contribution rate was paid, full  
281 benefits under the formula in effect at the time of the  
282 member's retirement;

283 (3) For years of membership service after July 1,  
284 1957, and prior to July 1, 1961, the benefits provided in  
285 this section as it appears in RSMo, 1959; except that if the  
286 member has at least thirty years of creditable service at  
287 retirement the member shall receive the benefit payable  
288 pursuant to that section as though the member's age were  
289 sixty-five at retirement;

290 (4) For years of membership service after July 1,  
291 1961, in which the two-thirds contribution rate was paid,  
292 two-thirds of the benefits under the formula in effect at  
293 the time of the member's retirement.

294 11. The monetary benefits for each other member for  
295 whom federal Old Age and Survivors Insurance tax is or was  
296 paid at any time from state or local funds on account of the  
297 member's employment entitling the member to membership in  
298 the system shall be the sum of:

299 (1) For years of service prior to July 1, 1946, six-  
300 tenths of the full amount payable for years of membership  
301 service;

302 (2) For years of membership service after July 1,  
303 1946, in which the full contribution rate was paid, full  
304 benefits under the formula in effect at the time of the  
305 member's retirement;

306           (3) For years of membership service after July 1,  
307 1957, in which the two-thirds contribution rate was paid,  
308 two-thirds of the benefits under the formula in effect at  
309 the time of the member's retirement.

310           12. Any retired member of the system who was retired  
311 prior to September 1, 1972, or beneficiary receiving  
312 payments under option 1 or option 2 of subsection 3 of this  
313 section, as such option existed prior to September 1, 1972,  
314 will be eligible to receive an increase in the retirement  
315 allowance of the member of two percent for each year, or  
316 major fraction of more than one-half of a year, which the  
317 retired member has been retired prior to July 1, 1975. This  
318 increased amount shall be payable commencing with January,  
319 1976, and shall thereafter be referred to as the member's  
320 retirement allowance. The increase provided for in this  
321 subsection shall not affect the retired member's eligibility  
322 for compensation provided for in section 169.580 or 169.585,  
323 nor shall the amount being paid pursuant to these sections  
324 be reduced because of any increases provided for in this  
325 section.

326           13. If the board of trustees determines that the cost  
327 of living, as measured by generally accepted standards,  
328 increases two percent or more in the preceding fiscal year,  
329 the board shall increase the retirement allowances which the  
330 retired members or beneficiaries are receiving by two  
331 percent of the amount being received by the retired member  
332 or the beneficiary at the time the annual increase is  
333 granted by the board with the provision that the increases  
334 provided for in this subsection shall not become effective  
335 until the fourth January first following the member's  
336 retirement or January 1, 1977, whichever later occurs, or in  
337 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.

14. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 13 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.

15. Any application for retirement shall include a sworn statement by the member certifying that the spouse of

370 the member at the time the application was completed was  
371 aware of the application and the plan of retirement elected  
372 in the application.

373 16. Notwithstanding any other provision of law, any  
374 person retired prior to September 28, 1983, who is receiving  
375 a reduced retirement allowance under option 1 or option 2 of  
376 subsection 3 of this section, as such option existed prior  
377 to September 28, 1983, and whose beneficiary nominated to  
378 receive continued retirement allowance payments under the  
379 elected option dies or has died, shall upon application to  
380 the board of trustees have his or her retirement allowance  
381 increased to the amount he or she would have been receiving  
382 had the option not been elected, actuarially adjusted to  
383 recognize any excessive benefits which would have been paid  
384 to him or her up to the time of application.

385 17. Benefits paid pursuant to the provisions of the  
386 public school retirement system of Missouri shall not exceed  
387 the limitations of Section 415 of Title 26 of the United  
388 States Code except as provided pursuant to this subsection.  
389 Notwithstanding any other law to the contrary, the board of  
390 trustees may establish a benefit plan pursuant to Section  
391 415(m) of Title 26 of the United States Code. Such plan  
392 shall be created solely for the purpose described in Section  
393 415(m) (3) (A) of Title 26 of the United States Code. The  
394 board of trustees may promulgate regulations necessary to  
395 implement the provisions of this subsection and to create  
396 and administer such benefit plan.

397 18. Notwithstanding any other provision of law to the  
398 contrary, any person retired before, on, or after May 26,  
399 1994, shall be made, constituted, appointed and employed by  
400 the board as a special consultant on the matters of  
401 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.

19. 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 13 of this section.

20. 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 13 and 14 of

466 this section for the purposes of the limit on the total  
467 amount of increases which may be received.

468       21. Any member who has retired shall be made,  
469 constituted, appointed and employed by the board as a  
470 special consultant on the matters of education, retirement  
471 and aging, and upon request shall give written or oral  
472 opinions to the board in response to such request. As  
473 compensation for such duties, the beneficiary of the retired  
474 member, or, if there is no beneficiary, the surviving  
475 spouse, surviving children in equal shares, surviving  
476 parents in equal shares, or estate of the retired member, in  
477 that order of precedence, shall receive as a part of  
478 compensation for these duties a death benefit of five  
479 thousand dollars.

480       22. Any member who has retired prior to July 1, 1999,  
481 and the designated beneficiary of a retired member who was  
482 deceased prior to July 1, 1999, shall be made, constituted,  
483 appointed and employed by the board as a special consultant  
484 on the matters of education, retirement and aging, and upon  
485 request shall give written or oral opinions to the board in  
486 response to such requests. As compensation for such duties,  
487 the person shall have added, pursuant to this subsection, to  
488 the monthly annuity as provided by this section a dollar  
489 amount equal to five dollars times the member's number of  
490 years of creditable service.

491       23. Any member who has retired prior to July 1, 2000,  
492 and the designated beneficiary of a deceased retired member  
493 shall be made, constituted, appointed and employed by the  
494 board as a special consultant on the matters of education,  
495 retirement and aging, and upon request shall give written or  
496 oral opinions to the board in response to such requests. As  
497 compensation for such duties, the person shall receive a



498 payment equivalent to three and five-tenths percent of the  
499 previous month's benefit, which shall be added to the member  
500 or beneficiary's monthly annuity and which shall not be  
501 subject to the provisions of subsections 13 and 14 of this  
502 section for the purposes of the limit on the total amount of  
503 increases which may be received.

504         24. Any member who has retired prior to July 1, 2001,  
505 and the designated beneficiary of a deceased retired member  
506 shall be made, constituted, appointed and employed by the  
507 board as a special consultant on the matters of education,  
508 retirement and aging, and upon request shall give written or  
509 oral opinions to the board in response to such requests. As  
510 compensation for such duties, the person shall receive a  
511 dollar amount equal to three dollars times the member's  
512 number of years of creditable service, which shall be added  
513 to the member's or beneficiary's monthly annuity and which  
514 shall not be subject to the provisions of subsections 13 and  
515 14 of this section for the purposes of the limit on the  
516 total amount of increases which may be received.

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