

FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 180

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR JOHNSON.

Pre-filed December 21, 1998, and 1,000 copies ordered printed.

Read 2nd time January 18, 1999, and referred to the Committee on Education.

Reported from the Committee February 11, 1999, with recommendation that the bill do pass.

Taken up February 25, 1999. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

S0520.01P

AN ACT

To repeal section 169.670, RSMo Supp. 1998, as enacted by house substitute for house committee substitute for senate committee substitute for senate bill no. 501 of the eighty-ninth general assembly, second regular session and section 169.670, RSMo Supp. 1998, as enacted by senate bill no. 733 of the eighty-ninth general assembly, second regular session, relating to public school retirement systems, and to enact in lieu thereof one new section relating to the same subject, with an emergency clause.

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

Section A. Section 169.670, RSMo Supp. 1998, as enacted by house substitute for house committee substitute for senate committee substitute for senate bill no. 501 of the eighty-ninth general assembly, second regular session and section 169.670, RSMo Supp. 1998, as enacted by senate bill no. 733 of the eighty-ninth general assembly, second regular session, are repealed and one new section enacted in lieu thereof, to be known as section 169.670, to read as follows:

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] **forty-five** hundredths

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

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, 2000, a member may elect to receive a retirement allowance of:

(a) One and ~~[thirty-three]~~ **forty-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]~~ **forty-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]~~ **thirty-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]~~ **thirty-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]~~ **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-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 seventy-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 provides, 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] **provided** that:

(a) 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] **and the person named by the member 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 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] **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 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 thirty years of creditable service, [the person's spouse, if] **and the person** named as the [person's] **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 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 anytime 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.

14. Any member who has retired prior to the effective date of this section, 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 requests. As compensation for such duties the person shall receive a payment equivalent to seven and four-tenths percent of the previous month's benefit, which shall be added to the member or beneficiary's monthly annuity and which shall not be subject to the provisions of subsections 2 and 3 of this section for the purposes of the limit on the total amount of increases which may be received.

[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 anytime 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.]

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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