

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 1502

## 92ND GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES WILSON (42) (Sponsor), YOUNG, BURNETT, CURLS,  
CAMPBELL, LOWE, HAYWOOD, BLAND, SAGER AND WALKER (Co-sponsors).

Read 1st time February 17, 2004, and copies ordered printed.

Read 2nd time February 18, 2004 and referred to the Committee on Retirement February 26, 2004.

Reported from the Committee on Retirement March 15, 2004, with recommendation that the bill Do Pass by Consent.

Perfected by Consent March 30, 2004.

STEPHEN S. DAVIS, Chief Clerk

4604L.01P

---

### AN ACT

To repeal sections 169.270, 169.291, 169.295, 169.311, 169.313, 169.322, 169.324, and 169.328, RSMo, and to enact in lieu thereof seven new sections relating to school employee retirement.

---

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

Section A. Sections 169.270, 169.291, 169.295, 169.311, 169.313, 169.322, 169.324,  
2 and 169.328, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known  
3 as sections 169.270, 169.291, 169.295, 169.311, 169.322, 169.324, and 169.328, RSMo, to read  
4 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;

**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.**

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

33 (8) "Charter school", any charter school established pursuant to sections 160.400 to  
34 160.420, RSMo, and located, at the time it is established, within the school district;

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

43 (10) "Creditable service", the amount of time that a regular employee is a member of the  
44 retirement system and makes contributions thereto in accordance with the provisions of sections  
45 169.270 to 169.400;

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

58 (12) "Employer", the school district, any charter school, the library district, or the  
59 retirement system established by section 169.280, or any combination thereof, as required by the  
60 context to identify the employer of any member, or, for purposes only of subsection 2 of section  
61 169.324, of any retiree;

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

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

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

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

72 (17) "Minimum normal retirement age", the earlier of the **date the member [attaining]**  
73 **attains** the age of sixty or **the date the member** has a total of at least seventy-five credits, with  
74 each year of creditable service[, and prorated for fractional years, equal to one credit] and each  
75 year of age[, and] **equal to one credit, with both years of creditable service and years of age**  
76 prorated for fractional years[, equal to one credit];

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

80 (19) "Regular employee", any employee who is assigned to an established position which  
81 requires service of not less than [five] **twenty-five** hours [per day, five days] per week, and not

82 less than nine calendar months a year. Any regular employee who is subsequently assigned  
83 without break in service to a position demanding less service than is required of a regular  
84 employee shall continue the employee's status as a regular employee. [However,] **Except as**  
85 **stated in the preceding sentence**, a temporary, part-time, or furloughed employee is not a  
86 regular employee;

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

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

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

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 trustees

27 to administer the retirement system pending the filling of such vacancy or vacancies.

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

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

46           5. Each trustee shall be entitled to one vote in the board of trustees. Seven trustees shall  
47 constitute a quorum at any meeting of the board of trustees. At any meeting of the board of  
48 trustees where a quorum is present, the vote of at least seven of the trustees in support of a  
49 motion, resolution or other matter is necessary to be the decision of the board; provided,  
50 however, that in the event of a lapse in the school district's corporate organization as described  
51 in subsections 1 and 4 of section 162.081, RSMo, a majority of the trustees then in office shall  
52 constitute a quorum at any meeting of the board of trustees, and the vote of a majority of the  
53 trustees then in office in support of a motion, resolution or other matter shall be necessary to be  
54 the decision of the board.

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

62           7. The trustees shall serve without compensation. The board of trustees shall elect from

63 its membership a chairman and a vice chairman. The board of trustees shall appoint an executive  
64 director who shall serve as the administrative officer of the retirement system and as secretary  
65 to the board of trustees. It shall employ one or more persons, firms or corporations experienced  
66 in the investment of moneys to serve as investment counsel to the board of trustees. The  
67 compensation of all persons engaged by the board of trustees and all other expenses of the board  
68 necessary for the operation of the retirement system shall be paid at such rates and in such  
69 amounts as the board of trustees shall approve, and shall be paid from the investment income.

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

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

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

83 11. The board of trustees shall arrange for necessary legal advice for the operation of the  
84 retirement system.

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

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

96 14. At least once in each five-year period the actuary shall make an investigation into the  
97 actuarial experience of the members, retirants and beneficiaries of the retirement system and,  
98 taking into account the results of such investigation, the board of trustees shall adopt for the

99 retirement system such actuarial assumptions as the board of trustees deems necessary for the  
100 financial soundness of the retirement system.

101           15. On the basis of such actuarial assumptions as the board of trustees adopts, the actuary  
102 shall make annual valuations of the assets and liabilities of the funds of the retirement system.

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

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

          169.295. 1. The board of trustees shall be the trustees of all the funds of the system and  
2 shall have full power to invest and reinvest such funds. The trustees shall have full power to  
3 hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which  
4 the funds shall have been invested, and the proceeds thereof.

5           2. The board of trustees shall allow interest annually on the balance in each member's  
6 account at the beginning of the year at the rate approved by the board. The board shall adjust the  
7 balance of the general reserve fund for investment realized and unrealized gains, losses, income  
8 and expenses, not so allowed as interest on members' accounts.

9           3. The board of trustees shall elect a treasurer who shall serve at the board's pleasure.  
10 The treasurer shall be the custodian of the funds provided for in section 169.350 and shall give  
11 such bond for the faithful handling of the funds as the board of trustees shall determine. The  
12 board of trustees may employ [a bank] **one or more banks** having fiduciary powers for the  
13 provisions of such custodial or clerical service as the board may deem appropriate to assist the  
14 treasurer. Disbursement of funds of the retirement system shall be under the supervision of the  
15 treasurer and shall be in accordance with procedures established or approved by the board of  
16 trustees with the concurrence of the system's auditors.

17           4. For the purpose of meeting disbursements for retirement allowances and other  
18 payments, there may be kept available cash, not exceeding ten percent of the total amount in the  
19 funds of the retirement system, on deposit in one or more banks or trust companies in the school  
20 district, organized under the laws of the state of Missouri, or of the United States; provided, that  
21 the amount on deposit in any one bank or trust company shall not exceed twenty-five percent of  
22 the paid-up capital and surplus of such bank or trust company, and for all deposits in excess of  
23 ten thousand dollars the board of trustees shall require of the banks or trust companies as security  
24 for the safekeeping and payment of the deposits securities of a like kind and character as may be

25 required by law for the safekeeping and payment of deposits made by the state treasurer.

26           5. Except as herein provided, no trustee and no employee of the board of trustees shall  
27 have any direct interest in the gains or profits of any investment made by the board of trustees.  
28 No trustee or employee of the board of trustees shall directly or indirectly for such person or as  
29 an agent in any manner use the assets of the retirement system except to make such current and  
30 necessary payments as are authorized by the board of trustees, nor shall any trustee or employee  
31 of the board of trustees become in any manner an obligor for moneys loaned by or borrowed  
32 from the board of trustees.

33           6. In the event that any employer offers to its employees an early retirement option, or  
34 any other form of group exit incentive program, the board of trustees is hereby authorized to  
35 permit such employer or any active member who participates in such group exit incentive  
36 program to purchase additional creditable service, in increments of not less than one month, and  
37 shall fix and determine by proper rules and regulations, which may be amended from time to  
38 time, the amount of service that may be purchased and the cost thereof. Under no circumstance,  
39 however, shall:

40           (1) The amount of such purchased creditable service exceed twenty-four months;

41           (2) The cost of purchasing such creditable service be less than the amount necessary to  
42 pay the full actuarial cost to the retirement system of the additional purchased service;

43           (3) The purchasing employer or active member be permitted to elect to purchase such  
44 creditable service after the expiration of a reasonable time period, which time period shall be  
45 specified in the above-referenced rules and regulations;

46           (4) Such purchased creditable service count toward the vesting requirements of section  
47 169.301; or

48           (5) This subsection be applied in any manner that would not be in compliance with  
49 applicable provisions of the Internal Revenue Code.

          169.311. [1.] The board of trustees shall fix and determine by proper rules and  
2 regulations how much service in any year is equivalent to one year of creditable service, but in  
3 no case shall more than one year of service be creditable for all service in one calendar year, nor  
4 shall the board of trustees allow credit as service for any period of more than one pay period's  
5 duration, as shown on the salary and wage schedules of the employer, during all of which the  
6 member was absent without pay unless such member pays the employee contributions, including  
7 contributions by the employer in lieu of employee contributions, for such period as permitted by  
8 the board of trustees in accordance with the provisions of section 169.315.

9           [2. Under the rules and regulations that the board of trustees adopts, each member who  
10 was an employee on and prior to the date the retirement system becomes operative and who  
11 becomes a member within one year of such date shall file a detailed statement of all service as



12 an employee for which such person claims credit rendered by such person prior to that date.

13 3. Subject to the above restrictions and to the other rules and regulations that the board  
14 of trustees adopts, the board of trustees shall verify the service claims as soon as practicable,  
15 after the filing of the statements of service.

16 4. Upon verification of the statements of service, the board of trustees shall issue prior  
17 service certificates, certifying to each member the length of prior service with which the member  
18 is credited on the basis of the member's statement of service. So long as the holder of a  
19 certificate continues to be a member, a prior service certificate shall be final and conclusive for  
20 retirement purposes as to such service; provided, however, that any member may, within one  
21 year from the date of issuance or modification of the certificate, request the board of trustees to  
22 modify or correct the person's prior service certificate. When any employee ceases to be a  
23 member, the person's prior service certificate becomes void, and if the person again becomes a  
24 member the person shall enter the retirement system as a member not entitled to prior service  
25 credit, except as provided in section 169.313.]

169.322. 1. Upon the written application of an active member or of the person's  
2 employer's board, any active member who has five or more years of creditable service shall be  
3 retired by the board of trustees on a disability retirement allowance, if the medical board after  
4 a medical examination of such member, **or based on such other medical information as the**  
5 **medical board may require**, shall certify that such member is mentally or physically unable to  
6 perform such member's employment duties and that such incapacity is likely to be permanent.  
7 Application for a disability retirement allowance may be made after the member ceases to be an  
8 active member; provided that, the disability commenced while the member was an active  
9 member, and further provided that application is made no later than six months after the disabled  
10 member ceases to be an employee of his or her employer. The first monthly payment of such  
11 disability retirement allowance shall not be made to such member so long as the member  
12 receives compensation from the member's employer.

13 2. Upon retirement for disability, a member shall receive a disability retirement  
14 allowance which shall be determined in the same manner as the service retirement allowance as  
15 set forth in section 169.324, but not less than the minimum disability retirement allowance  
16 provided in this section. The minimum disability retirement allowance shall be the lesser of:

17 (1) Twenty-five percent of the person's average final compensation; or

18 (2) The member's service retirement allowance calculated based on the member's final  
19 average compensation and the maximum number of years of creditable service the member  
20 would have earned had the member remained an employee until attaining the age of sixty.

21 3. Once each year during the first five years following a member's retirement on a  
22 disability retirement allowance and once in every three-year period thereafter, the board of

23 trustees may require any disability retirant who has not yet attained minimum normal retirement  
24 age to undergo a medical examination at a place designated by the medical board, such  
25 examination to be made by the medical board or by a physician or physicians designated by such  
26 board. Should any such disability retirant refuse to submit to such medical examination, the  
27 person's disability allowance may be discontinued until the person's withdrawal of such refusal,  
28 and should the person's refusal continue for one year all rights in and to the person's disability  
29 allowance shall be revoked by the board of trustees.

30 4. Should the board of trustees determine that any disability retirant who has not yet  
31 attained minimum normal retirement age is engaged in or is able to engage in a gainful  
32 occupation paying more than the difference between the person's monthly disability retirement  
33 allowance plus any Social Security benefits to which the person is eligible and the current rate  
34 of monthly compensation for the position the person held at retirement, then the amount of the  
35 person's disability retirement allowance shall be reduced to an amount which together with  
36 Social Security benefits and the amount earnable by the person shall equal such current rate of  
37 monthly compensation. Should the person's earning capacity be later changed, the amount of the  
38 person's disability retirement allowance may be further modified. The board of trustees may  
39 engage those persons, firms or corporations which it deems necessary to assist the board of  
40 trustees in making any determination under this subsection.

41 5. Should any member retired for disability be restored to active service as a regular  
42 employee, the member's disability retirement allowance shall cease and the member shall again  
43 become a member of the retirement system, and contribute thereunder. Anything in sections  
44 169.270 to 169.400 to the contrary notwithstanding, a disability retirant who has not attained the  
45 minimum normal retirement age at the date of again becoming a member shall have the person's  
46 creditable service at the time of the person's disability retirement restored, and the excess of the  
47 person's accumulated contributions at time of retirement over the total payments which the  
48 person received during retirement shall be credited to the person's account. Upon subsequent  
49 retirement, the person shall be entitled to a service retirement allowance to the extent the person  
50 meets the requisite qualifications, and the person's prior disability retirement allowance shall not  
51 be resumed. If a disability retirant has attained the minimum normal retirement age at the date  
52 of again becoming a member, the disability retirement allowance the person was receiving  
53 immediately prior to restoration of membership shall be resumed on subsequent retirement,  
54 together with such retirement allowances as shall accrue by reason of the person's latest period  
55 of membership. For the sole purpose of determining the person's eligibility for such additional  
56 retirement allowance, but not for determining the amount, all of the person's years of creditable  
57 service, whether before or after the person's period of disability, for which the person has made  
58 contributions which have not been withdrawn, shall be considered.

169.324. 1. The annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life shall be the retirant's number of years of creditable service multiplied by one and three-fourths percent of the person's average final compensation, subject to a maximum of sixty percent of the person's average final compensation. For any member who retires as an active member on or after June 30, 1999, the annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life shall be the retirant's number of years of creditable service multiplied by two percent of the person's average final compensation, subject to a maximum of sixty percent of the person's average final compensation. Any member whose number of years of creditable service is greater than thirty-four and one-quarter on August 28, 1993, shall receive an annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life equal to the retirant's number of years of creditable service as of August 28, 1993, multiplied by one and three-fourths percent of the person's average final compensation but shall not receive a greater annual service retirement allowance based on additional years of creditable service after August 28, 1993. Provided, however, that, effective January 1, 1996, any retiree who retired on, before or after January 1, 1996, with at least twenty years of creditable service shall receive at least three hundred dollars each month as a retirement allowance, or the actuarial equivalent thereof if the retiree elected any of the options available under section 169.326. Provided, further, any retiree who retired with at least ten years of creditable service shall receive at least one hundred fifty dollars each month as a retirement allowance, plus fifteen dollars for each additional full year of creditable service greater than ten years but less than twenty years (or the actuarial equivalent thereof if the retiree elected any of the options available under section 169.326). Any beneficiary of a deceased retiree who retired with at least ten years of creditable service and elected one of the options available under section 169.326 shall also be entitled to the actuarial equivalent of the minimum benefit provided by this subsection, determined from the option chosen.

2. Except as otherwise provided in sections **169.331**, 169.580 and 169.585, payment of a retirant's retirement allowance will be suspended for any month for which such person receives remuneration from the person's employer or from any other employer in the retirement system established by section 169.280 for the performance of services except **any** such person **other than a person receiving a disability retirement allowance under section 169.322** may serve as a nonregular substitute, part-time or temporary employee for not more than six hundred hours in any school year without becoming a member and without having the person's retirement allowance discontinued. If a retirant is reemployed by any employer in any capacity, whether pursuant to this section, [section] **or section 169.331**, 169.580, or [section] 169.585, or as a regular employee, the amount of such person's retirement allowance attributable to service prior to the person's first retirement date shall not be changed by the reemployment. If the person

37 again becomes an active member and earns additional creditable service, upon the person's  
38 second retirement the person's retirement allowance shall be the sum of:

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

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

47

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

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

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

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

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

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

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

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

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

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

94 6. Notwithstanding anything contained in this section to the contrary, the amount of the  
95 annual service retirement allowance payable to any retiree pursuant to the provisions of sections  
96 169.270 to 169.400, including any adjustments made pursuant to subsection 3 of this section,  
97 shall at all times comply with the provisions and limitations of Section 415 of the Internal  
98 Revenue Code of 1986, as amended, and the regulations thereunder, the terms of which are  
99 specifically incorporated herein by reference.

100 7. All retirement systems established by the laws of the state of Missouri shall develop  
101 a procurement action plan for utilization of minority and women money managers, brokers and  
102 investment counselors. Such retirement systems shall report their progress annually to the joint  
103 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**  
7 **before the member incurs a break in service.** If the member dies before retirement such  
8 accumulated contributions (with interest) shall be paid to the member's estate or designated  
9 beneficiary unless 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

2 [169.313. The board of trustees may grant prior service credit to an active  
3 member who was employed by the school district prior to January 1, 1944, if the  
4 member has ceased to be an employee and returns as an employee of the school  
5 district after January 1, 1944, and has received credit for at least one year of  
6 membership service for each year of prior service claimed. Three-fourths credit may  
7 be granted for a year of prior service for completion of each year of required  
8 membership service, provided the member has a minimum of five continuous years  
9 of membership service after the member's reemployment. The maximum number of  
10 years for prior service shall be limited to sixteen years and the maximum amount of  
11 prior service credit shall be limited to twelve years; provided, further, that all  
membership credit must be reinstated before prior service credit, if any, is allowed.]