

FIRST REGULAR SESSION

HOUSE BILL NO. 395

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SKAGGS.

Read 1st time January 16, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1256L.011

AN ACT

To repeal sections 160.420, 169.270, 169.280, 169.291, 169.301, 169.315 and 169.324, RSMo 2000, relating to teacher and school retirement systems, and to enact in lieu thereof seven new sections relating to the same subject.

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

Section A. Sections 160.420, 169.270, 169.280, 169.291, 169.301, 169.315 and 169.324, RSMo 2000, are repealed and seven new sections enacted in lieu thereof, to be known as sections 160.420, 169.270, 169.280, 169.291, 169.301, 169.315 and 169.324, to read as follows:

160.420. 1. If a charter school offers to retain the services of an employee of a school district, and the employee accepts a position at the charter school, the contract between the charter school and the school district may provide that an employee at the employee's option may remain an employee of the district and the charter school shall pay to the district the district's full costs of salary and benefits provided to the employee. A teacher who accepts a position at a charter school and opts to remain an employee of the district retains such teacher's permanent teacher status and seniority rights in the district. The school district shall not be liable for any such employee's acts while an employee of the charter school.

2. A charter school may employ noncertificated instructional personnel; provided that no more than twenty percent of the full-time equivalent instructional staff positions at the school are filled by noncertificated personnel. All noncertified instructional personnel shall be supervised by certified instructional personnel. The charter school shall ensure that all instructional employees of the charter school have experience, training and skills appropriate to the instructional duties of the employee, and the charter school shall ensure that a criminal

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

15 background check and child abuse registry check are conducted for each employee of the charter
16 school prior to the hiring of the employee. Appropriate experience, training and skills of
17 noncertificated instructional personnel shall be determined considering:

- 18 (1) Teaching certificates issued by another state or states;
- 19 (2) Certification by the National Standards Board;
- 20 (3) College degrees in the appropriate field;
- 21 (4) Evidence of technical training and competence when such is appropriate; and
- 22 (5) Level of supervision and coordination with certificated instructional staff.

23 3. Personnel employed by the charter school shall participate in the retirement system
24 of the school district in which the charter school is located, subject to the same terms, conditions,
25 requirements and other provisions applicable to personnel employed by the school district. **For**
26 **purposes of participating in the retirement system, the charter school shall be considered**
27 **to be a public school within the school district, and personnel employed by the charter**
28 **school shall be public school employees. In the event of a lapse of the school district's**
29 **corporate organization as described in subsections 1 and 4 of section 162.081, RSMo,**
30 **personnel employed by the charter school shall continue to participate in the retirement**
31 **system and shall do so on the same terms, conditions, requirements and other provisions**
32 **as they participated prior to the lapse.**

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;

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

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

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

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

21 (7) "Break in service", an occurrence when a regular employee ceases to be a regular
22 employee for any reason (including termination of employment, resignation, retirement or
23 furlough but not including vacation, sick leave, excused absence or leave of absence granted by
24 an employer) and such person does not again become a regular employee until after fifteen
25 consecutive school or work days have elapsed. A "school or work day" is a day on which the
26 employee's employer requires (or if the position no longer exists, would require, based on past
27 practice) employees having the former employee's last job description to report to their place of
28 employment for any reason;

29 (8) **"Charter school", any charter school established pursuant to section 160.400**
30 **to 160.420, RSMo, and located, at the time it is established, within the school district;**

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

38 [(9)] (10) "Creditable service", the amount of time that a regular employee is a member
39 of the retirement system and makes contributions thereto in accordance with the provisions of
40 sections 169.270 to 169.400;

41 (11) **"Employee", any person who is classified by the school district, a charter**
42 **school, the library district or the retirement system established by section 169.280 as an**
43 **employee of such employer and is reported contemporaneously for federal and state tax**
44 **purposes as an employee of such employer. A person is not considered to be an employee**
45 **for purposes of such retirement system with respect to any service for which the person**
46 **was not reported contemporaneously for federal and state tax purposes as an employee of**
47 **such employer, regardless of whether the person is or may later be determined to be or to**
48 **have been a common law employee of such employer, including but not limited to persons**
49 **classified by the employer as independent contractors and persons employed by other**
50 **entities which contract to provide staff and services to the employer. In no event shall a**
51 **person reported for federal tax purposes as an employee of a private, for-profit entity be**
52 **deemed to be an employee eligible to participate in the retirement system established by**
53 **section 169.280 with respect to such employment;**

54 [(10)] (12) "Employer", the school district, **any charter school**, the library district, or

55 the retirement system established by section 169.280, or any combination thereof, as required
56 by the context to identify the [common law] employer of any member, or, for purposes only of
57 subsection 2 of section 169.324, of any retirant;

58 [(11)] (13) "Employer's board", the board of education, **the governing board of any**
59 **charter school**, the board of trustees of the library district, the board of trustees, or any
60 combination thereof, as required by the context to identify the governing body of an employer;

61 [(12)] (14) "Library district", any urban public library district created from or within a
62 school district under the provisions of section 182.703, RSMo;

63 [(13)] (15) "Medical board", the board of physicians provided for in section 169.291;

64 [(14)] (16) "Member", any person who is a regular employee after the retirement system
65 has been established hereunder ("active member"), and any person who (i) was an active
66 member, (ii) has vested retirement benefits hereunder, and (iii) is not receiving a retirement
67 allowance hereunder ("inactive member");

68 [(15)] (17) "Minimum normal retirement age", the earlier of the member attaining the
69 age of sixty or has a total of at least seventy-five credits, with each year of creditable service, and
70 prorated for fractional years, equal to one credit and each year of age, and prorated for fractional
71 years, equal to one credit;

72 [(16)] (18) "Prior service", service prior to the date the system becomes operative which
73 is creditable in accordance with the provisions of section 169.311. Prior service in excess of
74 thirty-eight years shall be considered thirty-eight years;

75 [(17)] (19) "Regular employee", any [person employed by the school district, the library
76 district, or the retirement system] **employee** who is assigned to an established position which
77 requires [a] service of not less than five hours per day, five days per week, and not less than nine
78 calendar months a year. Any regular employee who is subsequently assigned without break in
79 service to a position demanding less service than is required of a regular employee shall continue
80 the employee's status as a regular employee. However, a temporary, part-time or furloughed
81 employee is not a regular employee;

82 [(18)] (20) "Retirant", a former member receiving a retirement allowance hereunder;

83 [(19)] (21) "Retirement allowance", annuity payments to a retirant or to such beneficiary
84 as is entitled to same;

85 [(20)] (22) "School district", any school district in which a retirement system shall be
86 established under section 169.280.

169.280. 1. In each school district of this state (i) that now has or may hereafter have
2 a population of not more than seven hundred thousand and (ii) not less than seventy percent of
3 whose population resides in a city other than a city not within a county which now has or may
4 hereafter have a population of four hundred thousand or more, according to the latest United

5 States decennial census, there is hereby created and established a retirement system for the
6 purpose of providing retirement allowances and related benefits for employees of the employer.
7 Each such system shall be under the management of a board of trustees herein described, and
8 shall be known as "The Public School Retirement System of (name of school district)", and by
9 such name all of its business shall be transacted, all of its funds invested, and all of its cash and
10 securities and other property held. When a school district first satisfies the foregoing population
11 conditions, the board of education shall adopt a resolution certifying the same and take all actions
12 necessary to cause the retirement system to begin operation on the thirtieth day of September
13 following such certification.

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

169.291. 1. The general administration and the responsibility for the proper operation
2 of the retirement system are hereby vested in a board of trustees of twelve persons who shall be
3 resident taxpayers of the school district, as follows:

4 (1) Four trustees to be appointed for terms of four years by the board of education;
5 provided, however, that the terms of office of the first four trustees so appointed shall begin
6 immediately upon their appointment and shall expire one, two, three and four years from the date
7 the retirement system becomes operative, respectively;

8 (2) Four trustees to be elected for terms of four years by and from the members of the
9 retirement system; provided, however, that the terms of office of the first four trustees so elected
10 shall begin immediately upon their election and shall expire one, two, three and four years from
11 the date the retirement system becomes operative, respectively;

12 (3) The ninth trustee shall be the superintendent of schools of the school district;

13 (4) The tenth trustee shall be one retirant of the retirement system elected for a term of
14 four years beginning the first day of January immediately following August 13, 1986, by the

15 retirants of the retirement system;

16 (5) The eleventh trustee shall be appointed for a term of four years beginning the first
17 day of January immediately following August 13, 1990, by the board of trustees described in
18 subdivision (3) of section 182.701, RSMo;

19 (6) The twelfth trustee shall be a retirant of the retirement system elected for a term of
20 four years beginning the first day of January immediately following August 28, 1992, by the
21 retirants of the retirement system.

22 2. If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the
23 unexpired term in the same manner as the office was previously filled, except that the board of
24 trustees may appoint a qualified person to fill the vacancy in the office of an elected member
25 until the next regular election at which time a member shall be elected for the unexpired term.
26 **No vacancy or vacancies on the board of trustees shall impair the power of the remaining**
27 **trustees to administer the retirement system pending the filling of such vacancy or**
28 **vacancies.**

29 **3. In the event of a lapse of the school district's corporate organization as described**
30 **in subsections 1 and 4 of section 162.081, RSMo, the general administration and**
31 **responsibility for the proper operation of the retirement system shall continue to be vested**
32 **in a twelve-person board of trustees, all of whom shall be resident taxpayers of a city, other**
33 **than a city not within a county, of four hundred thousand or more. In such event, if**
34 **vacancies occur in the offices of the four trustees appointed, prior to the lapse, by the board**
35 **of education, or in the offices of the four trustees elected, prior to the lapse, by the members**
36 **of the retirement system, or in the office of trustee held, prior to the lapse, by the**
37 **superintendent of schools in the school district, as provided in subdivisions (1), (2) and (3)**
38 **of subsection 1 of this section, the board of trustees shall appoint a qualified person to fill**
39 **each such vacancy and subsequent vacancies in the office of trustee for terms of up to four**
40 **years, as determined by the board of trustees.**

41 [3.] 4. Each trustee shall, before assuming the duties of a trustee, take the oath of office
42 before the court of the judicial circuit or one of the courts of the judicial circuit in which the
43 school district is located that so far as it devolves upon the trustee, such trustee shall diligently
44 and honestly administer the affairs of the board of trustees and that the trustee will not knowingly
45 violate or willingly permit to be violated any of the provisions of the law applicable to the
46 retirement system. Such oath shall be subscribed to by the trustee making it and filed in the
47 office of the clerk of the circuit court.

48 [4.] 5. Each trustee shall be entitled to one vote in the board of trustees. Seven trustees
49 shall constitute a quorum at any meeting of the board of trustees. At any meeting of the board
50 of trustees where a quorum is present, the vote of at least seven of the trustees in support of a

51 motion, resolution or other matter is necessary to be the decision of the board; **provided,**
52 **however, that in the event of a lapse in the school district's corporate organization as**
53 **described in subsections 1 and 4 of section 162.081, RSMo, a majority of the trustees then**
54 **in office shall constitute a quorum at any meeting of the board of trustees, and the vote of**
55 **a majority of the trustees then in office in support of a motion, resolution or other matter**
56 **shall be necessary to be the decision of the board.**

57 [5.] 6. The board of trustees shall have exclusive original jurisdiction in all matters
58 relating to or affecting the funds herein provided for, including, in addition to all other matters,
59 all claims for benefits or refunds, and its action, decision or determination in any matter shall be
60 reviewable in accordance with chapter 536, RSMo, or chapter 621, RSMo. Subject to the
61 limitations of sections 169.270 to 169.400, the board of trustees shall, from time to time,
62 establish rules and regulations for the administration of funds of the retirement system, for the
63 transaction of its business, and for the limitation of the time within which claims may be filed.

64 [6.] 7. The trustees shall serve without compensation. The board of trustees shall elect
65 from its membership a chairman and a vice chairman. The board of trustees shall appoint an
66 executive director who shall serve as the administrative officer of the retirement system and as
67 secretary to the board of trustees. It shall employ one or more persons, firms or corporations
68 experienced in the investment of moneys to serve as investment counsel to the board of trustees.
69 The compensation of all persons engaged by the board of trustees and all other expenses of the
70 board necessary for the operation of the retirement system shall be paid at such rates and in such
71 amounts as the board of trustees shall approve, and shall be paid from the investment income.

72 [7.] 8. The board of trustees shall keep in convenient form such data as shall be
73 necessary for actuarial valuations of the various funds of the retirement system and for checking
74 the experience of the system.

75 [8.] 9. The board of trustees shall keep a record of all its proceedings which shall be open
76 to public inspection. It shall prepare annually and furnish to the board of education and to each
77 member of the retirement system who so requests a report showing the fiscal transactions of the
78 retirement system for the preceding fiscal year, the amount of accumulated cash and securities
79 of the system, and the last balance sheet showing the financial condition of the system by means
80 of an actuarial valuation of the assets and liabilities of the retirement system.

81 [9.] 10. The board of trustees shall have, in its own name, power to sue and to be sued,
82 to enter into contracts, to own property, real and personal, and to convey the same; but the
83 members of such board of trustees shall not be personally liable for obligations or liabilities of
84 the board of trustees or of the retirement system.

85 [10.] 11. The board of trustees shall arrange for necessary legal advice for the operation
86 of the retirement system.

87 [11.] 12. The board of trustees shall designate a medical board to be composed of three
88 physicians who shall not be eligible for membership in the system and who shall pass upon all
89 medical examinations required under the provisions of sections 169.270 to 169.400, shall
90 investigate all essential statements and certificates made by or on behalf of a member in
91 connection with an application for disability retirement and shall report in writing to the board
92 of trustees its conclusions and recommendations upon all matters referred to it.

93 [12.] 13. The board of trustees shall designate an actuary who shall be the technical
94 advisor of the board of trustees on matters regarding the operation of the retirement system and
95 shall perform such other duties as are required in connection therewith. Such person shall be
96 qualified as an actuary by membership as a Fellow of the Society of Actuaries or by similar
97 objective standards.

98 [13.] 14. At least once in each five-year period the actuary shall make an investigation
99 into the actuarial experience of the members, retirants and beneficiaries of the retirement system
100 and, taking into account the results of such investigation, the board of trustees shall adopt for the
101 retirement system such actuarial assumptions as the board of trustees deems necessary for the
102 financial soundness of the retirement system.

103 [14.] 15. On the basis of such actuarial assumptions as the board of trustees adopts, the
104 actuary shall make annual valuations of the assets and liabilities of the funds of the retirement
105 system.

106 [15.] 16. The rate of contribution payable by the employer shall equal one and
107 ninety-nine one-hundredths percent, effective July 1, 1993; three and ninety-nine one-hundredths
108 percent, effective July 1, 1995; five and ninety-nine one-hundredths percent, effective July 1,
109 1996; seven and one-half percent effective January 1, 1999, and for all subsequent years.

110 **17. In the event of a lapse of a school district's corporate organization as described**
111 **in subsections 1 and 4 of section 162.081, RSMo, no retirement system, nor any of the assets**
112 **of any retirement system, shall be transferred to or merged with another retirement system**
113 **without prior approval of such transfer or merger by the board of trustees of the**
114 **retirement system.**

169.301. 1. Any active member who has completed five or more years of actual (not
2 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.**

169.315. 1. The board of trustees shall adopt rules and regulations which shall permit
2 members to purchase creditable service under the circumstances provided for in this section.
3 Such rules and regulations shall specify, for each such designated circumstance:

4 (1) The manner in which the employee contributions required to purchase such service
5 shall be calculated;

6 (2) The manner in which any employer contributions required for such service shall be
7 calculated;

8 (3) The maximum amount of service that may be purchased, if any;

9 (4) The time by which the election to purchase service shall be made and the period over
10 which such contributions shall be paid; and

11 (5) Any other requirements the member must satisfy in order to be eligible to purchase
12 service in such circumstance.

13

14 All such rules and regulations shall be applied on a uniform and nondiscriminatory basis so that
15 all members are treated similarly under similar circumstances.

16 2. Any active member who ceased to be a regular employee and received a refund of
17 contributions and interest attributable to a prior period of service with [the district in which the
18 retirement system is established] **any employer** may, after reemployment as a regular employee
19 and prior to retirement, elect to reinstate any creditable service the member forfeited by
20 purchasing such service in accordance with the rules and regulations adopted by the board of
21 trustees.

22 3. Any active member who has rendered service in a public school district or public
23 library within the state of Missouri but outside of the district in which the retirement system is

24 established, or in a college, junior college or university within the state of Missouri may elect to
25 purchase and receive credit for such service in accordance with the rules and regulations adopted
26 by the board of trustees.

27 4. Any active member who has rendered service in a public school district, public library,
28 college, junior college or university outside the state of Missouri may elect to purchase and
29 receive credit for such service in accordance with the rules and regulations adopted by the board
30 of trustees; provided that, such member shall pay to the retirement system, in addition to all
31 required employee contributions, the required amount of employer contributions, plus interest,
32 for each year of creditable service being purchased.

33 5. Any active member who was, prior to becoming a member, employed by a private
34 school, college or university on a full-time basis and duly certified under the law governing the
35 certification of teachers during all of such employment may elect to purchase and receive credit
36 for such private school service in accordance with the rules and regulations adopted by the board
37 of trustees; provided that, such member shall pay to the retirement system, in addition to all
38 required employee contributions, the required amount of employer contributions, plus interest,
39 for each year of creditable service being purchased. As used in this section, the term "private
40 school" means a school which is not a part of the public school system of the state of Missouri
41 and which charges tuition for the rendering of elementary, secondary educational or
42 post-secondary educational services.

43 6. Any active member who, voluntarily or involuntarily, enters service in the armed
44 forces of the United States or other national defense service may, after reemployment and prior
45 to retirement, elect to purchase and receive credit for such military service in accordance with
46 the rules and regulations adopted by the board of trustees and with the laws governing the
47 reemployment rights of veterans.

48 7. Any active member who is granted a period of approved, unpaid leave of absence by
49 the employer's board for academic study at a college, junior college, university or otherwise,
50 illness or such other circumstances as may be authorized by the board of trustees, may elect to
51 purchase and receive creditable service for such period of leave in accordance with the rules and
52 regulations adopted by the board of trustees.

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 [retiring] **who retires as an active member** on or after June 30, 1999, the annual
6 service retirement allowance payable pursuant to section 169.320 in equal monthly installments
7 for life shall be the retirant's number of years of creditable service multiplied by two percent of

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

29 2. Except as otherwise provided in sections 169.580 and 169.585, [a retirant may not
30 receive a retirement allowance payment in] **payment of a retirant's retirement allowance will**
31 **be suspended for** any month for which such person receives remuneration from the person's
32 employer **or from any other employer in the retirement system established by section**
33 **169.280** for the performance of services except such person may serve as a nonregular substitute,
34 part-time or temporary employee for [not to exceed five] **no more than six** hundred [thirty]
35 hours in any school year without becoming a member and without having the person's retirement
36 allowance discontinued. **If a retirant is reemployed by any employer in any capacity,**
37 **whether pursuant to this section, section 169.580 or section 169.585 or as a regular**
38 **employee, the amount of such person's retirement allowance attributable to service prior**
39 **to the person's first retirement date shall not be changed by the reemployment. If the**
40 **person again becomes an active member and earns additional creditable service, upon the**
41 **person's second retirement the person's retirement allowance shall be the sum of:**

42 (1) The retirement allowance the person was receiving at the time the person's
43 retirement allowance was suspended, pursuant to the payment option elected as of the first

44 retirement date, plus the amount of any increase in such retirement allowance the person
45 would have received pursuant to subsection 3 of section 169.324 had payments not been
46 suspended during the person's reemployment; and

47 (2) An additional retirement allowance computed using the benefit formula in effect
48 on the person's second retirement date, the person's creditable service following
49 reemployment, and the person's average annual compensation as of the second retirement
50 date.

51

52 The sum calculated pursuant to this subsection shall not exceed the greater of sixty percent
53 of the person's average final compensation as of the second retirement date or the amount
54 determined pursuant to subdivision (1) of this subsection. Compensation earned prior to
55 the person's first retirement date shall be considered in determining the person's average
56 final compensation as of the second retirement date if such compensation would otherwise
57 be included in determining the person's average final compensation.

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

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

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

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

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

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

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

85 4. This section does not guarantee an annual increase to any retirant.

86 **5. If an inactive member becomes an active member after June 30, 2001, and after**
87 **a break in service, unless the person earns at least four additional years of creditable**
88 **service without another break in service, upon retirement the person's retirement**
89 **allowance shall be calculated separately for each separate period of service ending in a**
90 **break in service. The retirement allowance shall be the sum of the separate retirement**
91 **allowances computed for each such period of service using the benefit formula in effect, the**
92 **person's average final compensation as of the last day of such period of service and the**
93 **creditable service the person earned during such period of service; provide, however, if the**
94 **person earns at least four additional years of creditable service without another break in**
95 **service, all of the person's creditable service prior to and including such service shall be**
96 **aggregated and, upon retirement, the retirement allowance shall be computed using the**
97 **benefit formula in effect and the person's average final compensation as of the last day of**
98 **such period of four or more years and all of the creditable service the person earned prior**
99 **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 retirant 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 **[6.] 7.** All retirement systems established by the laws of the state of Missouri shall
107 develop a procurement action plan for utilization of minority and women money managers,
108 brokers and investment counselors. Such retirement systems shall report their progress annually
109 to the joint committee on public employee retirement and the governor's minority advocacy
110 commission.