

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 131

92ND GENERAL ASSEMBLY

Reported from the Committee on Retirement, February 20, 2003, with recommendation that the House Committee Substitute for House Bill No. 131 Do Pass by Consent.

Perfected by Consent March 3, 2003.

STEPHEN S. DAVIS, Chief Clerk

0797L.02P

AN ACT

To repeal sections 70.605, 70.635, 70.661, 70.685 and 70.795, RSMo, and to enact in lieu thereof four new sections relating to local government employees' retirement system.

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

Section A. Sections 70.605, 70.635, 70.661, 70.685, and 70.795, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 70.605, 70.635, 70.661 and
3 105.679 to read as follows:

70.605. 1. For the purpose of providing for the retirement or pensioning of the officers
2 and employees and the widows and children of deceased officers and employees of any political
3 subdivision of the state, there is hereby created and established a retirement system which shall
4 be a body corporate, which shall be under the management of a board of trustees herein
5 described, and shall be known as the "Missouri Local Government Employees' Retirement
6 System". Such system may sue and be sued, transact business, invest funds, and hold cash,
7 securities, and other property. **All suits or proceedings directly or indirectly against the**
8 **system shall be brought in Cole County.** The system shall begin operations on the first day
9 of the calendar month next following sixty days after the date the board of trustees has received
10 certification from ten political subdivisions that they have elected to become employers.

11 2. The general administration and the responsibility for the proper operation of the
12 system is vested in a board of trustees of seven persons: three persons to be elected as trustees

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

13 by the members of the system; three persons to be elected trustees by the governing bodies of
14 employers; and one person, to be appointed by the governor, who is not a member, retirant, or
15 beneficiary of the system and who is not a member of the governing body of any political
16 subdivision.

17 3. Trustees shall be chosen for terms of four years from the first day of January next
18 following their election or appointment, except that of the first board shall all be appointed by
19 the governor by and with the consent of the senate, as follows:

20 (1) Three persons who are officers or officials of political subdivisions, one for a term
21 of three years, one for a term of two years, and one for a term of one year; and

22 (2) Three persons who are employees of political subdivisions and who would, if the
23 subdivision by which they are employed becomes an employer, be eligible as members, one for
24 a term of three years, one for a term of two years, and one for a term of one year; and

25 (3) That person appointed by the governor under the provisions of subsection 2 of this
26 section.

27

28 All the members of the first board shall take office as soon as appointed by the governor, but
29 their terms shall be computed from the first day of January next following their appointment, and
30 only one member may be from any political subdivision or be a policeman or fireman.

31 4. Successor trustees elected or appointed as member trustees shall be members of the
32 retirement system; provided, that not more than one member trustee shall be employed by any
33 one employer, and not more than one member trustee shall be a policeman, and not more than
34 one member trustee shall be a fireman.

35 5. Successor trustees elected as employer trustees shall be elected or appointed officials
36 of employers and shall not be members of the retirement system; provided, that not more than
37 one employer trustee shall be from any one employer.

38 6. An annual meeting of the retirement system shall be called by the board in the last
39 calendar quarter of each year in Jefferson City, or at such place as the board shall determine, for
40 the purpose of electing trustees and to transact such other business as may be required for the
41 proper operation of the system. Notice of such meeting shall be sent by registered mail to the
42 clerk or secretary of each employer not less than thirty days prior to the date of such meeting.
43 The governing body of each employer shall certify to the board the name of one delegate who
44 shall be an officer of the employer, and the members of the employer shall certify to the board
45 a member of the employer to represent such employer at such meeting. The delegate certified
46 as member delegate shall be elected by secret ballot by the members of such employer, and the
47 clerk or secretary of each employer shall be charged with the duty of conducting such election
48 in a manner which will permit each member to vote in such election. Under such rules and

49 regulations as the board shall adopt, approved by the delegates, the member delegates shall elect
50 a member trustee for each such position on the board to be filled, and the officer delegates shall
51 elect an employer trustee for each such position on the board to be filled.

52 7. In the event any member trustee ceases to be a member of the retirement system, or
53 any employer trustee ceases to be an appointed or elected official of an employer, or becomes
54 a member of the retirement system, or if the trustee appointed by the governor becomes a
55 member of the retirement system or an elected or appointed official of a political subdivision,
56 or if any trustee fails to attend three consecutive meetings of the board, unless in each case
57 excused for cause by the remaining trustees attending such meeting or meetings, he **or she** shall
58 be considered as having resigned from the board and the board shall, by resolution, declare his
59 **or her** office of trustee vacated. If a vacancy occurs in the office of trustee, the vacancy shall
60 be filled for the unexpired term in the same manner as the office was previously filled; provided,
61 however, that the remaining trustees may fill employer and member trustee vacancies on the
62 board until the next annual meeting.

63 8. Each trustee shall be commissioned by the governor, and before entering upon the
64 duties of his office, shall take and subscribe to an oath or affirmation to support the Constitution
65 of the United States, and of the state of Missouri, and to demean himself faithfully in his **or**
66 **her** office. Such oath as subscribed to shall be filed in the office of the secretary of state of this
67 state.

68 9. Each trustee shall be entitled to one vote in the board of trustees. Four votes shall be
69 necessary for a decision by the trustees at any meeting of the board of trustees. Four trustees, of
70 whom at least two shall be member trustees and at least two shall be employer trustees, shall
71 constitute a quorum at any meeting of the board. Unless otherwise expressly provided herein,
72 a meeting need not be called or held to make any decision on a matter before the board. Each
73 member must be sent by the executive secretary, a copy of the matter to be decided with full
74 information from the files of the board. The concurring decisions of four trustees may decide
75 the issue by signing a document declaring their decision and sending the written instrument to
76 the executive secretary, provided that no other trustee shall send a dissenting decision to the
77 executive secretary within fifteen days after the document and information was mailed to him
78 **or her**. If any trustee is not in agreement with the four trustees, the matter is to be passed on at
79 a regular board meeting or a special meeting called for that purpose. The board shall hold
80 regular meetings at least once each quarter, the dates of these meetings to be designated in the
81 rules and regulations adopted by the board. Other meetings as deemed necessary may be called
82 by the chairman or by any four trustees acting jointly.

83 10. The board of trustees shall elect one of their number as chairman, and one of their
84 number as vice chairman, and shall employ an executive secretary, not one of their number, who

85 shall be the executive officer of the board. Other employees of the board shall be chosen only
86 upon the recommendation of the executive secretary.

87 11. The board shall appoint an actuary or a firm of actuaries as technical advisor to the
88 board on matters regarding the operation of the system on an actuarial basis. The actuary or
89 actuaries shall perform such duties as are required of him or [them] **her** under sections 70.600
90 to 70.755, and as are from time to time required by the board.

91 12. The board may appoint an attorney-at-law or firm of attorneys-at-law to be the legal
92 advisor of the board and to represent the board in all legal proceedings.

93 13. The board may appoint an investment counselor to be the investment advisor of the
94 board.

95 14. The board shall from time to time, after receiving the advice of its actuary, adopt
96 such mortality and other tables of experience, and a rate or rates of regular interest, as shall be
97 necessary for the actuarial requirements of the system, and shall require its executive secretary
98 to keep in convenient form such data as shall be necessary for actuarial investigations of the
99 experience of the system, and such data as shall be necessary for the annual actuarial valuations
100 of the system.

101 15. The board shall keep a record of its proceedings, which shall be open to public
102 inspection. It shall prepare annually and render to each employer a report showing the financial
103 condition of the system as of the preceding June thirtieth. The report shall contain, but shall not
104 be limited to, a financial balance sheet; a statement of income and disbursements; a detailed
105 statement of investments acquired and disposed of during the year, together with a detailed
106 statement of the annual rates of investment income from all assets and from each type of
107 investment; an actuarial balance sheet prepared by means of the last valuation of the system, and
108 such other data as the board shall deem necessary or desirable for a proper understanding of the
109 condition of the system.

110 16. The board of trustees shall, after reasonable notice to all interested parties, conduct
111 administrative hearings to hear and decide questions arising from the administration of sections
112 70.600 to 70.755; except, that such hearings may be conducted by a hearing officer who shall be
113 appointed by the board. The hearing officer shall preside at the hearing and hear all evidence and
114 rule on the admissibility of evidence. The hearing officer shall make recommended findings of
115 fact and may make recommended conclusions of law to the board. All final orders or
116 determinations or other final actions by the board shall be approved in writing by at least four
117 members of the board. Any board member approving in writing any final order, determination
118 or other final action, who did not attend the hearing, shall do so only after certifying that he or
119 she reviewed all exhibits and read the entire transcript of the hearing. Within thirty days after
120 a decision or order or final action of the board, any member, retirant, beneficiary or political

121 subdivision adversely affected by that determination or order or final action may take an appeal
122 under the provisions of chapter 536, RSMo. **Jurisdiction over any dispute regarding the**
123 **interpretation of sections 70.600 to 70.755 and the determinations required thereunder**
124 **shall lie in the circuit court of Cole County.**

125 17. The board shall arrange for adequate surety bonds covering the executive secretary
126 and any other custodian of the funds or investments of the board. When approved by the board,
127 said bonds shall be deposited in the office of the secretary of state.

128 18. The board shall arrange for annual audits of the records and accounts of the system
129 by a certified public accountant or by a firm of certified public accountants. The state auditor
130 shall examine such audits at least once every three years and report to the board and the
131 governor.

132 19. The headquarters of the retirement system shall be in Jefferson City.

133 20. The board of trustees shall serve as trustees without compensation for their services
134 as such; except that each trustee shall be paid for any necessary expenses incurred in attending
135 meetings of the board or in the performance of other duties authorized by the board.

136 21. Subject to the limitations of sections 70.600 to 70.755, the board shall formulate and
137 adopt rules and regulations for the government of its own proceedings and for the administration
138 of the retirement system.

70.635. 1. When a member is no longer employed by any employer in a position covered
2 by the system, he **or she** shall thereupon cease to be a member of the system. Except as
3 otherwise provided in sections 70.600 to 70.755, upon termination of his **or her** membership his
4 **or her** credited service shall be forfeited by him. If such person is not a retirant and becomes
5 reemployed by any employer in a position covered by the system, he **or she** shall again become
6 a member of the system. Should such reemployment or employment occur within a period of
7 [four] **ten** years from and after the date his **or her** membership last terminated, his **or her**
8 credited service last forfeited by him **or her** shall be restored to his **or her** credit under the
9 following conditions:

10 (1) Any membership service or prior service for which he **or she** was required to make
11 member contributions provided for in subsection 2 of section 70.705 shall be restored to his **or**
12 **her** credit if he **or she** returns to the members deposit fund the amount, if any, he **or she**
13 withdrew therefrom, together with regular interest from the date of withdrawal to the date of
14 repayment;

15 (2) Any membership service or prior service for which no member contributions were
16 required as provided for in subsection 6 of section 70.705, or for which accumulated
17 contributions were refunded as provided for in section 70.707, shall be restored to his **or her**
18 credit.

19 2. Upon a member's retirement he **or she** shall thereupon cease to be a member and,
20 except as otherwise provided in sections 70.600 to 70.760, he **or she** shall not again become a
21 member of the system.

22 3. Should a former member entitled to a deferred allowance provided for in section
23 70.675 become employed in a position covered by the system before becoming a retirant, he **or**
24 **she** shall thereupon cease to be entitled to a deferred allowance, and he **or she** shall become a
25 member, with his **or her** previous credited service reactivated and to be increased by such
26 employment.

27 4. Upon the retirement of a member whose credited service results from employment
28 with more than one employer, the amount of his **or her** allowance shall be based upon his **or her**
29 total credited service in force at the time of his **or her** retirement and his **or her** final average
30 salary during such total credited service. Each such employer shall be responsible financially,
31 within the provisions of sections 70.600 to 70.755, for the portion of such allowance based upon
32 the service credited such member for employment with such employer, and the benefit program
33 to be applied to each such portion of credited service shall be the benefit program such employer
34 had in effect at the time the member left the employment of such employer.

35 [5. If it is determined by the board at any time that continuous employment to time of
36 retirement will leave a member with less than the minimum number of years of credited service
37 specified in section 70.645, then upon such determination such member shall cease to be a
38 member.]

 70.661. 1. If a member with five or more years of credited service dies before retirement
2 while an employee, the benefits provided in subsections 2, 3, 4 and 5 of this section shall be paid,
3 as applicable.

4 2. (1) The surviving spouse to whom the member was married for not less than two
5 years immediately preceding the time of the member's death shall receive an allowance computed
6 in the same manner in all respects as if such member had:

7 (a) Retired on the first day of the month following the date of his or her death with an
8 allowance for life based upon the member's credited service and final average salary to time of
9 death and without reduction if the member's age was younger than the member's minimum
10 service retirement age;

11 (b) Elected option A provided for in section 70.660; and

12 (c) Nominated such spouse as joint beneficiary under such option.

13 (2) If the board finds that the member's death was the result of an accident that did not
14 arise out of and in the course of his or her actual performance of duty as an employee, the
15 requirement that the surviving spouse must have been married to the member for not less than
16 two years immediately preceding the time of the member's death shall not apply.

17 3. If the board finds that the member's death was the natural and proximate result of a
18 personal injury or disease arising out of and in the course of his or her actual performance of duty
19 as an employee, then:

20 (1) Other provisions of law to the contrary notwithstanding, for the purpose of
21 computing the amount of the allowance payable under this section and for the purpose of
22 determining eligibility under subsection 1 of this section, credited service shall include the period
23 from the date of the member's death to the date he or she would have attained age sixty, or the
24 date he or she would have acquired five years of credited service, if later; and

25 (2) In order to be eligible for spouse benefits, the surviving spouse and the deceased
26 member must have been married on the date of the personal injury resulting in the member's
27 death or on the date of onset of the disease resulting in the member's death. In any case of
28 question as to the date of onset of disease resulting in the member's death, the board shall decide
29 the question.

30 4. If a benefit is not payable under the provisions of subsection 2 or 3 of this section, or
31 when such benefit has ceased to be payable, each dependent child of the deceased member, if
32 any, shall receive an allowance of an equal share of sixty percent of an allowance computed in
33 the same manner in all respects as if such deceased member had retired on the first day of the
34 month following the date of his or her death with an allowance for life based upon the member's
35 credited service and final average salary to time of death and without reduction if the member's
36 age was younger than the member's minimum service retirement age. A child shall be a
37 dependent child until the child's death or marriage or attainment of age eighteen, whichever
38 occurs first; provided, the age eighteen maximum shall be extended as long as the child
39 continues uninterruptedly being a full-time student at an accredited secondary school or college
40 or university, but in no event beyond attainment of age twenty-three; **provided further, that if**
41 **a full-time student eligible for or receiving benefits under this section is ordered to military**
42 **duty, his or her benefit shall be suspended during such period of military duty, and shall**
43 **be reinstated upon his or her return to school not later than the beginning of the academic**
44 **term immediately following his or her return from military duty, in which case his or her**
45 **eligibility for dependent child benefits shall be extended by the number of months of**
46 **military duty, but in no event beyond attainment of age 25;** provided further, the age
47 eighteen maximum shall be extended for any child who has been found totally incapacitated by
48 a court of competent jurisdiction for as long as such incapacity exists. Upon a child ceasing to
49 be a dependent child, his or her allowance shall terminate, and there shall be a redetermination
50 of the amounts payable to any remaining dependent children.

51 5. In the event all of the allowances provided for in this section, payable on account of
52 the death of a member, terminate before there has been paid an aggregate amount equal to the

53 accumulated contributions standing to the deceased member's credit in the member's deposit fund
54 at the time of death, the difference between such accumulated contributions and such aggregate
55 amount of allowance payments shall be paid to such person as the member shall have nominated
56 by written designation duly executed and filed with the board. If there be no such designated
57 person surviving at termination, such difference shall be paid to the member's estate or to the
58 estate of the last beneficiary to whom benefits were paid.

[70.795.] **105.679.** Notwithstanding the provisions of sections 610.010 to 610.035,
2 RSMo, to the contrary, any retirement plan as defined in section 105.660, RSMo, located in a
3 city not within a county, providing retirement benefits for general employees shall provide, upon
4 request by any retiree organization, sufficient information enabling such organization to contact
5 retired members.

[70.685. 1. If a disability allowance is payable under the provisions of
2 section 70.680, and if the retirant is also receiving workers' compensation benefits
3 under any workers' compensation or similar law on account of the same disability,
4 or if the retirant is receiving remuneration for his or her personal services rendered
5 in any gainful occupation or employment, then in no event shall the amount of the
6 system allowance payable until the member would have attained his minimum
7 service retirement age exceed the difference between the member's final monthly
8 salary and the total of the following amounts:

9 (1) The monthly workers' compensation benefit, if any; and
10 (2) The monthly benefit, if any, payable from the federal Social Security Old
11 Age, Survivors, and Disability Insurance Program on account of the same disability;
12 and

13 (3) The portion of any monthly remuneration received by the retirant for
14 personal services rendered in any gainful occupation or employment which is more
15 than the amount of such monthly remuneration being received at the time of the
16 member's separation from service.

17 2. For purposes of this section, the member's "final monthly salary" shall
18 mean the monthly average of compensation paid to the member during the most
19 recent calendar year preceding the member's separation from service.

20 3. For purposes of this section, the "monthly remuneration being received at
21 the time of the member's separation from service" shall mean one-twelfth of the
22 member's remuneration for personal services rendered in any gainful occupation or
23 employment not covered by the system during the most recent calendar year
24 preceding the member's separation from service.]