

FIRST REGULAR SESSION

# HOUSE BILL NO. 386

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FRANKLIN.

Read 1<sup>st</sup> time January 16, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1118L.011

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### AN ACT

To repeal section 169.070, RSMo 2000, relating to the public school retirement system, and to enact in lieu thereof one new section relating to the same subject.

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

Section A. Section 169.070, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 169.070, to read as follows:

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, 2003, 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, 2003, two and thirty-five-hundredths percent of the member's final average salary for each year of membership service, if the member's creditable

19 service is twenty-eight years or more but less than twenty-nine years, and the member has not  
20 attained age fifty-five;

21 (5) Between July 1, 1998, and July 1, 2003, two and three-tenths percent of the member's  
22 final average salary for each year of membership service, if the member's creditable service is  
23 twenty-seven years or more but less than twenty-eight years, and the member has not attained  
24 age fifty-five;

25 (6) Between July 1, 1998, and July 1, 2003, two and twenty-five-hundredths percent of  
26 the member's final average salary for each year of membership service, if the member's creditable  
27 service is twenty-six years or more but less than twenty-seven years, and the member has not  
28 attained age fifty-five;

29 (7) Between July 1, 1998, and July 1, 2003, two and two-tenths percent of the member's  
30 final average salary for each year of membership service, if the member's creditable service is  
31 twenty-five years or more but less than twenty-six years, and the member has not attained age  
32 fifty-five.

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

36 (1) Sixty cents plus one and five-tenths percent of the member's final average salary for  
37 each year of membership service;

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

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

42 3. (1) In lieu of the retirement allowance provided either in subsection 1 or 2 of this  
43 section, collectively called "option 1", a member whose creditable service is twenty-five years  
44 or more or who has attained the age of fifty-five with five or more years of creditable service may  
45 elect in the member's application for retirement to receive the actuarial equivalent of the  
46 member's retirement allowance in reduced monthly payments for life during retirement with the  
47 provision that:

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

54

OR



91 acquiring five or more years of creditable service and before retirement, except retirement with  
92 disability benefits, and the person named by the member as the member's primary beneficiary  
93 has an insurable interest in the life of the deceased member, the designated beneficiary may elect  
94 to receive either survivorship benefits under option 2 or a payment of the accumulated  
95 contributions of the member. If survivorship benefits under option 2 are elected and the member  
96 at the time of death would have been eligible to receive an actuarial equivalent of the member's  
97 retirement allowance, the designated beneficiary may further elect to defer the option 2 payments  
98 until the date the member would have been eligible to receive the retirement allowance provided  
99 in subsection 1 or 2 of this section;

100 (b) If the member or a person retired on disability retirement dies before attaining age  
101 fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the  
102 person named as the member's primary beneficiary has an insurable interest in the life of the  
103 deceased member, the designated beneficiary may elect to receive either a payment of the  
104 member's accumulated contributions, or survivorship benefits under option 2 to begin on the date  
105 the member would first have been eligible to receive an actuarial equivalent of the member's  
106 retirement allowance, or to begin on the date the member would first have been eligible to  
107 receive the retirement allowance provided in subsection 1 or 2 of this section.

108 4. If the total of the retirement allowance paid to an individual before the death of the  
109 individual is less than the accumulated contributions at the time of retirement, the difference  
110 shall be paid to the beneficiary of the individual, or to the estate of the individual, if there be no  
111 beneficiary. If an optional benefit as provided in option 2, 3 or 4 in subsection 3 of this section  
112 had been elected, and the beneficiary dies after receiving the optional benefit, and if the total  
113 retirement allowance paid to the retired individual and the beneficiary of the retired individual  
114 is less than the total of the contributions, the difference shall be paid to the estate of the  
115 beneficiary unless the retired individual designates a different recipient with the board at or after  
116 retirement.

117 5. If a member dies before receiving a retirement allowance, the member's accumulated  
118 contributions at the time of the death of the member shall be paid to the beneficiary of the  
119 member or to the estate of the member, if there be no beneficiary; except that, no such payment  
120 shall be made if the beneficiary elects option 2 in subsection 3 of this section, unless the  
121 beneficiary dies before having received benefits pursuant to that subsection equal to the  
122 accumulated contributions of the member, in which case the amount of accumulated  
123 contributions in excess of the total benefits paid pursuant to that subsection shall be paid to the  
124 estate of the beneficiary.

125 6. If a member ceases to be a public school employee as herein defined and certifies to  
126 the board of trustees that such cessation is permanent, or if the membership of the person is

127 otherwise terminated, the member shall be paid the member's accumulated contributions with  
128 interest.

129           7. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, if a  
130 member ceases to be a public school employee after acquiring five or more years of membership  
131 service in Missouri, the member may at the option of the member leave the member's  
132 contributions with the retirement system and claim a retirement allowance any time after  
133 reaching the minimum age for voluntary retirement. When the member's claim is presented to  
134 the board, the member shall be granted an allowance as provided in sections 169.010 to 169.141  
135 on the basis of the member's age, years of service, and the provisions of the law in effect at the  
136 time the member requests the member's retirement to become effective.

137           8. The retirement allowance of a member retired because of disability shall be  
138 nine-tenths of the allowance to which the member's creditable service would entitle the member  
139 if the member's age were sixty, or fifty percent of one-twelfth of the annual salary rate used in  
140 determining the member's contributions during the last school year for which the member  
141 received a year of creditable service immediately prior to the member's disability, whichever is  
142 greater, except that no such allowance shall exceed the retirement allowance to which the  
143 member would have been entitled upon retirement at age sixty if the member had continued to  
144 teach from the date of disability until age sixty at the same salary rate.

145           9. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, from  
146 October 13, 1961, the contribution rate pursuant to sections 169.010 to 169.141 shall be  
147 multiplied by the factor of two-thirds for any member of the system for whom federal Old Age  
148 and Survivors Insurance tax is paid from state or local tax funds on account of the member's  
149 employment entitling the person to membership in the system. The monetary benefits for a  
150 member who elected not to exercise an option to pay into the system a retroactive contribution  
151 of four percent on that part of the member's annual salary rate which was in excess of four  
152 thousand eight hundred dollars but not in excess of eight thousand four hundred dollars for each  
153 year of employment in a position covered by this system between July 1, 1957, and July 1, 1961,  
154 as provided in subsection 10 of this section as it appears in RSMo 1969, shall be the sum of:

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

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

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

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

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

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

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

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

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

186 12. If the board of trustees determines that the cost of living, as measured by generally  
187 accepted standards, increases two percent or more in the preceding fiscal year, the board shall  
188 increase the retirement allowances which the retired members or beneficiaries are receiving by  
189 two percent of the amount being received by the retired member or the beneficiary at the time  
190 the annual increase is granted by the board with the provision that the increases provided for in  
191 this subsection shall not become effective until the fourth January first following the member's  
192 retirement or January 1, 1977, whichever later occurs, or in the case of any member retiring on  
193 or after July 1, 2000, and not for any member retiring before July 1, 2000, the increase provided  
194 for in this subsection shall not become effective until the third January first following the  
195 member's retirement. Commencing with January 1, 1992, if the board of trustees determines that  
196 the cost of living has increased five percent or more in the preceding fiscal year, the board shall  
197 increase the retirement allowances by five percent. The total of the increases granted to a retired  
198 member or the beneficiary after December 31, 1976, may not exceed eighty percent of the

199 retirement allowance established at retirement or as previously adjusted by other subsections.  
200 If the cost of living increases less than five percent, the board of trustees may determine the  
201 percentage of increase to be made in retirement allowances, but at no time can the increase  
202 exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no  
203 increase in allowances for retired members on the following January first.

204 13. The board of trustees may reduce the amounts which have been granted as increases  
205 to a member pursuant to subsection 12 of this section if the cost of living, as determined by the  
206 board and as measured by generally accepted standards, is less than the cost of living was at the  
207 time of the first increase granted to the member; except that, the reductions shall not exceed the  
208 amount of increases which have been made to the member's allowance after December 31, 1976.

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

212 15. Notwithstanding any other provision of law, any person retired prior to  
213 September 28, 1983, who is receiving a reduced retirement allowance under option 1 or option  
214 2 of subsection 3 of this section, as such option existed prior to September 28, 1983, and whose  
215 beneficiary nominated to receive continued retirement allowance payments under the elected  
216 option dies or has died, shall upon application to the board of trustees have his or her retirement  
217 allowance increased to the amount he or she would have been receiving had the option not been  
218 elected, actuarially adjusted to recognize any excessive benefits which would have been paid to  
219 him or her up to the time of application.

220 16. Benefits paid pursuant to the provisions of the public school retirement system of  
221 Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code  
222 **except as provided pursuant to this subsection. Notwithstanding any other law to the**  
223 **contrary, the board of trustees may establish a benefit plan pursuant to Section 415(m) of**  
224 **Title 26 of the United States Code. Such plan shall be created solely for the purpose**  
225 **described in Section 415(m)(3)(A) of Title 26 of the United States Code. The board of**  
226 **trustees may promulgate regulations necessary to implement the provisions of this**  
227 **subsection and to create and administer such benefit plan.**

228 17. Notwithstanding any other provision of law to the contrary, any person retired before,  
229 on, or after May 26, 1994, shall be made, constituted, appointed and employed by the board as  
230 a special consultant on the matters of education, retirement and aging, and upon request shall  
231 give written or oral opinions to the board in response to such requests. As compensation for such  
232 duties the person shall receive an amount based on the person's years of service so that the total  
233 amount received pursuant to sections 169.010 to 169.141 shall be at least the minimum amounts  
234 specified in subdivisions (1) to (4) of this subsection. In determining the minimum amount to

235 be received, the amounts in subdivisions (3) and (4) of this subsection shall be adjusted in  
236 accordance with the actuarial adjustment, if any, that was applied to the person's retirement  
237 allowance. In determining the minimum amount to be received, beginning September 1, 1996,  
238 the amounts in subdivisions (1) and (2) of this subsection shall be adjusted in accordance with  
239 the actuarial adjustment, if any, that was applied to the person's retirement allowance due to  
240 election of an optional form of retirement having a continued monthly payment after the person's  
241 death. Notwithstanding any other provision of law to the contrary, no person retired before, on,  
242 or after May 26, 1994, and no beneficiary of such a person, shall receive a retirement benefit  
243 pursuant to sections 169.010 to 169.141 based on the person's years of service less than the  
244 following amounts:

- 245 (1) Thirty or more years of service, one thousand two hundred dollars;
- 246 (2) At least twenty-five years but less than thirty years, one thousand dollars;
- 247 (3) At least twenty years but less than twenty-five years, eight hundred dollars;
- 248 (4) At least fifteen years but less than twenty years, six hundred dollars.

249 18. Notwithstanding any other provisions of law to the contrary, any person retired prior  
250 to May 26, 1994, and any designated beneficiary of such a retired member who was deceased  
251 prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a  
252 special consultant on the matters of education, retirement or aging and upon request shall give  
253 written or oral opinions to the board in response to such requests. Beginning September 1, 1996,  
254 as compensation for such service, the member shall have added, pursuant to this subsection, to  
255 the member's monthly annuity as provided by this section a dollar amount equal to the lesser of  
256 sixty dollars or the product of two dollars multiplied by the member's number of years of  
257 creditable service. Beginning September 1, 1999, the designated beneficiary of the deceased  
258 member shall as compensation for such service have added, pursuant to this subsection, to the  
259 monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars  
260 or the product of two dollars multiplied by the member's number of years of creditable service.  
261 The total compensation provided by this section including the compensation provided by this  
262 subsection shall be used in calculating any future cost-of-living adjustments provided by  
263 subsection 12 of this section.

264 19. Any member who has retired prior to July 1, 1998, and the designated beneficiary  
265 of a deceased retired member shall be made, constituted, appointed and employed by the board  
266 as a special consultant on the matters of education, retirement and aging, and upon request shall  
267 give written or oral opinions to the board in response to such requests. As compensation for such  
268 duties the person shall receive a payment equivalent to eight and seven-tenths percent of the  
269 previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity  
270 and which shall not be subject to the provisions of subsections 12 and 13 of this section for the

271 purposes of the limit on the total amount of increases which may be received.

272           20. Any member who has retired shall be made, constituted, appointed and employed  
273 by the board as a special consultant on the matters of education, retirement and aging, and upon  
274 request shall give written or oral opinions to the board in response to such request. As  
275 compensation for such duties, the person shall receive as a part of compensation for these duties  
276 a death benefit of five thousand dollars.

277           21. Any member who has retired prior to July 1, 1999, and the designated beneficiary  
278 of a retired member who was deceased prior to July 1, 1999, shall be made, constituted,  
279 appointed and employed by the board as a special consultant on the matters of education,  
280 retirement and aging, and upon request shall give written or oral opinions to the board in  
281 response to such requests.

282 As compensation for such duties, the person shall have added, pursuant to this subsection, to the  
283 monthly annuity as provided by this section a dollar amount equal to five dollars times the  
284 member's number of years of creditable service.

285           22. Any member who has retired prior to July 1, 2000, and the designated beneficiary  
286 of a deceased retired member shall be made, constituted, appointed and employed by the board  
287 as a special consultant on the matters of education, retirement and aging, and upon request shall  
288 give written or oral opinions to the board in response to such requests. As compensation for such  
289 duties, the person shall receive a payment equivalent to three and five-tenths percent of the  
290 previous month's benefit, which shall be added to the member or beneficiary's monthly annuity  
291 and which shall not be subject to the provisions of subsections 12 and 13 of this section for the  
292 purposes of the limit on the total amount of increases which may be received.