

FIRST REGULAR SESSION

# SENATE BILL NO. 331

90TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR MAXWELL.

Read 1st time January 21, 1999, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S1445.011

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## AN ACT

To repeal sections 169.010, 169.060, 169.070 and 169.075, RSMo Supp. 1998, relating to public school retirement systems, and to enact in lieu thereof four new sections relating to the same subject, with an emergency clause.

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

Section A. Sections 169.010, 169.060, 169.070 and 169.075, RSMo Supp. 1998, are repealed and four new sections enacted in lieu thereof, to be known as sections 169.010, 169.060, 169.070 and 169.075, to read as follows:

169.010. The following words and phrases, as used in sections 169.010 to 169.130, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions" shall mean the sum of the annual contributions a member has made to the retirement system through deductions from the member's salary, plus interest compounded annually on each year's contributions from the end of the school year during which such contributions were made;

(2) "Board" shall mean the board of trustees provided for in sections 169.010 to 169.130;

(3) "Creditable service" shall mean prior service or membership service, or the sum of the two, if the member has both to the member's credit;

(4) "District" shall mean public school, as herein defined;

(5) "Employ" shall have a meaning agreeable with that herein given to employer and employee;

(6) "Employee" shall be synonymous with the term "teacher" as the same is herein defined;

(7) "Employer" shall mean the district that makes payment directly to the teacher or

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

employee for such person's services;

(8) "Final average salary" shall mean the total compensation payable to a member for any [five] **three** consecutive years of creditable service, as elected by the member, divided by [sixty] **thirty-six**; with the proviso that any annual compensation entering into the total compensation shall not exceed twelve thousand six hundred dollars for any year prior to July 1, 1967; and with the proviso that the board may set a maximum percentage of increase in annual compensation from one year to the next in the final average salary period;

(9) "Member" shall mean a person who holds membership in the retirement system;

(10) "Membership service" shall mean service rendered by a member of the retirement system after the system becomes operative, and may include a period of service in the armed forces of the United States as provided for in section 169.055;

(11) "Prior service" shall mean service rendered by a member of the retirement system before the system becomes operative, and may include service rendered by a member of the armed forces if the member was a teacher at the time the member was inducted, for which credit has been approved by the board of trustees;

(12) "Public school" shall mean any school conducted within the state under the authority and supervision of a duly elected district or city or town board of directors or board of education and the board of regents of the several state teachers' colleges, or state colleges, board of trustees of the public school retirement system of Missouri, and also the state of Missouri and each county thereof, to the extent that the state and the several counties are employers of teachers as herein designated;

(13) "Retirement allowance" shall mean a monthly payment for life during retirement;

(14) "Retirement system" or "system" shall mean the public school retirement system of Missouri created by sections 169.010 to 169.130;

(15) "Salary", "salary rate" or "compensation" shall mean the regular remuneration, including any payments made pursuant to sections 168.500 to 168.515, RSMo, which is earned by a member as an employee of a district, but not including employer paid fringe benefits except the value of employer paid medical benefits (including dental and vision) for members, and not including consideration for agreeing to retire or other nonrecurring or unusual payments that are not a part of regular remuneration. The board by its rules may further define salary, salary rate and compensation in a manner consistent with this definition and with sections 169.010 to 169.141;

(16) "School year" shall mean the year from July first of one year to June thirtieth of next year, inclusive, which shall also be the fiscal year of the system;

(17) "Teacher" shall mean any person who shall be employed by any public school, on a full-time basis and who shall be duly certificated under the law governing the certification of teachers; any person employed in the state department of elementary and secondary education or

by the state board of education on a full-time basis who shall be duly certificated under the law governing the certification of teachers and who did not become a member of the Missouri state employees' retirement system pursuant to section 104.342, RSMo; and persons employed by the board of trustees of the public school retirement system of Missouri on a full-time basis who shall be duly certified under the law governing the certification of teachers. The term "teacher" shall be synonymous with the term "employee" as defined in this section.

169.060. 1. On and after the first day of July next following the operative date, any member who is sixty or more years of age and whose creditable service is five years or more, **or whose sum of age and creditable service equals eighty years or more**, or who has attained age fifty-five and whose creditable service is twenty-five years or more, or whose creditable service is thirty years or more regardless of age, may retire upon written application to the board of trustees and receive the full retirement benefits on the member's creditable service. Any other member whose creditable service is twenty-five or more years, or who has attained age fifty-five and whose creditable service is at least five years but less than twenty-five years, may retire upon written application to the board of trustees and receive the actuarial equivalent of the benefit to which the member would be entitled if the member was sixty years of age.

2. On and after the first day of July next following the operative date, any member who is teaching in a district included in the retirement system at the time the member becomes disabled, or who has taught in such a district at some time in the twelve months immediately preceding the member becoming disabled, and whose disability is traceable to an injury or sickness which was sustained or commenced prior to the cessation of such teaching, and whose age is less than sixty and whose creditable service in districts included in the retirement system is five years or more, may be retired with disability benefits as provided in sections 169.010 to 169.141 upon written application to the board of trustees, if the member is incapacitated because of physical or mental disability as such disability is herein defined. If such disability shall cease to exist before the recipient of such benefits reaches age sixty, the member's membership status as of the date of the member's disability retirement shall be restored. If the member seeks, before becoming eligible for such retirement allowance, to withdraw the member's accumulated contributions, the total of such disability payments shall be deducted from the amount otherwise due the member.

3. "Disability", as a basis for retirement, shall render the individual incapable of earning a livelihood in any occupation and shall be of such a nature as to warrant the assumption that it will be permanent. Whether or not such disability exists in any case shall be adjudged in the manner provided in subsection 15 of section 169.020 by the board of trustees on the basis of reports made by two or more physicians selected by the board to examine the member. Until the member reaches age sixty, the recipient of a disability retirement allowance may be required to submit to periodic examinations by physicians selected by the board, and if any such examination shows that the recipient is no longer incapable of earning a livelihood in any occupation, the member's

disability retirement shall be terminated.

169.070. 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 whose sum of age and creditable service equals eighty years or more**, or who has attained age fifty-five and whose creditable service is twenty-five years or more or whose creditable service is thirty years or more regardless of age, may be the sum of the following items, not to exceed one hundred percent of the member's final average salary:

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

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service not exceeding thirty years. In lieu of the retirement allowance otherwise provided in subdivisions (1) and (2) of this subsection, a member may elect to receive a retirement allowance of:

(3) Between July 1, 1998, and July 1, 2000, 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) Between July 1, 1998, and July 1, 2000, 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) Between July 1, 1998, and July 1, 2000, 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) Between July 1, 1998, and July 1, 2000, 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) Between July 1, 1998, and July 1, 2000, 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.

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

(1) Sixty cents plus one and five-tenths percent of the member's final average salary for

each year of membership service;

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

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

3. (1) In lieu of the retirement allowance provided either in subsection 1 or 2 of this section, collectively called "option 1", a member whose creditable service is twenty-five years or more or who has attained the age of fifty-five with five or more years of creditable service may elect in the member's 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 retired 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 of the remainder of such sixty monthly payments shall be paid to the estate of the last person to receive a monthly allowance.

(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, that]. 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, [except] **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 [spouse of] person named by the member[, if named as the] as the member's primary 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[; 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] **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 [spouse of the member, if] person named as the primary beneficiary[,] has an insurable interest in the life of the deceased member or disability retiree, 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 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 estate of the individual, if there be no beneficiary. 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 estate of the beneficiary unless the retired individual designates a different recipient with the board at or after retirement.

5. 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 to the estate of the member, if there be no beneficiary; 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 estate of the beneficiary.

6. 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.

7. 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.

8. 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.

9. 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 this section as it appears in RSMo 1969, shall be the sum of:

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

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

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

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

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

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

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

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

11. Any retired member of the system who was retired prior to September 1, 1972, or beneficiary receiving payments under option 1 or option 2 of subsection 3 of this section, as such option existed prior to September 1, 1972, will be eligible to receive an increase in the retirement allowance of the member of two percent for each year, or major fraction of more than one-half of a year, which the retired member has been retired prior to July 1, 1975. This increased amount shall be payable commencing with January, 1976, and shall thereafter be referred to as the member's retirement allowance. The increase provided for in this subsection shall not affect the retired member's eligibility for compensation provided for in section 169.580 or 169.585, nor shall



the amount being paid pursuant to these sections be reduced because of any increases provided for in this section.

12. If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases two percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by two percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board; with the provision that the increases provided for in this subsection shall not become effective until the fourth January first following the member's retirement or January 1, 1977, whichever later occurs. 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 seventy-five 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.

13. The board of trustees may reduce the amounts which have been granted as increases to a member pursuant to subsection 12 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.

14. 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.

15. Notwithstanding any other provision of law, any person retired prior to September 28, 1983, who is receiving a reduced retirement allowance under option 1 or option 2 of subsection 3 of this section, as such option existed prior to September 28, 1983, 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 his or her retirement allowance increased to the amount he or she would have been receiving had the option not been elected, actuarially adjusted to recognize any excessive benefits which would have been paid to him or her up to the time of application.

16. Benefits paid pursuant to the provisions of the public school retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code.

17. Notwithstanding any other provision of law to the contrary, any person retired before, on, or after May 26, 1994, 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 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.

18. Notwithstanding any other provisions of law to the contrary, any person retired prior to May 26, 1994, 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 survivor 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 12 of this section.

19. 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 12 and 13 of this section for the purposes of the limit on the total amount of increases which may be received.

**20. Any member who has retired 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 as a part of compensation for these duties a death benefit of five thousand dollars.**

**21. Any member who has retired 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 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 have added, pursuant to this subsection, to the member's monthly annuity as provided by this section a dollar amount equal to five dollars times the member's number of years of creditable service.**

169.075. 1. Certain survivors specified in this section and meeting the requirements [hereof] **of this section** may elect to forfeit any payments payable pursuant to subsection 3 or 5 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 two years or more 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 totally and permanently disabled for not less than five years immediately preceding the death of a member if designated as the sole beneficiary, and if married to the member at least three years, and if living with such member at the time of the member's death, shall be entitled to a monthly payment equal to twenty percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service as a teacher in a district included in the retirement system until death or recovery prior to age sixty from the disability which qualified the spouse for the benefit, whichever first occurs; provided that the monthly payment shall not be less than [four hundred] **five hundred seventy-five** dollars or more than [six hundred] **eight hundred sixty** dollars. A surviving spouse, who is eligible for benefits pursuant to this subsection and also pursuant to subsection 3 of this section may receive benefits only pursuant to subsection 3 of this section as long as the surviving spouse remains eligible pursuant

to both subsections, but shall not be disqualified for the benefit provided in this subsection because the surviving spouse may have received payments pursuant to subsection 3 of this section.

3. Upon an election pursuant to subsection 1 of this section, a surviving spouse, if designated as the sole beneficiary, who has in the surviving spouse's care a dependent unmarried child, including a stepchild or adopted child, of the deceased member, under eighteen years of age, shall be entitled to a monthly payment equal to twenty percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service as a teacher in a district included in the retirement system until the surviving spouse's death, or the first date when no such dependent unmarried child under age eighteen remains in the surviving spouse's care, whichever first occurs; provided that the monthly payment shall not be less than **[four hundred] five hundred seventy-five** dollars or more than **[six hundred] eight hundred sixty** dollars. In addition the surviving spouse shall be entitled to a monthly payment equal to one-half this amount, **provided that the monthly payment shall not be less than three hundred dollars**, for each such dependent unmarried child under eighteen years of age who remains in the surviving spouse's care. Further, in addition to the monthly payment to the surviving spouse as provided for in this subsection, each dependent unmarried child under the age of eighteen years of the deceased member not in the care of such surviving spouse shall be entitled to a monthly payment equal to one-half of the surviving spouse's monthly payment which shall be paid to the child's primary custodial parent or legal guardian; provided that the payment because of an unmarried dependent child shall be made until the child attains age **[twenty-two] twenty-four** if the child is enrolled in school on a full-time basis; provided, however, that the total of all monthly payments to the surviving spouse, primary custodial parent or legal guardian, including payments for such dependent unmarried children, shall in no event exceed **[one thousand five hundred] two thousand one hundred sixty** dollars, the amount of the children's share to be allocated equally as to each dependent unmarried child eligible to receive payments pursuant to this subsection.

4. Upon an election pursuant to subsection 1 of this section if the designated beneficiary is a dependent unmarried child as defined in this section or automatically upon the death of a surviving spouse receiving benefits pursuant to subsection 3 of this section, each surviving dependent unmarried child, including a stepchild or adopted child, of the deceased member, under eighteen years of age, or such a child under age **[twenty-two] twenty-four** if the child is enrolled in school on a full-time basis, shall be entitled to a monthly payment equal to sixteen and two-thirds percent of one-twelfth of the annual salary rate on which the member contributed for the member's last full year of creditable service as a teacher in a district included in the retirement system until death, marriage, adoption, or attainment of age eighteen or age **[twenty-two] twenty-four** if enrolled in school on a full-time basis, whichever first occurs; provided that the monthly payment shall not be less than **[three hundred fifty] five hundred**

dollars or more than [five hundred] **seven hundred twenty** dollars, and provided further that any child of the deceased member who is disabled before attainment of age eighteen because of a physical or mental impairment which renders the child unable to engage in any substantial gainful activity and which disability continues after the child has attained age eighteen shall be entitled to a like monthly payment, until death, marriage, adoption, or recovery from the disability, whichever first occurs; provided, however, that the total of all monthly payments to the surviving dependent unmarried children shall in no event exceed [one thousand five hundred] **two thousand one hundred sixty** dollars.

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

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

7. The provisions added to subsection 3 of this section in 1991, other than the provisions increasing dollar limitations, are intended to clarify the scope and meaning of this section as originally enacted and shall be applied in all cases in which such an election has occurred or will occur.

8. The system shall pay a monthly retirement allowance for the month in which a retired member, beneficiary or survivor receiving a retirement allowance or survivor benefit dies.

Section B. Because of the urgent need to improve retirement benefits for public school employees, this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect on July 1, 1999, or upon its passage and approval, whichever later occurs.

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