

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NOS. 2281, 2489 & 2537**  
**94TH GENERAL ASSEMBLY**

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Reported from the Committee on Elementary and Secondary Education April 24, 2008 with recommendation that House Committee Substitute for House Bill Nos. 2281, 2489 & 2537 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

4957L.03C

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**AN ACT**

To repeal sections 165.111, 169.010, and 169.020, RSMo, and to enact in lieu thereof four new sections relating to education personnel, with a penalty provision and an emergency clause for a certain section.

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

Section A. Sections 165.111, 169.010, and 169.020, RSMo, are repealed and four new  
2 sections enacted in lieu thereof, to be known as sections 165.111, 168.218, 169.010, and  
3 169.020, to read as follows:

165.111. 1. The school board of each district, for any year for which it does not cause  
2 an audit to be performed by October thirty-first after the close of the school year, shall make and  
3 publish, not later than September first, in some newspaper as described in section 493.050,  
4 RSMo, published in the school district, and if there is none then in some newspaper of general  
5 circulation within the district, a statement of all receipts of school moneys, when and from what  
6 source derived, and all expenditures, and on what account; also, the present indebtedness of the  
7 district and its nature, and the rate of taxation for all purposes for the year, **including the**  
8 **property tax rate**. The statement shall be duly attested by the president and secretary of the  
9 board, and the secretary shall forward a copy to the state board of education on forms prescribed  
10 by the board.

11 2. **The school board of each district for any given year shall provide a full detailed**  
12 **financial statement that will include the names and total compensation packages of the**

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

13 district's superintendent, and all assistant superintendents when the value of the total  
14 compensation package exceeds one hundred thousand dollars per school year. If  
15 consultants are hired for administrative duties, the district shall publish the total  
16 compensation package of each consultant, and the disclosure shall be made separate for  
17 each individual administrator. The statement shall be forwarded to the department of  
18 elementary and secondary education, and all the information included in the statement  
19 required under this subsection shall be published on the department's Internet web site.

20       3. For purposes of subsection 2 of this section, "total compensation package"  
21 includes, but is not limited to, base salary, retirement benefits, annuities, dues and club  
22 memberships, individual or season tickets to any sporting events, amusement parks, or  
23 community entertainment events, concerts, housing and auto allowances, mileage  
24 reimbursements, entertainment allowances, cell phone or personal digital assistant and  
25 service contract, deferred compensation, buy-out clause, pay-for-performance goals,  
26 donations from school foundations, and any other valuable consideration provided as cash,  
27 credit, or services as a result of employment, expressed in dollars.

28       4. The department of elementary and secondary education shall create a central  
29 repository of information applicable to all districts. The objective of the repository is to  
30 provide public access to a complete, transparent, and comprehensive database of school  
31 district financial and policy information, as a means of creating better public  
32 understanding of school district operations. School districts shall annually provide the  
33 department, as a central repository, with detailed compensation information as required  
34 by this section.

35       5. The department shall establish clear standards for district information format  
36 and detail, to ensure that all school district submissions under this section contain all  
37 necessary information and present the information according to consistent reporting  
38 standards. The department shall, to the maximum extent possible, maintain such  
39 information online and updated and shall minimize duplication of existing reporting  
40 requirements for school districts, such as the annual secretary of the board report under  
41 section 162.821, RSMo, and annual school accountability report cards under section  
42 160.522, RSMo. The department may contract with one or more entities to create and  
43 maintain the information repository.

44       6. The state board of education shall not release the state aid apportioned to the district  
45 for the next ensuing school year until a copy of the required statement has been received at its  
46 office in Jefferson City and has been approved by it. Any school board which fails, refuses or  
47 neglects to order the statement to be made, and any officer of the board who fails, refuses, or  
48 neglects to prepare, publish and forward the statement, as required by this section, when ordered

49 by the board, is guilty of a misdemeanor and punishable by a fine not to exceed one hundred  
50 dollars. Annual or biennial audit summaries shall be published according to section 165.121.

51 **168.218. 1. Two or more adjacent school districts may share a superintendent who**  
52 **possesses a valid Missouri superintendent's license when at least one of the sharing districts**  
53 **is classified as accredited or provisionally accredited by the state board of education.**

54 **2. The department of elementary and secondary education may issue rules or**  
55 **regulations to carry out the provisions of this section. Any rule or portion of a rule, as that**  
56 **term is defined in section 536.010, RSMo, that is created under the authority delegated in**  
57 **this section shall become effective only if it complies with and is subject to all of the**  
58 **provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section**  
59 **and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general**  
60 **assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to**  
61 **disapprove and annul a rule are subsequently held unconstitutional, then the grant of**  
62 **rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be**  
63 **invalid and void.**

169.010. The following words and phrases, as used in sections 169.010 to 169.130,  
2 unless a different meaning is plainly required by the context, shall have the following meanings:

3 (1) "Accumulated contributions" shall mean the sum of the annual contributions a  
4 member has made to the retirement system through deductions from the member's salary, plus  
5 interest compounded annually on each year's contributions from the end of the school year during  
6 which such contributions were made;

7 (2) "Board" shall mean the board of trustees provided for in sections 169.010 to 169.130;

8 (3) "Creditable service" shall mean prior service or membership service, or the sum of  
9 the two, if the member has both to the member's credit;

10 (4) "District" shall mean public school, as herein defined;

11 (5) "Employ" shall have a meaning agreeable with that herein given to employer and  
12 employee;

13 (6) "Employee" shall be synonymous with the term "teacher" as the same is herein  
14 defined;

15 (7) "Employer" shall mean the district that makes payment directly to the teacher or  
16 employee for such person's services;

17 (8) "Final average salary" shall mean the total compensation payable to a member for  
18 any three consecutive years of creditable service, as elected by the member, divided by thirty-six;  
19 with the proviso that any annual compensation entering into the total compensation shall not  
20 exceed twelve thousand six hundred dollars for any year prior to July 1, 1967; and with the  
21 proviso that the board may set a maximum percentage of increase in annual compensation from

22 one year to the next in the final average salary period. In no instance shall the maximum  
23 percentage of increase in annual compensation from one year to the next in the final average  
24 salary period exceed ten percent **for the superintendent of schools or other certified central**  
25 **office personnel of a school district or twenty percent for any other member.** This limit will  
26 not apply to increases due to bonafide changes in position or employer increases required by state  
27 statute, or districtwide salary schedule adjustments for previously unrecognized education-related  
28 services;

29 (9) "Member" shall mean a person who holds membership in the retirement system;

30 (10) "Membership service" shall mean service rendered by a member of the retirement  
31 system after the system becomes operative, and may include a period of service in the armed  
32 forces of the United States as provided for in section 169.055;

33 (11) "Prior service" shall mean service rendered by a member of the retirement system  
34 before the system becomes operative, and may include service rendered by a member of the  
35 armed forces if the member was a teacher at the time the member was inducted, for which credit  
36 has been approved by the board of trustees;

37 (12) "Public school" shall mean any school conducted within the state under the  
38 authority and supervision of a duly elected district or city or town board of directors or board of  
39 education and the board of regents of the several state teachers' colleges, or state colleges, board  
40 of trustees of the public school retirement system of Missouri, and also the state of Missouri and  
41 each county thereof, to the extent that the state and the several counties are employers of teachers  
42 as herein designated;

43 (13) "Retirement allowance" shall mean a monthly payment for life during retirement;

44 (14) "Retirement system" or "system" shall mean the public school retirement system  
45 of Missouri created by sections 169.010 to 169.130;

46 (15) "Salary", "salary rate" or "compensation" shall mean the regular remuneration,  
47 including any payments made pursuant to sections 168.500 to 168.515, RSMo, which is earned  
48 by a member as an employee of a district, but not including employer-paid fringe benefits except  
49 the value of employer-paid medical benefits (including dental and vision) for members, and not  
50 including employer-paid medical benefits (including dental and vision) for anyone other than the  
51 member, employer contributions to any deferred compensation plan, consideration for agreeing  
52 to terminate employment or other nonrecurring or unusual payments that are not a part of regular  
53 remuneration. The board by its rules may further define salary, salary rate and compensation in  
54 a manner consistent with this definition and with sections 169.010 to 169.141;

55 (16) "School year" shall mean the year from July first of one year to June thirtieth of next  
56 year, inclusive, which shall also be the fiscal year of the system;

57 (17) "Teacher" shall mean any person who shall be employed by any public school on  
58 a full-time basis and who shall be duly certificated under the law governing the certification of  
59 teachers; any person employed in the state department of elementary and secondary education  
60 or by the state board of education on a full-time basis who shall be duly certificated under the  
61 law governing the certification of teachers and who did not become a member of the Missouri  
62 state employees' retirement system pursuant to section 104.342, RSMo; and persons employed  
63 by the board of trustees of the public school retirement system of Missouri on a full-time basis  
64 who shall be duly certified under the law governing the certification of teachers. The term  
65 "teacher" shall be synonymous with the term "employee" as defined in this section.

169.020. 1. For the purpose of providing retirement allowances and other benefits for  
2 public school teachers, there is hereby created and established a retirement system which shall  
3 be a body corporate, shall be under the management of a board of trustees herein described, and  
4 shall be known as "The Public School Retirement System of Missouri". Such system shall, by  
5 and in such name, sue and be sued, transact all of its business, invest all of its funds, and hold  
6 all of its cash, securities, and other property. The system so created shall include all school  
7 districts in this state, except those in cities that had populations of four hundred thousand or more  
8 according to the latest United States decennial census, and such others as are or hereafter may  
9 be included in a similar system or in similar systems established by law and made operative;  
10 provided, that teachers in school districts of more than four hundred thousand inhabitants who  
11 are or may become members of a local retirement system may become members of this system  
12 with the same legal benefits as accrue to present members of such state system on the terms and  
13 under the conditions provided for in section 169.021. The system hereby established shall begin  
14 operations on the first day of July next following the date upon which sections 169.010 to  
15 169.130 shall take effect.

16 2. The general administration and the responsibility for the proper operation of the  
17 retirement system and for making effective the provisions of sections 169.010 to 169.141 are  
18 hereby vested in a board of trustees of seven persons as follows: four persons to be elected as  
19 trustees by the members and retired members of the public school retirement system created by  
20 sections 169.010 to 169.141 and the public education employee retirement system created by  
21 sections 169.600 to 169.715; and three members appointed by the governor with the advice and  
22 consent of the senate. The first member appointed by the governor shall replace the  
23 commissioner of education for a term beginning August 28, 1998. The other two members shall  
24 be appointed by the governor at the time each member's, who was appointed by the state board  
25 of education, term expires.

26 3. Trustees appointed and elected shall be chosen for terms of four years from the first  
27 day of July next following their appointment or election, except that one of the elected trustees

28 shall be a member of the public education employee retirement system and shall be initially  
29 elected for a term of three years from July 1, 1991. The initial term of one other elected trustee  
30 shall commence on July 1, 1992.

31 4. Trustees appointed by the governor shall be residents of school districts included in  
32 the retirement system, but not employees of such districts or a state employee or a state elected  
33 official. At least one trustee so appointed shall be a retired member of the public school  
34 retirement system or the public education employee retirement system. Three elected trustees  
35 shall be members of the public school retirement system and one elected trustee shall be a  
36 member of the public education employee retirement system.

37 5. The elections of the trustees shall be arranged for, managed and conducted by the  
38 board of trustees of the retirement system.

39 6. If a vacancy occurs in the office of trustee, the vacancy shall be filled for the  
40 unexpired term in the same manner as the office was previously filled.

41 7. Trustees of the retirement system shall serve without compensation but they shall be  
42 reimbursed for expenses necessarily incurred through service on the board of trustees.

43 8. Each trustee shall be commissioned by the governor, and before entering upon the  
44 duties of the trustee's office, shall take and subscribe to an oath or affirmation to support the  
45 Constitution of the United States, and of the state of Missouri and to demean himself or herself  
46 faithfully in the trustee's office. Such oath as subscribed to shall be filed in the office of secretary  
47 of state of this state.

48 9. Each trustee shall be entitled to one vote in the board of trustees. Four votes shall be  
49 necessary for a decision by the trustees at any meeting of the board of trustees. Unless otherwise  
50 expressly provided herein, a meeting need not be called or held to make any decision on a matter  
51 before the board. Each member must be sent by the executive director a copy of the matter to  
52 be decided with full information from the files of the board of trustees. The unanimous decision  
53 of four trustees may decide the issue by signing a document declaring their decision and sending  
54 such written instrument to the executive director of the board, provided that no other member  
55 of the board of trustees shall send a dissenting decision to the executive director of the board  
56 within fifteen days after such document and information was mailed to the trustee. If any  
57 member is not in agreement with four members the matter is to be passed on at a regular board  
58 meeting or a special meeting called for the purpose.

59 10. The board of trustees shall elect one of their number as chairman, and shall employ  
60 a full-time executive director, not one of their number, who shall be the executive officer of the  
61 board. Other employees of the board shall be chosen only upon the recommendation of the  
62 executive director.

63           11. The board of trustees shall employ an actuary who shall be its technical advisor on  
64 matters regarding the operation of the retirement system, and shall perform such duties as are  
65 essential in connection therewith, including the recommendation for adoption by the board of  
66 mortality and other necessary tables, and the recommendation of the level rate of contributions  
67 required for operation of the system.

68           12. As soon as practicable after the establishment of the retirement system, and annually  
69 thereafter, the actuary shall make a valuation of the system's assets and liabilities on the basis of  
70 such tables as have been adopted.

71           13. At least once in the three-year period following the establishment of the retirement  
72 system, and in each five-year period thereafter, the board of trustees shall cause to be made an  
73 actuarial investigation into the mortality, service, and compensation experience of the members  
74 and beneficiaries of the system, and shall make any changes in the mortality, service, and other  
75 tables then in use which the results of the investigation show to be necessary.

76           14. Subject to the limitations of sections 169.010 to 169.141 and 169.600 to 169.715,  
77 the board of trustees shall formulate and adopt rules and regulations for the government of its  
78 own proceedings and for the administration of the retirement system.

79           15. The board of trustees shall determine and decide all questions of doubt as to what  
80 constitutes employment within the meaning of sections 169.010 to 169.141 and 169.600 to  
81 169.715, the amount of benefits to be paid to members, retired members, beneficiaries and  
82 survivors and the amount of contributions to be paid by employer and employee. The executive  
83 director shall notify by certified mail both employer and member, retired member, beneficiary  
84 or survivor interested in such determination. Any member, retired member, beneficiary or  
85 survivor, district or employer adversely affected by such determination, at any time within thirty  
86 days after being notified of such determination, may appeal to the circuit court of Cole County.  
87 Such appeal shall be tried and determined anew in the circuit court and such court shall hear and  
88 consider any and all competent testimony relative to the issues in the case, which may be offered  
89 by either party thereto. The circuit court shall determine the rights of the parties under sections  
90 169.010 to 169.141 and 169.600 to 169.715 using the same standard provided in section  
91 536.150, RSMo, and the judgment or order of such circuit court shall be binding upon the parties  
92 and the board shall carry out such judgment or order unless an appeal is taken from such decision  
93 of the circuit court. Appeals may be had from the circuit court by the employer, member, retired  
94 member, beneficiary, survivor or the board, in the manner provided by the civil code.

95           16. The board of trustees shall keep a record of all its proceedings, which shall be open  
96 to public inspection. It shall prepare annually a comprehensive annual financial report, the  
97 financial section of which shall be prepared in accordance with applicable accounting standards  
98 and shall include the independent auditor's opinion letter. The report shall also include

99 information on the actuarial status and the investments of the system. The reports shall be  
100 preserved by the executive director and made available for public inspection.

101 17. The board of trustees shall provide for the maintenance of an individual account with  
102 each member, setting forth such data as may be necessary for a ready determination of the  
103 member's earnings, contributions, and interest accumulations. It shall also collect and keep in  
104 convenient form such data as shall be necessary for the preparation of the required mortality and  
105 service tables and for the compilation of such other information as shall be required for the  
106 valuation of the system's assets and liabilities. All individually identifiable information  
107 pertaining to members, retirees, beneficiaries and survivors shall be confidential **unless the**  
108 **individual is post-retirement, employed as a part-time employee, consultant, or**  
109 **independent contractor directly or indirectly with a public school or public college.**

110 18. The board of trustees shall meet regularly at least twice each year, with the dates of  
111 such meetings to be designated in the rules and regulations adopted by the board. Such other  
112 meetings as are deemed necessary may be called by the chairman of the board or by any four  
113 members acting jointly.

114 19. The headquarters of the retirement system shall be in Jefferson City, where suitable  
115 office space, utilities and other services and equipment necessary for the operation of the system  
116 shall be provided by the board of trustees and all costs shall be paid from funds of the system.  
117 All suits in which the board of trustees, the board's members or employees or the retirement  
118 system established by sections 169.010 to 169.141 or 169.600 to 169.715 are parties shall be  
119 brought in Cole County.

120 20. The board may appoint an attorney or firm of attorneys to be the legal advisor to the  
121 board and to represent the board in legal proceedings, however, if the board does not make such  
122 an appointment, the attorney general shall be the legal advisor of the board of trustees, and shall  
123 represent the board in all legal proceedings.

124 21. The board of trustees shall arrange for adequate surety bonds covering the executive  
125 director. When approved by the board, such bonds shall be deposited in the office of the  
126 secretary of state of this state.

127 22. The board shall arrange for annual audits of the records and accounts of the system  
128 by a firm of certified public accountants, the state auditor shall review the audit of the records  
129 and accounts of the system at least once every three years and shall report the results to the board  
130 of trustees and the governor.

131 23. The board by its rules may establish an interest charge to be paid by the employer  
132 on any payments of contributions which are delinquent. The rate charged shall not exceed the  
133 actuarially assumed rate of return on invested funds of the pertinent system.



Section B. Because of the immediate need to clarify the calculation of retirement benefits  
2 for members retiring under the Missouri public school retirement system, the repeal and  
3 reenactment of section 169.010 of section A of this act is deemed necessary for the immediate  
4 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an  
5 emergency act within the meaning of the constitution, and section 169.010 of section A of this  
6 act shall be in full force and effect upon its passage and approval.

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