

SECOND REGULAR SESSION

HOUSE BILL NO. 2056

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VIEBROCK.

Read 1st time February 7, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4887L.02I

AN ACT

To repeal sections 169.040 and 169.630, RSMo, and to enact in lieu thereof two new sections relating to the investment of funds for the public school and public education employee retirement systems.

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

Section A. Sections 169.040 and 169.630, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 169.040 and 169.630, to read as follows:

169.040. 1. All funds arising from the operation of sections 169.010 to 169.141 shall
2 belong to the retirement system herein created and shall be controlled by the board of trustees
3 of that system which board shall provide for the collection of such funds, shall see that they are
4 safely preserved, and shall permit their disbursement only for the purposes herein authorized.
5 Such funds and all other funds received by the retirement system are declared and shall be
6 deemed to be the moneys and funds of the retirement system and not revenue collected or
7 moneys received by the state and shall not be commingled with state funds.

8 2. The board shall invest all funds under its control which are in excess of a safe
9 operating balance. The funds shall be invested only in those investments which a prudent person
10 acting in a like capacity and familiar with these matters would use in the conduct of an enterprise
11 of a like character and with like aims, as provided in section 105.688, RSMo. The board of
12 trustees may delegate to duly appointed investment counselors authority to act in place of the
13 board in the investment and reinvestment of all or part of the moneys of the system, and may also
14 delegate to such counselors the authority to act in place of the board in the holding, purchasing,

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 selling, assigning, transferring or disposing of any or all of the securities and investments in
16 which such moneys shall have been invested, as well as the proceeds of such investments and
17 such moneys. Such investment counselors shall be registered as investment advisors with the
18 United States Securities and Exchange Commission. In exercising or delegating its investment
19 powers and authority, members of the board shall exercise ordinary business care and prudence
20 under the facts and circumstances prevailing at the time of the action or decision. No member
21 of the board shall be liable for any action taken or omitted with respect to the exercise of, or
22 delegation of, these powers and authority if such member shall have discharged the duties of his
23 or her position in good faith and with that degree of diligence, care and skill which a prudent
24 person acting in a like capacity and familiar with these matters would use in the conduct of an
25 enterprise of a like character and with like aims.

26 **3. Notwithstanding the provisions of section 105.662, RSMo, the board may set up**
27 **and maintain a public school and education employee retirement systems of Missouri**
28 **investment fund account in which investment and reinvestment of all or part of the moneys**
29 **of the system may be placed and be available for investment purposes. For the purpose of**
30 **investing the funds of the retirement system, the funds may be combined with the funds of**
31 **the public education employee retirement system of Missouri, but the funds of each system**
32 **shall be accounted for separately and for all other reporting purposes shall be separate.**

33 **4. The board of trustees may promulgate rules and regulations not inconsistent**
34 **with the provisions of this section as shall be deemed necessary for the proper**
35 **administration under the provisions of this chapter. Any rule or portion of a rule, as that**
36 **term is defined in section 536.010, RSMo, that is created under the authority delegated in**
37 **this section shall become effective only if it complies with and is subject to all of the**
38 **provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section**
39 **and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general**
40 **assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove**
41 **and annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
42 **authority and any rule proposed or adopted after August 28, 2008, shall be invalid and**
43 **void.**

44 **5. No investment transaction authorized by the board shall be handled by any company**
45 **or firm in which a member of the board has an interest, nor shall any member of the board profit**
46 **directly or indirectly from any such investment. All investments shall be made for the account**
47 **of the retirement system, and any securities or other properties obtained by the board of trustees**
48 **may be held by a custodian in the name of the retirement system, or in the name of a nominee**
49 **in order to facilitate the expeditious transfer of such securities or other property. Such securities**
50 **or other properties which are not available in registered form may be held in bearer form or in**

51 book entry form. The retirement system is further authorized to deposit, or have deposited for
52 its account, eligible securities in a central depository system or clearing corporation or in a
53 federal reserve bank under a book entry system as defined in the Uniform Commercial Code,
54 sections 400.8-102 and 400.8-109, RSMo. When such eligible securities of the retirement
55 system are so deposited with a central depository system they may be merged and held in the
56 name of the nominee of such securities depository and title to such securities may be transferred
57 by bookkeeping entry on the books of such securities depository or federal reserve bank without
58 physical delivery of the certificates or documents representing such securities.

59 [4.] 6. With appropriate safeguards against loss by the system in any contingency, the
60 board may designate a bank or trust company to serve as a depository of system funds and
61 intermediary in the investment of those funds and payment of system obligations.

62 [5.] 7. All retirement allowances or other periodic payments paid by the board shall be
63 paid to recipients of such payments by electronic funds transfer, unless another method has been
64 determined by the board to be appropriate. Each recipient of retirement allowances or other
65 periodic payments shall designate a financial institution or other authorized payment agent and
66 provide the board information necessary for the recipient to receive electronic funds transfer
67 payments through the institution or agent designated. This subsection shall apply to retirement
68 allowances and other periodic payments first paid on or after January 1, 1998, and shall apply
69 to all retirement allowances and other periodic payments on and after January 1, 1999.

70 [6.] 8. The board of trustees may deliberate about, or make tentative or final decisions
71 on, investments or other financial matters in a closed meeting under chapter 610, RSMo, if
72 disclosure of the deliberations or decisions would jeopardize the ability to implement a decision
73 or to achieve investment objectives. A record of the retirement system that discloses
74 deliberations about, or a tentative decision on, investments or other financial matters is not a
75 public record under chapter 610, RSMo, to the extent and so long as its disclosure would
76 jeopardize the ability to implement a decision or to achieve investment objectives.

169.630. 1. All funds arising from the operation of sections 169.600 to 169.715 shall
2 belong to the retirement system created in sections 169.600 to 169.715 and shall be controlled
3 by the board of trustees and that board shall provide for the collection of these funds, see that
4 they are safely preserved, and shall permit their disbursement only for the purposes authorized
5 in sections 169.600 to 169.715. These funds are declared and shall be deemed to be the moneys
6 and funds of this retirement system and not general funds of the state and shall not be
7 commingled with any state funds or other retirement funds. Solely for the purpose of investing
8 the funds of the retirement system, the funds may be combined with the funds of the public
9 school retirement system of Missouri, but the funds of each system shall be accounted for
10 separately and for all other purposes shall be separate.

11 2. The board shall invest all funds under its control which are in excess of a safe
12 operating balance. The investment shall be made only in securities authorized and pursuant to
13 the same standards set for investment by section 169.040.

14 3. **Notwithstanding the provisions of section 105.662, RSMo, the board may set up**
15 **and maintain a public school and education employee retirement systems of Missouri**
16 **investment fund account in which investment and reinvestment of all or part of the moneys**
17 **of the system may be placed and be available for investment purposes. For the purpose of**
18 **investing the funds of the public education employee retirement system, the funds may be**
19 **combined with the funds of the public education employee retirement system of Missouri,**
20 **but the funds of each system shall be accounted for separately and for all other reporting**
21 **purposes shall be separate.**

22 4. **The board of trustees may promulgate rules and regulations not inconsistent**
23 **with the provisions of section 169.040 as shall be deemed necessary for its proper**
24 **administration under the provisions of this chapter. Any rule or portion of a rule, as that**
25 **term is defined in section 536.010, RSMo, that is created under the authority delegated in**
26 **this section shall become effective only if it complies with and is subject to all of the**
27 **provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section**
28 **and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general**
29 **assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove**
30 **and annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
31 **authority and any rule proposed or adopted after August 28, 2008, shall be invalid and**
32 **void.**

33 5. No investment transaction authorized by the board shall be handled by any company
34 or firm in which a member of the board has an interest, nor shall any member of the board profit
35 directly or indirectly from any such investment. All investments shall be made for the account
36 of the retirement system, and any securities or other properties obtained by the board of trustees
37 may be held by a custodian in the name of the retirement system, or in the name of a nominee
38 in order to facilitate the expeditious transfer of such securities or other property. Such securities
39 or other properties which are not available in registered form may be held in bearer form or in
40 book entry form. The retirement system is further authorized to deposit, or have deposited for
41 its account, eligible securities in a central depository system or clearing corporation or in a
42 federal reserve bank under a book entry system as defined in the Uniform Commercial Code,
43 sections 400.8-102 and 400.8-108, RSMo. When such eligible securities of the retirement
44 system are so deposited with a central depository system, the securities may be merged and held
45 in the name of the nominee of such securities depository and title to such securities may be

46 transferred by bookkeeping entry on the books of such securities depository or federal reserve
47 bank without physical delivery of the certificates or documents representing such securities.

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64 not a public record under chapter 610, RSMo, to the extent and so long as its disclosure would
65 jeopardize the ability to implement a decision or to achieve investment objectives.

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