

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

HOUSE BILL NO. 229

96TH GENERAL ASSEMBLY

0587L.01T

2011

AN ACT

To repeal sections 169.270, 169.280, 169.301, 169.324, and 169.328, RSMo, and to enact in lieu thereof five new sections relating to school retirement systems.

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

Section A. Sections 169.270, 169.280, 169.301, 169.324, and 169.328, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 169.270, 169.280,
3 169.301, 169.324, and 169.328, to read as follows:

169.270. Unless a different meaning is clearly required by the context, the following
2 words and phrases as used in sections 169.270 to 169.400 shall have the following meanings:

3 (1) "Accumulated contributions", the sum of all amounts deducted from the
4 compensation of a member or paid on behalf of the member by the employer and credited to the
5 member's individual account together with interest thereon in the employees' contribution fund.
6 The board of trustees shall determine the rate of interest allowed thereon as provided for in
7 section 169.295;

8 (2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of
9 formulas and/or tables which have been approved by the board of trustees. **The formulas and**
10 **tables in effect at any time shall be set forth in a written document which shall be**
11 **maintained at the offices of the retirement system and treated for all purposes as part of**
12 **the documents governing the retirement system established by section 169.280. The**
13 **formulas and tables may be changed from time to time if recommended by the retirement**
14 **system's actuary and approved by the board of trustees;**

15 (3) "Average final compensation", the highest average annual compensation received for
16 any four consecutive years of service. In determining whether years of service are "consecutive",
17 only periods for which creditable service is earned shall be considered, and all other periods shall
18 be disregarded;

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.

19 (4) "Beneficiary", any person designated by a member for a retirement allowance or other
20 benefit as provided by sections 169.270 to 169.400;

21 (5) "Board of education", the board of directors or corresponding board, by whatever
22 name, having charge of the public schools of the school district in which the retirement system
23 is established;

24 (6) "Board of trustees", the board provided for in section 169.291 to administer the
25 retirement system;

26 (7) "Break in service", an occurrence when a regular employee ceases to be a regular
27 employee for any reason other than retirement (including termination of employment,
28 resignation, or furlough but not including vacation, sick leave, excused absence or leave of
29 absence granted by an employer) and such person does not again become a regular employee
30 until after sixty consecutive calendar days have elapsed, or after fifteen consecutive school or
31 work days have elapsed, whichever occurs later. A break in service also occurs when a regular
32 employee retires under the retirement system established by section 169.280 and does not again
33 become a regular employee until after fifteen consecutive school or work days have elapsed. A
34 "school or work day" is a day on which the employee's employer requires (or if the position no
35 longer exists, would require, based on past practice) employees having the former employee's
36 last job description to report to their place of employment for any reason;

37 (8) "Charter school", any charter school established pursuant to sections 160.400 to
38 160.420 and located, at the time it is established, within the school district;

39 (9) "Compensation", the regular compensation as shown on the salary and wage
40 schedules of the employer, including any amounts paid by the employer on a member's behalf
41 pursuant to subdivision (5) of subsection 1 of section 169.350, but such term is not to include
42 extra pay, overtime pay, consideration for entering into early retirement, or any other payments
43 not included on salary and wage schedules. For any year beginning after December 31, 1988,
44 the annual compensation of each member taken into account under the retirement system shall
45 not exceed the limitation set forth in Section 401(a)(17) of the Internal Revenue Code of 1986,
46 as amended;

47 (10) "Creditable service", the amount of time that a regular employee is a member of the
48 retirement system and makes contributions thereto in accordance with the provisions of sections
49 169.270 to 169.400;

50 (11) "Employee", any person who is classified by the school district, a charter school,
51 the library district or the retirement system established by section 169.280 as an employee of
52 such employer and is reported contemporaneously for federal and state tax purposes as an
53 employee of such employer. A person is not considered to be an employee for purposes of such
54 retirement system with respect to any service for which the person was not reported
55 contemporaneously for federal and state tax purposes as an employee of such employer,
56 regardless of whether the person is or may later be determined to be or to have been a common

57 law employee of such employer, including but not limited to a person classified by the employer
58 as independent contractors and persons employed by other entities which contract to provide staff
59 and services to the employer. In no event shall a person reported for federal tax purposes as an
60 employee of a private, for-profit entity be deemed to be an employee eligible to participate in the
61 retirement system established by section 169.280 with respect to such employment;

62 (12) "Employer", the school district, any charter school, the library district, or the
63 retirement system established by section 169.280, or any combination thereof, as required by the
64 context to identify the employer of any member, or, for purposes only of subsection 2 of section
65 169.324, of any retirant;

66 (13) "Employer's board", the board of education, the governing board of any charter
67 school, the board of trustees of the library district, the board of trustees, or any combination
68 thereof, as required by the context to identify the governing body of an employer;

69 (14) "Library district", any urban public library district created from or within a school
70 district under the provisions of section 182.703;

71 (15) "Medical board", the board of physicians provided for in section 169.291;

72 (16) "Member", any person who is a regular employee after the retirement system has
73 been established hereunder ("active member"), and any person who (i) was an active member,
74 (ii) has vested retirement benefits hereunder, and (iii) is not receiving a retirement allowance
75 hereunder ("inactive member");

76 (17) "Minimum normal retirement age", the earlier of the date the member attains the
77 age of sixty or the date the member has a total of at least seventy-five credits, with each year of
78 creditable service and each year of age equal to one credit, with both years of creditable service
79 and years of age prorated for fractional years;

80 (18) "Prior service", service prior to the date the system becomes operative which is
81 creditable in accordance with the provisions of section 169.311. Prior service in excess of
82 thirty-eight years shall be considered thirty-eight years;

83 (19) "Regular employee", any employee who is assigned to an established position which
84 requires service of not less than twenty-five hours per week, and not less than nine calendar
85 months a year. Any regular employee who is subsequently assigned without break in service to
86 a position demanding less service than is required of a regular employee shall continue the
87 employee's status as a regular employee. Except as stated in the preceding sentence, a temporary,
88 part-time, or furloughed employee is not a regular employee;

89 (20) "Retirant", a former member receiving a retirement allowance hereunder;

90 (21) "Retirement allowance", annuity payments to a retirant or to such beneficiary as is
91 entitled to same;

92 (22) "School district", any school district in which a retirement system shall be
93 established under section 169.280.

169.280. 1. In each school district of this state (i) that now has or may hereafter have a population of not more than seven hundred thousand and (ii) not less than seventy percent of whose population resides in a city other than a city not within a county which now has or may hereafter have a population of four hundred thousand or more, according to the latest United States decennial census, there is hereby created and established a retirement system for the purpose of providing retirement allowances and related benefits for employees of the employer. Each such system shall be under the management of a board of trustees herein described, and shall be known as "The Public School Retirement System of (name of school district)", and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held. When a school district first satisfies the foregoing population conditions, the board of education shall adopt a resolution certifying the same and take all actions necessary to cause the retirement system to begin operation on the thirtieth day of September following such certification.

2. In the event that (i) the population of a school district having a retirement system created hereunder should increase to a number greater than seven hundred thousand, or (ii) the population of the city in which not less than seventy percent of the population of the school district resides should decrease to a number less than four hundred thousand, or (iii) less than seventy percent of the population of the school district should reside in a city having a population of at least four hundred thousand, or (iv) the corporate organization of the school district shall lapse in accordance with subsections 1 and 4 of section 162.081, the retirement system of such school district shall continue to be governed by and subject to sections 169.270 to 169.400 and all other statutes, rules, and regulations applicable to retirement systems in school districts having a population of not more than seven hundred thousand and not less than seventy percent of whose population resides in a city, other than a city not within a county, of four hundred thousand or more, as if the population of such school district and city continued to be within such numerical limits.

3. The plan of retirement benefits administered by the retirement system established hereby is intended to be a qualified plan under the provisions of applicable federal law. The board of trustees shall interpret the statutes governing the retirement system and shall administer the retirement system in all respects consistent with such intent. The assets of the retirement system shall be held in trust for the exclusive benefit of members and their beneficiaries and for defraying reasonable administrative expenses of the retirement system. No part of such assets shall, at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries, be used for or diverted to any purposes other than for such exclusive benefit or for any purpose inconsistent with the requirements of sections 169.270 to 169.400.

169.301. 1. Any active member who has completed five or more years of actual (not purchased) creditable service shall be entitled to a vested retirement benefit equal to the annual

3 service retirement allowance provided in sections 169.270 to 169.400 payable after attaining the
4 minimum normal retirement age and calculated in accordance with the law in effect on the last
5 date such person was a regular employee; provided, that such member does not withdraw such
6 person's accumulated contributions pursuant to section 169.328 prior to attaining the minimum
7 normal retirement age.

8 2. Any member who elected on October 13, 1961, or within thirty days thereafter, to
9 continue to contribute and to receive benefits under sections 169.270 to 169.400 may continue
10 to be a member of the retirement system under the terms and conditions of the plan in effect
11 immediately prior to October 13, 1961, or may, upon written request to the board of trustees,
12 transfer to the present plan, provided that the member pays into the system any additional
13 contributions with interest the member would have credited to the member's account if such
14 person had been a member of the current plan since its inception or, if the person's contributions
15 and interest are in excess of what the person would have paid, such person will receive a refund
16 of such excess. The board of trustees shall adopt appropriate rules and regulations governing the
17 operation of the plan in effect immediately prior to October 13, 1961.

18 3. Should a retirant again become an active member, such person's retirement allowance
19 payments shall cease during such membership and shall be recalculated upon subsequent
20 retirement to include any creditable service earned during the person's latest period of active
21 membership in accordance with subsection 2 of section 169.324.

22 **4. In the event of the complete termination of the retirement system established by**
23 **section 169.280 or the complete discontinuance of contributions to such retirement system,**
24 **the rights of all members to benefits accrued to the date of such termination or**
25 **discontinuance, to the extent then funded, shall be fully vested and nonforfeitable.**

26 **5. If a member leaves employment with an employer to perform qualified military**
27 **service, as defined in Section 414(u) of the Internal Revenue Code of 1986, as amended, and**
28 **dies while in such service, the member's survivors shall be entitled to any additional**
29 **benefits (other than benefit accruals relating to the period of qualified military service) that**
30 **would have been provided had the member resumed employment with the employer and**
31 **then terminated on account of death in accordance with the requirements of Sections**
32 **407(a)(37) and 414(u) of the Internal Revenue Code of 1986, as amended. In such event,**
33 **the member's period of qualified military services shall be counted as creditable service for**
34 **purposes of vesting but not for purposes of determining the amount of the member's**
35 **retirement allowance.**

169.324. 1. The annual service retirement allowance payable pursuant to section
2 169.320 in equal monthly installments for life shall be the retirant's number of years of creditable
3 service multiplied by one and three-fourths percent of the person's average final compensation,
4 subject to a maximum of sixty percent of the person's average final compensation. For any
5 member who retires as an active member on or after June 30, 1999, the annual service retirement

6 allowance payable pursuant to section 169.320 in equal monthly installments for life shall be the
7 retirant's number of years of creditable service multiplied by two percent of the person's average
8 final compensation, subject to a maximum of sixty percent of the person's average final
9 compensation. Any member whose number of years of creditable service is greater than
10 thirty-four and one-quarter on August 28, 1993, shall receive an annual service retirement
11 allowance payable pursuant to section 169.320 in equal monthly installments for life equal to the
12 retirant's number of years of creditable service as of August 28, 1993, multiplied by one and
13 three-fourths percent of the person's average final compensation but shall not receive a greater
14 annual service retirement allowance based on additional years of creditable service after August
15 28, 1993. Provided, however, that, effective January 1, 1996, any retiree who retired on, before
16 or after January 1, 1996, with at least twenty years of creditable service shall receive at least three
17 hundred dollars each month as a retirement allowance, or the actuarial equivalent thereof if the
18 retiree elected any of the options available under section 169.326. Provided, further, any retiree
19 who retired with at least ten years of creditable service shall receive at least one hundred fifty
20 dollars each month as a retirement allowance, plus fifteen dollars for each additional full year
21 of creditable service greater than ten years but less than twenty years (or the actuarial equivalent
22 thereof if the retiree elected any of the options available under section 169.326). Any beneficiary
23 of a deceased retiree who retired with at least ten years of creditable service and elected one of
24 the options available under section 169.326 shall also be entitled to the actuarial equivalent of
25 the minimum benefit provided by this subsection, determined from the option chosen.

26 2. Except as otherwise provided in sections 169.331, 169.580 and 169.585, payment of
27 a retirant's retirement allowance will be suspended for any month for which such person receives
28 remuneration from the person's employer or from any other employer in the retirement system
29 established by section 169.280 for the performance of services except any such person other than
30 a person receiving a disability retirement allowance under section 169.322 may serve as a
31 nonregular substitute, part-time or temporary employee for not more than six hundred hours in
32 any school year without becoming a member and without having the person's retirement
33 allowance discontinued, **provided that through such substitute, part-time, or temporary**
34 **employment, the person may earn no more than fifty percent of the annual salary or wages**
35 **the person was last paid by the employer before the person retired and commenced**
36 **receiving a retirement allowance, adjusted for inflation. If a person exceeds such hours**
37 **limit or such compensation limit, payment of the person's retirement allowance shall be**
38 **suspended for the month in which such limit was exceeded and each subsequent month in**
39 **the school year for which the person receives remuneration from any employer in the**
40 **retirement system.** If a retirant is reemployed by any employer in any capacity, whether
41 pursuant to this section, or section 169.331, 169.580, or 169.585, or as a regular employee, the
42 amount of such person's retirement allowance attributable to service prior to the person's first
43 retirement date shall not be changed by the reemployment. If the person again becomes an active

44 member and earns additional creditable service, upon the person's second retirement the person's
45 retirement allowance shall be the sum of:

46 (1) The retirement allowance the person was receiving at the time the person's retirement
47 allowance was suspended, pursuant to the payment option elected as of the first retirement date,
48 plus the amount of any increase in such retirement allowance the person would have received
49 pursuant to subsection 3 of this section had payments not been suspended during the person's
50 reemployment; and

51 (2) An additional retirement allowance computed using the benefit formula in effect on
52 the person's second retirement date, the person's creditable service following reemployment, and
53 the person's average **final** annual compensation as of the second retirement date. The sum
54 calculated pursuant to this subsection shall not exceed the greater of sixty percent of the person's
55 average final compensation as of the second retirement date or the amount determined pursuant
56 to subdivision (1) of this subsection. Compensation earned prior to the person's first retirement
57 date shall be considered in determining the person's average final compensation as of the second
58 retirement date if such compensation would otherwise be included in determining the person's
59 average final compensation.

60 3. The board of trustees shall determine annually whether the investment return on funds
61 of the system can provide for an increase in benefits for retirants eligible for such increase. A
62 retirant shall and will be eligible for an increase awarded pursuant to this section as of the second
63 January following the date the retirant commenced receiving retirement benefits. Any such
64 increase shall also apply to any monthly joint and survivor retirement allowance payable to such
65 retirant's beneficiaries, regardless of age. The board shall make such determination as follows:

66 (1) After determination by the actuary of the investment return for the preceding year as
67 of December thirty-first (the "valuation year"), the actuary shall recommend to the board of
68 trustees what portion of the investment return is available to provide such benefits increase, if
69 any, and shall recommend the amount of such benefits increase, if any, to be implemented as of
70 the first day of the thirteenth month following the end of the valuation year, and the first payable
71 on or about the first day of the fourteenth month following the end of the valuation year. The
72 actuary shall make such recommendations so as not to affect the financial soundness of the
73 retirement system, recognizing the following safeguards:

74 (a) The retirement system's funded ratio as of January first of the year preceding the year
75 of a proposed increase shall be at least one hundred percent after adjusting for the effect of the
76 proposed increase. The funded ratio is the ratio of assets to the pension benefit obligation;

77 (b) The actuarially required contribution rate, after adjusting for the effect of the
78 proposed increase, may not exceed the statutory contribution rate;

79 (c) The actuary shall certify to the board of trustees that the proposed increase will not
80 impair the actuarial soundness of the retirement system;

81 (d) A benefit increase, under this section, once awarded, cannot be reduced in succeeding
82 years;

83 (2) The board of trustees shall review the actuary's recommendation and report and shall,
84 in their discretion, determine if any increase is prudent and, if so, shall determine the amount of
85 increase to be awarded.

86 4. This section does not guarantee an annual increase to any retiree.

87 5. If an inactive member becomes an active member after June 30, 2001, and after a
88 break in service, unless the person earns at least four additional years of creditable service
89 without another break in service, upon retirement the person's retirement allowance shall be
90 calculated separately for each separate period of service ending in a break in service. The
91 retirement allowance shall be the sum of the separate retirement allowances computed for each
92 such period of service using the benefit formula in effect, the person's average final
93 compensation as of the last day of such period of service and the creditable service the person
94 earned during such period of service; provided, however, if the person earns at least four
95 additional years of creditable service without another break in service, all of the person's
96 creditable service prior to and including such service shall be aggregated and, upon retirement,
97 the retirement allowance shall be computed using the benefit formula in effect and the person's
98 average final compensation as of the last day of such period of four or more years and all of the
99 creditable service the person earned prior to and during such period.

100 6. Notwithstanding anything contained in this section to the contrary, the amount of the
101 annual service retirement allowance payable to any retiree pursuant to the provisions of sections
102 169.270 to 169.400, including any adjustments made pursuant to subsection 3 of this section,
103 shall at all times comply with the provisions and limitations of Section 415 of the Internal
104 Revenue Code of 1986, as amended, and the regulations thereunder, the terms of which are
105 specifically incorporated herein by reference.

106 7. All retirement systems established by the laws of the state of Missouri shall develop
107 a procurement action plan for utilization of minority and women money managers, brokers and
108 investment counselors. Such retirement systems shall report their progress annually to the joint
109 committee on public employee retirement and the governor's minority advocacy commission.

169.328. 1. Should a member cease to be a regular employee, except by retirement, the
2 member, if living, shall be paid on demand, made by written notice to the board of trustees, the
3 amount of the person's accumulated contributions (with interest as determined by the board of
4 trustees as provided in sections 169.270 to 169.400) standing to the credit of the person's
5 individual account in the employees' contribution fund. The accumulated contributions with
6 interest shall not be paid to a member so long as the person remains a regular employee or before
7 the member incurs a break in service. If the member dies before retirement such accumulated
8 contributions (with interest) shall be paid to the member's estate or designated beneficiary unless
9 the provisions of subsection 3 of section 169.326 apply.

10 2. If a former unvested member's accumulated contributions have not been withdrawn
11 four years after the person has ceased to be a member (other than by reason of death or
12 retirement), the board of trustees shall pay the same to such former member within a reasonable
13 time after the expiration of such four-year period.

14 3. If, on account of undeliverability, improper mailing or forwarding address, or other
15 similar problem, the board of trustees is unable to refund the accumulated contributions of a
16 former unvested member or to commence payment of retirement benefits within four years after
17 the end of the calendar year in which such former member ceased to be a regular employee, the
18 board may transfer the accumulated contributions to the general reserve fund. If, thereafter,
19 written application is made to the board of trustees for such refund or benefits, the board shall
20 cause the same to be paid from the general reserve fund, but no interest shall be accrued after the
21 end of the fourth year following the end of the calendar year in which such former member
22 ceased to be a regular employee.

23 4. In its discretion the board of trustees may approve extensions of any time periods in
24 this section on account of a former member's military or naval service, academic study or illness.

25 **5. Any member or beneficiary who is entitled to receive a distribution that is an**
26 **eligible rollover distribution, as defined in Section 402(c)(4) of the Internal Revenue Code**
27 **of 1986, as amended, may elect to have that distribution transferred directly to another**
28 **eligible retirement plan, as defined in Section 402(c)(8) of the Internal Revenue Code of**
29 **1986, as amended, designated by the member or beneficiary in accordance with procedures**
30 **established by the board of trustees. An eligible rollover distribution shall include a**
31 **distribution to a nonspouse beneficiary that is treated as an eligible rollover distribution**
32 **under Section 402(c)(11) of the Internal Revenue Code of 1986, as amended. All such**
33 **transfers shall be made in compliance with the requirements of Section 401(a)(31) of the**
34 **Internal Revenue Code of 1986, as amended, and regulations thereunder.**

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