

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 733

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR JOHNSON.

Read 1st time January 15, 1998, and 1,000 copies ordered printed.

Read 2nd time January 19, 1998, and referred to the Committee on Education.

Reported from the Committee March 2, 1998, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up March 24, 1998. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

S3306.01P

AN ACT

To repeal sections 169.050, 169.054, 169.650, 169.655 and 169.670, RSMo Supp. 1997, and section 169.056 as enacted by senate bill no. 860, second regular session of the eighty-eighth general assembly, relating to teacher retirement, and to enact in lieu thereof five new sections relating to the same subject.

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

Section A. Sections 169.050, 169.054, 169.650, 169.655 and 169.670, RSMo Supp. 1997, and section 169.056 as enacted by senate bill no. 860, second regular session of the eighty-eighth general assembly, are repealed and five new sections enacted in lieu thereof, to be known as sections 169.050, 169.056, 169.650, 169.655 and 169.670, to read as follows:

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

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

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 paying to the retirement system with interest the total amount of accumulated contributions withdrawn by the member or refunded to the member [, including all amounts withdrawn or refunded for previously forfeited creditable service which the member had applied to reinstate but for which payment was not made within the prescribed time period; provided, however, that if subsequent to the date such person withdrew the person's contributions and prior to the time the person again becomes a member of the system the person served not less than ten years as a member of the general assembly of the state of Missouri, reinstatement of the person's creditable service shall be effected by the person again becoming a member of the system and payment to the system with interest the amount of accumulated contributions withdrawn by the person or refunded to the person] **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 [of] not longer than [five years] **the length of service to be reinstated, beginning** from the date of election, or prior to retirement, whichever is earlier, and 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.

[169.054. Notwithstanding any provision of section 169.055 to the contrary, any member who is vested who had served in the armed forces of the United States at any time 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 service in the armed forces, but not to exceed five years.]

169.056. 1. Members who have accrued at least one year of membership service credit for

employment in a position covered by this system 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.** For purposes of this section, "annual salary rate" means the annual salary rate for full-time service for the position of employment. The contribution rate used in determining the amount to be paid shall be the contribution rate in effect on the date of election to purchase credit. The interest rate used in determining the amount to be paid shall be the actuarially assumed rate of return on invested funds of the system in effect at the date of election to purchase credit;

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

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

(4) An election to purchase membership service credit pursuant to this section and payment for the purchase shall be completed prior to retirement;

(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 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, for the same service.

3. A member who has rendered service for at least twenty hours per week as a teacher outside of this state including service in a public university or who has rendered service in the University of Missouri or Lincoln University after July 1, 1946, 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 the armed forces of the United States of America 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 [within five years] after such member's discharge under honorable conditions may elect, prior to retirement, to purchase membership service for the entire period of 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 and 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 [as a certificated employee under the law governing the certification of teachers] 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.

9. A member having membership service credit in the retirement system provided by sections 169.010 to 169.141, after the member was employed by a private school for at least twenty hours per week and duly certified under the law governing the certification of teachers during all of such employment, 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 education services.

[10. A member who was employed by a district as a certificated employee under the law governing the certification of teachers for at least twenty hours per week on a regular basis but less than full time may elect to purchase credit for such service on a pro rata basis, not to exceed ten years.]

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 [at the time of withdrawal or refund, including all amounts withdrawn or refunded for previously forfeited creditable service which the member had applied to reinstate but for which payment was not made within the prescribed time period] **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 [five years] **the length of the service to be reinstated, beginning** from the date of election, **or prior to retirement, whichever is earlier,** and 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.

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 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.** The contribution rate used in determining the amount to be paid shall be the contribution rate in effect on the date of election to purchase credit. The interest rate used in determining the amount to be paid shall be the actuarially assumed rate of return on invested funds of the system in effect at the date of election to purchase credit;

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

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

(4) An election to purchase membership service credit pursuant to this section and payment for the purchase shall be completed prior to retirement;

(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 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, for the same service.

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

4. (1) A member who enters the service of the armed forces of the United States of America 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 [within five years] after such member's discharge under honorable conditions may elect, prior to retirement, to purchase membership service credit for the entire period of 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, 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 and 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.

9. A member having membership service credit in the retirement system provided by sections 169.600 to 169.715, after the member was employed by a private school to serve twenty or more hours per week, 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.

169.670. 1. The retirement allowance of a member whose age at retirement is sixty years or more and whose creditable service is five years or more, or who has attained the age of fifty-five years of age and has at least twenty-five years of creditable service, or whose creditable service is thirty years or more regardless of age, shall be the sum of the following items:

(1) For each year of membership service, one and thirty-five hundredths percent of the member's final average salary;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service;

(3) Eighty-five one-hundredths of one percent of any amount by which the member's average compensation for services rendered prior to July 1, 1973, exceeds the average monthly compensation on which federal social security taxes were paid during the period over which such average compensation was computed, for each year of membership service credit for services rendered prior to July 1, 1973, plus six-tenths of the amount payable for a year of membership

service for each year of prior service credit; and

(4) In lieu of the retirement allowance otherwise provided by subdivisions (1) to (3) of this subsection, between July 1, 1996, and July 1, 1998, a member may elect to receive a retirement allowance of:

(a) One and thirty-three hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-nine years or more but less than thirty years and the member has not attained the age of fifty-five;

(b) One and thirty-one hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-eight years or more but less than twenty-nine years, and the member has not attained the age of fifty-five;

(c) One and twenty-nine hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-seven years or more but less than twenty-eight years and the member has not attained the age of fifty-five;

(d) One and twenty-seven hundredths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-six years or more but less than twenty-seven years and the member has not attained the age of fifty-five;

(e) One and 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-five years or more but less than twenty-six years and the member has not attained the age of fifty-five.

2. If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases five percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by five percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board; provided that, the increase provided in this subsection shall not become effective until the fourth January first following a member's retirement or January 1, 1982, whichever occurs later, and the total of the increases granted to a retired member or the beneficiary after December 31, 1981, may not exceed sixty-five percent of the retirement allowance established at retirement or as previously adjusted by other provisions of law. If the cost of living increases less than five percent, the board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

3. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 2 of this section if the cost of living, as determined by the board and as measured by generally accepted standards, is less than the cost of living was at the time of the first increase granted to the member; provided that, the reductions shall not exceed the amount of increases which have been made to the member's allowance after December 31,

1981.

4. (1) In lieu of the retirement allowance provided in subsection 1 of this section, called "option 1", a member whose creditable service is thirty years or more or who has attained age fifty-five with five or more years of creditable service may elect, in the application for retirement, to receive the actuarial equivalent of the member's retirement allowance in reduced monthly payments for life during retirement with the provision that:

Option 2. Upon the member's death, the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member as the member shall have nominated in the member's election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 3. Upon the death of the member three-fourths of the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 4. Upon the death of the member one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance shall be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the reserve for the remainder of such one hundred twenty monthly payments shall be paid to the estate of the last person to receive a monthly allowance;

OR

Option 6. Upon the death of the member prior to the member having received sixty

monthly payments of the member's reduced allowance, the remainder of the sixty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the sixty monthly payments, the reserve for the remainder of such sixty monthly payments shall be paid to the estate of the last person to receive a monthly allowance;

OR

Option 7. A plan of variable monthly benefit payments which is projected to provide, in conjunction with the member's retirement benefits under the federal social security laws, level or near level retirement benefit payments to the member for life during retirement, and if authorized, to an appropriate beneficiary designated by the member. Such a plan shall be actuarially equivalent to the retirement allowance under option 1 and shall be available for election only if established by the board of trustees under duly adopted rules.

(2) The election of an option may be made only in the application for retirement and such application must be filed prior to the date on which the retirement of the member is to be effective; provided, if either the member or the person nominated dies before the effective date of retirement, the option shall not be effective, except that if the member or a person retired on disability retirement dies after attaining age fifty-five and acquiring five or more years of creditable service or after acquiring thirty or more years of creditable service and before retirement, except retirement with disability benefits, the member's spouse, if named as the member's beneficiary, may elect to receive either survivorship payments under option 2 or a payment of the member's accumulated contributions; provided that, 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 spouse may further elect to defer the option 2 payments until the date the member would have been eligible to receive the retirement allowance provided in subsection 1 of this section. If the member or a person retired on disability retirement dies before attaining age fifty-five but after acquiring five but fewer than thirty years of creditable service, the person's spouse, if named as the person's beneficiary, may elect to receive either a payment of the person's accumulated contributions, or survivorship benefits under option 2 to begin on the date the member would first have been eligible to receive an actuarial equivalent of the person's retirement allowance, or to begin on the date the member would first have been eligible to receive the retirement allowance provided in subsection 1 of this section.

5. If the total of the retirement allowances paid to an individual before the person's death is less than the person's accumulated contributions at the time of the person's retirement, the difference shall be paid to the person's beneficiary or to the person's estate; provided, however,

that if an optional benefit, as provided in option 2, 3 or 4 in subsection 4, had been elected and the beneficiary dies after receiving the optional benefit, then, if the total retirement allowances paid to the retired individual and the individual's beneficiary are less than the total of the contributions, the difference shall be paid to the estate of the beneficiary unless the retired individual designates a different recipient with the board at or after retirement.

6. If a member dies before receiving a retirement allowance, the member's accumulated contributions at the time of the member's death shall be paid to the member's beneficiary or to the member's estate, if there be no beneficiary; provided, however, that no such payment shall be made if the beneficiary elects option 2 in subsection 4 of this section, unless the beneficiary dies before having received benefits pursuant to that subsection equal to the accumulated contributions of the member, in which case the amount of accumulated contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the estate of the beneficiary.

7. If a member ceases to be an employee as defined in section 169.600 and certifies to the board of trustees that such cessation is permanent or if the person's membership is otherwise terminated, the person shall be paid the person's accumulated contributions with interest.

8. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, if a member ceases to be an employee as defined in section 169.600 after acquiring five or more years of creditable service, the member may, at the option of the member, leave the member's contributions with the retirement system and claim a retirement allowance any time after the member reaches the minimum age for voluntary retirement. When the member's claim is presented to the board, the member shall be granted an allowance as provided in sections 169.600 to 169.715 on the basis of the member's age and years of service.

9. The retirement allowance of a member retired because of disability shall be nine-tenths of the allowance to which the member's creditable service would entitle the member if the member's age were sixty.

10. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, any member who is a member prior to October 13, 1969, may elect to have the member's retirement allowance computed in accordance with sections 169.600 to 169.715 as they existed prior to October 13, 1969.

11. Any application for retirement shall include a sworn statement by the member certifying that the spouse of the member at the time the application was completed was aware of the application and the plan of retirement elected in the application.

12. Notwithstanding any other provision of law, any person retired prior to August 14, 1984, who is receiving a reduced retirement allowance under option 1 or 2 of subsection 4 of this section, as the option existed prior to August 14, 1984, and whose beneficiary nominated to receive continued retirement allowance payments under the elected option dies or has died, shall upon application to the board of trustees have the person's retirement allowance increased to the

amount the person would have been receiving had the person not elected the option, actuarially adjusted to recognize any excessive benefits which would have been paid to the person up to the time of the application.

13. Benefits paid pursuant to the provisions of the nonteacher school employee retirement system of Missouri shall not exceed the limitations of section 415 of title 26 of the United States Code.

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