

FIRST EXTRAORDINARY SESSION

HOUSE BILL NO. 1

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VIEBROCK.

6004L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 56.809, 70.605, 104.190, 104.480, 169.020, 169.270, 169.280, 169.301, 169.324, and 169.328, RSMo, and to enact in lieu thereof fifteen new sections relating to retirement.

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

Section A. Sections 56.809, 70.605, 104.190, 104.480, 169.020, 169.270, 169.280, 169.301, 169.324, and 169.328, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 29.212, 56.809, 70.605, 104.190, 104.480, 104.1091, 169.020, 169.270, 169.280, 169.301, 169.324, 169.328, 476.521, 476.527, and 476.529, to read as follows:

29.212. Any retirement system established by the state of Missouri or any political subdivision or instrumentality of the state for the purpose of providing retirement plan benefits for elected or appointed public officials or employees of the state of Missouri or any political subdivision of the state may be audited by the state auditor every three years, or more frequently as otherwise required by law.

56.809. 1. The general administration and the responsibility for the proper operation of the fund are vested in a board of trustees of five persons. Trustees shall be elected by a secret ballot vote of the prosecuting attorneys and circuit attorneys of this state. Trustees shall be chosen for terms of four years from the first day of January next following their election except that the members of the first board shall be appointed by the governor by and with the consent of the senate after notification in writing, respectively, by the prosecuting attorneys and circuit attorneys of eighty percent of the counties in the state, including a city not within a county, that the prosecuting attorney or circuit attorney has elected to come under the provisions of sections

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.

9 56.800 to 56.840. It shall be the responsibility of the initial board to establish procedures for the
10 conduct of future elections of trustees and such procedures shall be approved by a majority vote
11 by secret ballot of the prosecuting attorneys and circuit attorneys in this state. The board shall
12 have all powers and duties that are necessary and proper to enable it, its officers, employees and
13 agents to fully and effectively carry out all the purposes of sections 56.800 to 56.840.

14 2. The board of trustees shall elect one of their number as chairman and one of their
15 number as vice chairman and may employ an administrator who shall serve as executive
16 secretary to the board. The Missouri office of prosecution services, sections 56.750 to 56.775,
17 may, in the discretion of the board of trustees, act as administrative employees to carry out all
18 of the purposes of sections 56.800 to 56.840. In addition, the board of trustees may appoint such
19 other employees as may be required. The board shall hold regular meetings at least once each
20 quarter. Other meetings may be called as necessary by the chairman or by any three members
21 of the board. Notice of such meetings shall be given in accordance with chapter 610, RSMo.

22 3. The board of trustees shall appoint an actuary or firm of actuaries as technical advisor
23 to the board of trustees.

24 4. The board of trustees shall retain investment advisors to be investment advisors to the
25 board.

26 5. The board of trustees may retain legal counsel to advise the board and represent the
27 system in legal proceedings.

28 6. The board shall arrange for annual audits of the records and accounts of the system
29 by a certified public accountant or by a firm of certified public accountants. The state auditor
30 [shall examine such audits at least] **may audit the system** once every three years and report to
31 the board of trustees and to the governor.

32 7. The board of trustees shall serve without compensation for their services as such;
33 except that each trustee shall be paid from the system's funds for any necessary expenses incurred
34 in the performance of duties authorized by the board.

35 8. The board of trustees shall be authorized to appropriate funds from the system for
36 administrative costs in the operation of the system.

37 9. The board of trustees shall, from time to time, after receiving the advice of its actuary,
38 adopt such mortality and other tables of experience, and a rate or rates of regular interest, as shall
39 be necessary for the actuarial requirements of the system, and shall require its executive secretary
40 to keep in convenient form such data as shall be necessary for actuarial investigations of the
41 experience of the system, and such data as shall be necessary for the annual actuarial valuations
42 of the system.

43 10. The board of trustees shall, after reasonable notice to all interested parties, hear and
44 decide questions arising from the administration of sections 56.800 to [56.835] **56.840**; except

45 that within thirty days after a decision or order, any member, retirant, beneficiary or political
46 subdivision adversely affected by that determination or order may make an appeal under the
47 provisions of chapter 536, RSMo.

48 11. The board of trustees shall arrange for adequate surety bonds covering the executive
49 secretary and any other custodian of funds or investments of the board. When approved by the
50 board, such bonds shall be deposited in the office of the Missouri secretary of state.

51 12. Subject to the limitations of sections 56.800 to [56.835] **56.840**, the board of trustees
52 shall formulate and adopt rules and regulations for the government of its own proceedings and
53 for the administration of the retirement system.

54 13. The board of trustees shall be the trustees of the funds of the system. Subject to the
55 provisions of any applicable federal or state laws, the board of trustees shall have full power to
56 invest and reinvest the moneys of the system, and to hold, purchase, sell, assign, transfer or
57 dispose of any of the securities and investments in which such moneys shall have been invested,
58 as well as the proceeds of such investments and such moneys.

59 14. Notwithstanding any other provision of the law to the contrary, the board of trustees
60 may delegate to its duly appointed investment advisors authority to act in place of the board of
61 trustees in the investment and reinvestment of all or part of the moneys of the system, and may
62 also delegate to such advisors the authority to act in place of the board of trustees in the holding,
63 purchasing, selling, assigning, transferring or disposing of any or all of the securities and
64 investments in which such moneys shall have been invested, as well as the proceeds of such
65 investments and such moneys. Such investment counselor shall be registered as an investment
66 advisor with the United States Securities and Exchange Commission. In exercising or delegating
67 its investment powers and authority, members of the board of trustees shall exercise ordinary
68 business care and prudence under the facts and circumstances prevailing at the time of the action
69 or decision. In so doing, the board of trustees shall consider the long-term and short-term needs
70 of the system in carrying out its purposes, the system's present and anticipated financial
71 requirements, the expected total return on the system's investment, the general economic
72 conditions, income, growth, long-term net appreciation, and probable safety of funds. No
73 member of the board of trustees shall be liable for any action taken or omitted with respect to the
74 exercise of or delegation of these powers and authority if such member shall have discharged the
75 duties of his or her position in good faith and with that degree of diligence, care and skill which
76 prudent men and women would ordinarily exercise under similar circumstances in a like
77 position.

78 15. The board shall keep a record of its proceedings which shall be open to public
79 inspection. It shall annually prepare a report showing the financial condition of the system. The
80 report shall contain, but not be limited to, an auditor's opinion, financial statements prepared in

81 accordance with generally accepted accounting principles, an actuary's certification along with
82 actuarial assumptions and financial solvency tests.

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 system
8 shall be brought in Cole County. The system shall begin operations on the first day of the
9 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
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. All the members of the first board shall take office as soon as appointed by the
27 governor, but their terms shall be computed from the first day of January next following their
28 appointment, and only one member may be from any political subdivision or be a policeman or
29 fireman.

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

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

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

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

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

66 9. Each trustee shall be entitled to one vote in the board of trustees. Four votes shall be
67 necessary for a decision by the trustees at any meeting of the board of trustees. Four trustees, of
68 whom at least two shall be member trustees and at least two shall be employer trustees, shall
69 constitute a quorum at any meeting of the board. Unless otherwise expressly provided herein,

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

81 10. The board of trustees shall elect one of their number as chairman, and one of their
82 number as vice chairman, and shall employ an executive secretary, not one of their number, who
83 shall be the executive officer of the board. Other employees of the board shall be chosen only
84 upon the recommendation of the executive secretary.

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

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

91 13. The board may appoint an investment counselor to be the investment advisor of the
92 board.

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

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

106 such other data as the board shall deem necessary or desirable for a proper understanding of the
107 condition of the system.

108 16. The board of trustees shall, after reasonable notice to all interested parties, conduct
109 administrative hearings to hear and decide questions arising from the administration of sections
110 70.600 to 70.755; except, that such hearings may be conducted by a hearing officer who shall be
111 appointed by the board. The hearing officer shall preside at the hearing and hear all evidence and
112 rule on the admissibility of evidence. The hearing officer shall make recommended findings of
113 fact and may make recommended conclusions of law to the board. All final orders or
114 determinations or other final actions by the board shall be approved in writing by at least four
115 members of the board. Any board member approving in writing any final order, determination
116 or other final action, who did not attend the hearing, shall do so only after certifying that he or
117 she reviewed all exhibits and read the entire transcript of the hearing. Within thirty days after
118 a decision or order or final action of the board, any member, retirant, beneficiary or political
119 subdivision adversely affected by that determination or order or final action may take an appeal
120 under the provisions of chapter 536, RSMo. Jurisdiction over any dispute regarding the
121 interpretation of sections 70.600 to 70.755 and the determinations required thereunder shall lie
122 in the circuit court of Cole County.

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

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

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

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

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

104.190. 1. The board shall keep a complete record of all its proceedings, which shall
2 be open at all reasonable hours to the inspection of any member. A statement covering the
3 operations of the system for the year, including income and disbursements, and the financial
4 condition of the system at the end of the year, showing the actuarial valuation and appraisal of

5 its assets and liabilities, as of July first, shall each year be delivered to the governor of Missouri
6 and be made readily available to the members.

7 2. A system of member employment records necessary for the calculation of retirement
8 benefits shall be kept separate and apart from the customary employee employment records.

9 3. The principal office of the system shall be located in Jefferson City. The system shall
10 have a seal bearing the inscription "Transportation Department Employees' and Highway Patrol
11 Retirement System", which shall be in the custody of its executive director. The courts of this
12 state shall take judicial notice of the seal; and all copies of records, books, and written
13 instruments which are kept in the office of the system and are certified by the executive director
14 under said seal shall be proved or admitted in any court or proceeding as provided by section
15 109.130, RSMo.

16 4. The board shall arrange for annual audits of the records and accounts of the system
17 by a certified public accountant or by a firm of certified public accountants. The state auditor
18 [shall examine such audits at least] **may audit the system** once every three years and report to
19 the board and the governor.

104.480. 1. The board shall keep a complete record of all its proceedings, which shall
2 be open at all reasonable hours to the inspection of any member.

3 2. A statement covering the operations of the system for the year, including income and
4 disbursements, and of the financial condition of the system at the end of the year, showing the
5 actuarial valuation and appraisal of its assets and liabilities, as of July first, shall each year be
6 delivered to the governor of Missouri and be made readily available to the members.

7 3. The principal office of the system shall be in Jefferson City. The system shall have
8 a seal bearing the inscription "Missouri State Employees' Retirement System", which shall be
9 in the custody of its director. The courts of this state shall take judicial notice of the seal; and
10 all copies of records, books, and written instruments which are kept in the office of the system
11 and are certified by the director under the seal shall be proved or admitted in any court or
12 proceeding as provided by section 109.130, RSMo.

13 4. The board shall arrange for annual audits of the records and accounts of the system
14 by a certified public accountant or by a firm of certified public accountants. The state auditor
15 [shall examine such audits at least] **may audit the system** once every three years and report to
16 the board and the governor.

**104.1091. 1. Notwithstanding any provision of the year 2000 plan to the contrary,
2 each person who first becomes an employee on or after January 1, 2011, shall be a member
3 of the year 2000 plan subject to the provisions of this section.**

4 **2. A member's normal retirement eligibility shall be as follows:**

5 (1) The member's attainment of at least age sixty-seven and the completion of at
6 least ten years of credited service; or the member's attainment of at least age fifty-five with
7 the sum of the member's age and credited service equaling at least ninety; or, in the case
8 of a member who is serving as a uniformed member of the highway patrol and subject to
9 the mandatory retirement provisions of section 104.081, such member's attainment of at
10 least age sixty or, the attainment of at least age fifty-five with ten years of credited service;

11 (2) For members of the general assembly, the member's attainment of at least age
12 sixty-two and the completion of at least three full biennial assemblies; or the member's
13 attainment of at least age fifty-five with the sum of the member's age and credited service
14 equaling at least ninety;

15 (3) For statewide elected officials, the official's attainment of at least age sixty-two
16 and the completion of at least four years of credited service; or the official's attainment of
17 at least age fifty-five with the sum of the official's age and credited service equaling at least
18 ninety.

19 3. A vested former member's normal retirement eligibility shall be based on the
20 attainment of at least age sixty-seven and the completion of at least ten years of credited
21 service.

22 4. A temporary annuity paid pursuant to subsection 4 of section 104.1024 shall be
23 payable if the member has attained at least age fifty-five with the sum of the member's age
24 and credited service equaling at least ninety; or in the case of a member who is serving as
25 a uniformed member of the highway patrol and subject to the mandatory retirement
26 provisions of section 104.081, the temporary annuity shall be payable if the member has
27 attained at least age sixty, or at least age fifty-five with ten years of credited service.

28 5. A member, other than a member who is serving as a uniformed member of the
29 highway patrol and subject to the mandatory retirement provisions of section 104.081,
30 shall be eligible for an early retirement annuity upon the attainment of at least age sixty-
31 two and the completion of at least ten years of credited service. A vested former member
32 shall not be eligible for early retirement.

33 6. The provisions of subsection 6 of section 104.1021 and section 104.344 as applied
34 pursuant to subsection 7 of section 104.1021 and section 104.1090 shall not apply to
35 members covered by this section.

36 7. The minimum credited service requirements of five years contained in sections
37 104.1018, 104.1030, 104.1036, and 104.1051 shall be ten years for members covered by this
38 section. The normal and early retirement eligibility requirements in this section shall
39 apply for purposes of administering section 104.1087.

40 **8. A member shall be required to contribute four percent of the member's pay to**
41 **the retirement system, which shall stand to the member's credit in his or her individual**
42 **account with the system, together with investment credits thereon, for purposes of funding**
43 **retirement benefits payable under the year 2000 plan, subject to the following provisions:**

44 **(1) The state of Missouri employer, pursuant to the provisions of 26 U.S.C. section**
45 **414(h)(2), shall pick up and pay the contributions that would otherwise be payable by the**
46 **member under this section. The contributions so picked up shall be treated as employer**
47 **contributions for purposes of determining the member's pay that is includable in the**
48 **member's gross income for federal income tax purposes;**

49 **(2) Member contributions picked up by the employer shall be paid from the same**
50 **source of funds used for the payment of pay to a member. A deduction shall be made from**
51 **each member's pay equal to the amount of the member's contributions picked up by the**
52 **employer. This deduction, however, shall not reduce the member's pay for purposes of**
53 **computing benefits under the retirement system pursuant to this chapter;**

54 **(3) Member contributions so picked up shall be credited to a separate account**
55 **within the member's individual account so that the amounts contributed pursuant to this**
56 **section may be distinguished from the amounts contributed on an after-tax basis;**

57 **(4) The contributions, although designated as employee contributions, shall be paid**
58 **by the employer in lieu of the contributions by the member. The member shall not have**
59 **the option of choosing to receive the contributed amounts directly instead of having them**
60 **paid by the employer to the retirement system;**

61 **(5) Interest shall be credited annually on June 30 based on the value in the account**
62 **as of July 1 of the immediately preceding year at a rate of four percent. Interest credits**
63 **shall cease upon termination of employment if the member is not a vested former member.**
64 **Otherwise, interest credits shall cease upon retirement;**

65 **(6) A vested former member or a former member who is not vested may request a**
66 **refund of his or her contributions and interest credited thereon. If such member is**
67 **married at the time of such request, such request shall not be processed without consent**
68 **from the spouse. Such member is not eligible to request a refund if such member's**
69 **retirement benefit is subject to a division of benefit order pursuant to section 104.1051.**
70 **Such refund shall be paid by the system after ninety days from the date of termination of**
71 **employment or the request, whichever is later, and shall include all contributions made to**
72 **any retirement plan administered by the system and interest credited thereon. A vested**
73 **former member may not request a refund after such member becomes eligible for normal**
74 **retirement. A vested former member or a former member who is not vested who receives**
75 **a refund shall forfeit all the member's credited service and future rights to receive benefits**

76 from the system and shall not be eligible to receive any long term disability benefits;
77 provided that any member or vested former member receiving long term disability benefits
78 shall not be eligible for a refund. If such member subsequently becomes an employee and
79 works continuously for at least one year, the credited service previously forfeited shall be
80 restored if the member returns to the system the amount previously refunded plus interest
81 at a rate established by the board;

82 (7) The beneficiary of any member who made contributions shall receive a refund
83 upon the member's death equal to the amount, if any, of such contributions less any
84 retirement benefits received by the member unless an annuity is payable to a survivor or
85 beneficiary as a result of the member's death. In that event, the beneficiary of the survivor
86 or beneficiary who received the annuity shall receive a refund upon the survivor's or
87 beneficiary's death equal to the amount, if any, of the member's contributions less any
88 annuity amounts received by the member and the survivor or beneficiary.

89 9. The employee contribution rate, the benefits provided under the year 2000 plan,
90 and any other provision of the year 2000 plan with regard to members covered under this
91 section may be altered, amended, increased, decreased, or repealed, but only with respect
92 to services rendered by the member after the effective date of such alteration, amendment,
93 increase, decrease, or repeal, or, with respect to interest credits, for periods of time after
94 the effective date of such alteration, amendment, increase, decrease, or repeal.

95 10. For purposes of members covered by this section, the options under section
96 104.1027 shall be as follows:

97 Option 1. A retiree's life annuity shall be reduced to a certain percent of the
98 annuity otherwise payable. Such percent shall be eighty-eight and one half percent
99 adjusted as follows: if the retiree's age on the annuity starting date is younger than sixty-
100 seven years, an increase of three-tenths of one percent for each year the retiree's age is
101 younger than age sixty-seven years; and if the beneficiary's age is younger than the
102 retiree's age on the annuity starting date, a decrease of three-tenths of one percent for each
103 year of age difference; and if the retiree's age is younger than the beneficiary's age on the
104 annuity starting date, an increase of three-tenths of one percent for each year of age
105 difference; provided, after all adjustments the option 1 percent cannot exceed ninety-four
106 and one quarter percent. Upon the retiree's death, fifty percent of the retiree's reduced
107 annuity shall be paid to such beneficiary who was the retiree's spouse on the annuity
108 starting date or as otherwise provided by subsection 5 of this section.

109 Option 2. A retiree's life annuity shall be reduced to a certain percent of the
110 annuity otherwise payable. Such percent shall be eighty-one percent adjusted as follows:
111 if the retiree's age on the annuity starting date is younger than sixty-seven years, an

112 increase of four-tenths of one percent for each year the retiree's age is younger than sixty-
113 seven years; and if the beneficiary's age is younger than the retiree's age on the annuity
114 starting date, a decrease of five-tenths of one percent for each year of age difference; and
115 if the retiree's age is younger than the beneficiary's age on the annuity starting date, an
116 increase of five-tenths of one percent for each year of age difference; provided, after all
117 adjustments the option 2 percent cannot exceed eighty-seven and three quarter percent.
118 Upon the retiree's death one hundred percent of the retiree's reduced annuity shall be paid
119 to such beneficiary who was the retiree's spouse on the annuity starting date or as
120 otherwise provided by subsection 5 of this section.

121 **Option 3.** A retiree's life annuity shall be reduced to ninety-three percent of the
122 annuity otherwise payable. If the retiree dies before having received one hundred twenty
123 monthly payments, the reduced annuity shall be continued for the remainder of the one
124 hundred twenty-month period to the retiree's designated beneficiary provided that if there
125 is no beneficiary surviving the retiree, the present value of the remaining annuity payments
126 shall be paid as provided under subsection 3 of section 104.620. If the beneficiary survives
127 the retiree but dies before receiving the remainder of such one hundred twenty monthly
128 payments, the present value of the remaining annuity payments shall be paid as provided
129 under subsection 3 of section 104.620.

130 **Option 4.** A retiree's life annuity shall be reduced to eighty-six percent of the
131 annuity otherwise payable. If the retiree dies before having received one hundred eighty
132 monthly payments, the reduced annuity shall be continued for the remainder of the one
133 hundred eighty-month period to the retiree's designated beneficiary provided that if there
134 is no beneficiary surviving the retiree, the present value of the remaining annuity payments
135 shall be paid as provided under subsection 3 of section 104.620. If the beneficiary survives
136 the retiree but dies before receiving the remainder of such one hundred eighty monthly
137 payments, the present value of the remaining annuity payments shall be paid as provided
138 under subsection 3 of section 104.620.

139 **11. The provisions of subsection 6 of section 104.1024 shall not apply to members**
140 **covered by 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.

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

112 19. The headquarters of the retirement system shall be in Jefferson City, where suitable
113 office space, utilities and other services and equipment necessary for the operation of the system
114 shall be provided by the board of trustees and all costs shall be paid from funds of the system.

115 All suits or proceedings directly or indirectly against the board of trustees, the board's members
116 or employees or the retirement system established by sections 169.010 to 169.141 or 169.600 to
117 169.715 shall be brought in Cole County.

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

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

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

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

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. **The formulas and**
10 **tables in effect at any time shall be set forth in a written document which shall be**
11 **maintained at the offices of the retirement system and treated for all purposes as part of**
12 **the documents governing the retirement system established by section 169.280. The**
13 **formulas and tables may be changed from time to time if recommended by the retirement**
14 **system's actuary and approved by the board of trustees;**

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

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

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

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

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

37 (8) "Charter school", any charter school established pursuant to sections 160.400 to
38 160.420, RSMo, and located, at the time it is established, within the school district;

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

47 (10) "Creditable service", the amount of time that a regular employee is a member of the
48 retirement system and makes contributions thereto in accordance with the provisions of sections
49 169.270 to 169.400;

50 (11) "Employee", any person who is classified by the school district, a charter school,
51 the library district or the retirement system established by section 169.280 as an employee of
52 such employer and is reported contemporaneously for federal and state tax purposes as an
53 employee of such employer. A person is not considered to be an employee for purposes of such
54 retirement system with respect to any service for which the person was not reported

55 contemporaneously for federal and state tax purposes as an employee of such employer,
56 regardless of whether the person is or may later be determined to be or to have been a common
57 law employee of such employer, including but not limited to a person classified by the employer
58 as independent contractors and persons employed by other entities which contract to provide staff
59 and services to the employer. In no event shall a person reported for federal tax purposes as an
60 employee of a private, for-profit entity be deemed to be an employee eligible to participate in the
61 retirement system established by section 169.280 with respect to such employment;

62 (12) "Employer", the school district, any charter school, the library district, or the
63 retirement system established by section 169.280, or any combination thereof, as required by the
64 context to identify the employer of any member, or, for purposes only of subsection 2 of section
65 169.324, of any retirant;

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

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

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

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

76 (17) "Minimum normal retirement age", the earlier of the date the member attains the
77 age of sixty or the date the member has a total of at least seventy-five credits, with each year of
78 creditable service and each year of age equal to one credit, with both years of creditable service
79 and years of age prorated for fractional years;

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

83 (19) "Regular employee", any employee who is assigned to an established position which
84 requires service of not less than twenty-five hours per week, and not less than nine calendar
85 months a year. Any regular employee who is subsequently assigned without break in service to
86 a position demanding less service than is required of a regular employee shall continue the
87 employee's status as a regular employee. Except as stated in the preceding sentence, a temporary,
88 part-time, or furloughed employee is not a regular employee;

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

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

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

169.280. 1. In each school district of this state (i) that now has or may hereafter have
2 a population of not more than seven hundred thousand and (ii) not less than seventy percent of
3 whose population resides in a city other than a city not within a county which now has or may
4 hereafter have a population of four hundred thousand or more, according to the latest United
5 States decennial census, there is hereby created and established a retirement system for the
6 purpose of providing retirement allowances and related benefits for employees of the employer.
7 Each such system shall be under the management of a board of trustees herein described, and
8 shall be known as "The Public School Retirement System of (name of school district)", and by
9 such name all of its business shall be transacted, all of its funds invested, and all of its cash and
10 securities and other property held. When a school district first satisfies the foregoing population
11 conditions, the board of education shall adopt a resolution certifying the same and take all actions
12 necessary to cause the retirement system to begin operation on the thirtieth day of September
13 following such certification.

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

27 **3. The plan of retirement benefits administered by the retirement system**
28 **established hereby is intended to be a qualified plan under the provisions of applicable**
29 **federal law. The board of trustees shall interpret the statutes governing the retirement**
30 **system and shall administer the retirement system in all respects consistent with such**
31 **intent. The assets of the retirement system shall be held in trust for the exclusive benefit**
32 **of members and their beneficiaries and for defraying reasonable administrative expenses**

33 **of the retirement system. No part of such assets shall, at any time prior to the satisfaction**
34 **of all liabilities with respect to members and their beneficiaries, be used for or diverted to**
35 **any purposes other than for such exclusive benefit or for any purpose inconsistent with the**
36 **requirements of sections 169.270 to 169.400.**

169.301. 1. Any active member who has completed five or more years of actual (not
2 purchased) creditable service shall be entitled to a vested retirement benefit equal to the annual
3 service retirement allowance provided in sections 169.270 to 169.400 payable after attaining the
4 minimum normal retirement age and calculated in accordance with the law in effect on the last
5 date such person was a regular employee; provided, that such member does not withdraw such
6 person's accumulated contributions pursuant to section 169.328 prior to attaining the minimum
7 normal retirement age.

8 2. Any member who elected on October 13, 1961, or within thirty days thereafter, to
9 continue to contribute and to receive benefits under sections 169.270 to 169.400 may continue
10 to be a member of the retirement system under the terms and conditions of the plan in effect
11 immediately prior to October 13, 1961, or may, upon written request to the board of trustees,
12 transfer to the present plan, provided that the member pays into the system any additional
13 contributions with interest the member would have credited to the member's account if such
14 person had been a member of the current plan since its inception or, if the person's contributions
15 and interest are in excess of what the person would have paid, such person will receive a refund
16 of such excess. The board of trustees shall adopt appropriate rules and regulations governing the
17 operation of the plan in effect immediately prior to October 13, 1961.

18 3. Should a retirant again become an active member, such person's retirement allowance
19 payments shall cease during such membership and shall be recalculated upon subsequent
20 retirement to include any creditable service earned during the person's latest period of active
21 membership in accordance with subsection 2 of section 169.324.

22 **4. In the event of the complete termination of the retirement system established by**
23 **section 169.280 or the complete discontinuance of contributions to such retirement system,**
24 **the rights of all members to benefits accrued to the date of such termination or**
25 **discontinuance, to the extent then funded, shall be fully vested and nonforfeitable.**

169.324. 1. The annual service retirement allowance payable pursuant to section
2 169.320 in equal monthly installments for life shall be the retirant's number of years of creditable
3 service multiplied by one and three-fourths percent of the person's average final compensation,
4 subject to a maximum of sixty percent of the person's average final compensation. For any
5 member who retires as an active member on or after June 30, 1999, the annual service retirement
6 allowance payable pursuant to section 169.320 in equal monthly installments for life shall be the
7 retirant's number of years of creditable service multiplied by two percent of the person's average

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

26 2. Except as otherwise provided in sections 169.331, 169.580 and 169.585, payment of
27 a retirant's retirement allowance will be suspended for any month for which such person receives
28 remuneration from the person's employer or from any other employer in the retirement system
29 established by section 169.280 for the performance of services except any such person other than
30 a person receiving a disability retirement allowance under section 169.322 may serve as a
31 nonregular substitute, part-time or temporary employee for not more than six hundred hours in
32 any school year without becoming a member and without having the person's retirement
33 allowance discontinued, **provided that through such substitute, part-time, or temporary**
34 **employment, the person may earn no more than fifty percent of the annual salary or wages**
35 **the person was last paid by the employer before the person retired and commenced**
36 **receiving a retirement allowance, adjusted for inflation. If a person exceeds such hours**
37 **limit or such compensation limit, payment of the person's retirement allowance shall be**
38 **suspended for the month in which such limit was exceeded and each subsequent month in**
39 **the school year for which the person receives remuneration from any employer in the**
40 **retirement system.** If a retirant is reemployed by any employer in any capacity, whether
41 pursuant to this section, or section 169.331, 169.580, or 169.585, or as a regular employee, the
42 amount of such person's retirement allowance attributable to service prior to the person's first
43 retirement date shall not be changed by the reemployment. If the person again becomes an active

44 member and earns additional creditable service, upon the person's second retirement the person's
45 retirement allowance shall be the sum of:

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

51 (2) An additional retirement allowance computed using the benefit formula in effect on
52 the person's second retirement date, the person's creditable service following reemployment, and
53 the person's average **final** annual compensation as of the second retirement date. The sum
54 calculated pursuant to this subsection shall not exceed the greater of sixty percent of the person's
55 average final compensation as of the second retirement date or the amount determined pursuant
56 to subdivision (1) of this subsection. Compensation earned prior to the person's first retirement
57 date shall be considered in determining the person's average final compensation as of the second
58 retirement date if such compensation would otherwise be included in determining the person's
59 average final compensation.

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

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

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

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

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

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

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

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

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

100 6. Notwithstanding anything contained in this section to the contrary, the amount of the
101 annual service retirement allowance payable to any retirant pursuant to the provisions of sections
102 169.270 to 169.400, including any adjustments made pursuant to subsection 3 of this section,
103 shall at all times comply with the provisions and limitations of Section 415 of the Internal
104 Revenue Code of 1986, as amended, and the regulations thereunder, the terms of which are
105 specifically incorporated herein by reference.

106 7. All retirement systems established by the laws of the state of Missouri shall develop
107 a procurement action plan for utilization of minority and women money managers, brokers and
108 investment counselors. Such retirement systems shall report their progress annually to the joint
109 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 before
7 the member incurs a break in service. If the member dies before retirement such accumulated
8 contributions (with interest) shall be paid to the member's estate or designated beneficiary unless
9 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 **5. Any member or beneficiary who is entitled to receive a distribution that is an**
26 **eligible rollover distribution, as defined in Section 402(c)(4) of the Internal Revenue Code,**
27 **may elect to have that distribution transferred directly to another eligible retirement plan,**
28 **as defined in Section 402(c)(8) of the Internal Revenue Code, designated by the member**
29 **or beneficiary in accordance with procedures established by the board of trustees. An**
30 **eligible rollover distribution shall include a distribution to a nonspouse beneficiary that is**
31 **treated as an eligible rollover distribution under Section 402(c)(11) of the Internal Revenue**
32 **Code. All such transfers shall be made in compliance with the requirements of Section**
33 **401(a)(31) of the Internal Revenue Code and regulations thereunder.**

476.521. 1. Notwithstanding any provision of chapter 476 to the contrary, each
2 **person who first becomes a judge on or after January 1, 2011, and continues to be a judge**
3 **may receive benefits as provided in sections 476.445 to 476.688 subject to the provisions of**
4 **this section.**

5 2. Any person who is at least sixty-seven years of age, has served in this state an
6 aggregate of at least twelve years, continuously or otherwise, as a judge, and ceases to hold
7 office by reason of the expiration of the judge's term, voluntary resignation, or retirement
8 pursuant to the provisions of subsection 2 of section 24 of article V of the Constitution of

9 Missouri may receive benefits as provided in sections 476.515 to 476.565. The twelve-year
10 requirement of this subsection may be fulfilled by service as judge in any of the courts
11 covered, or by service in any combination as judge of such courts, totaling an aggregate of
12 twelve years. Any judge who is at least sixty-seven years of age and who has served less
13 than twelve years and is otherwise qualified under sections 476.515 to 476.565 may retire
14 after reaching age sixty-seven, or thereafter, at a reduced retirement compensation in a
15 sum equal to the proportion of the retirement compensation provided in section 476.530
16 that his or her period of judicial service bears to twelve years.

17 3. Any person who is at least sixty-two years of age or older, has served in this state
18 an aggregate of at least twenty years, continuously or otherwise, as a judge, and ceases to
19 hold office by reason of the expiration of the judge's term, voluntary resignation, or
20 retirement pursuant to the provisions of subsection 2 of section 24 of article V of the
21 Constitution of Missouri may receive benefits as provided in sections 476.515 to 476.565.
22 The twenty-year requirement of this subsection may be fulfilled by service as a judge in
23 any of the courts covered, or by service in any combination as judge of such courts, totaling
24 an aggregate of twenty years. Any judge who is at least sixty-two years of age and who has
25 served less than twenty years and is otherwise qualified under sections 476.515 to 476.565
26 may retire after reaching age sixty-two, at a reduced retirement compensation in a sum
27 equal to the proportion of the retirement compensation provided in section 476.530 that
28 his or her period of judicial service bears to twenty years.

29 4. All judges under this section required by the provisions of section 26 of article
30 V of the Constitution of Missouri to retire at the age of seventy years shall retire upon
31 reaching that age.

32 5. The provisions of sections 104.344, 476.524, and 476.690 shall not apply to judges
33 covered by this section.

34 6. A judge shall be required to contribute four percent of the judge's compensation
35 to the retirement system, which shall stand to the judge's credit in his or her individual
36 account with the system, together with investment credits thereon, for purposes of funding
37 retirement benefits payable as provided in sections 476.515 to 476.565, subject to the
38 following provisions:

39 (1) The state of Missouri employer, pursuant to the provisions of 26 U.S.C. section
40 414(h)(2), shall pick up and pay the contributions that would otherwise be payable by the
41 judge under this section. The contributions so picked up shall be treated as employer
42 contributions for purposes of determining the judge's compensation that is includable in
43 the judge's gross income for federal income tax purposes;

44 (2) Judge contributions picked up by the employer shall be paid from the same
45 source of funds used for the payment of compensation to a judge. A deduction shall be
46 made from each judge's compensation equal to the amount of the judge's contributions
47 picked up by the employer. This deduction, however, shall not reduce the judge's
48 compensation for purposes of computing benefits under the retirement system pursuant
49 to this chapter;

50 (3) Judge contributions so picked up shall be credited to a separate account within
51 the judge's individual account so that the amounts contributed pursuant to this section
52 may be distinguished from the amounts contributed on an after tax basis;

53 (4) The contributions, although designated as employee contributions, are being
54 paid by the employer in lieu of the contributions by the judge. The judge shall not have
55 the option of choosing to receive the contributed amounts directly instead of having them
56 paid by the employer to the retirement system;

57 (5) Interest shall be credited annually on June 30 based on the value in the account
58 as of July 1 of the immediately preceding year at a rate of four percent. Interest credits
59 shall cease upon retirement of the judge;

60 (6) A judge whose employment is terminated may request a refund of his or her
61 contributions and interest credited thereon. If such judge is married at the time of such
62 request, such request shall not be processed without consent from the spouse. A judge is
63 not eligible to request a refund if the judge's retirement benefit is subject to a division of
64 benefit order pursuant to section 104.312. Such refund shall be paid by the system after
65 ninety days from the date of termination of employment or the request, whichever is later
66 and shall include all contributions made to any retirement plan administered by the system
67 and interest credited thereon. A judge may not request a refund after such judge becomes
68 eligible for retirement benefits under sections 476.515 to 476.565. A judge who receives a
69 refund shall forfeit all the judge's service and future rights to receive benefits from the
70 system and shall not be eligible to receive any long term disability benefits; provided that
71 any judge or former judge receiving long term disability benefits shall not be eligible for
72 a refund. If such judge subsequently becomes a judge and works continuously for at least
73 one year, the service previously forfeited shall be restored if the judge returns to the system
74 the amount previously refunded plus interest at a rate established by the board;

75 (7) The beneficiary of any judge who made contributions shall receive a refund
76 upon the judge's death equal to the amount, if any, of such contributions less any
77 retirement benefits received by the judge unless an annuity is payable to a survivor or
78 beneficiary as a result of the judge's death. In that event, the beneficiary of the survivor
79 or beneficiary who received the annuity shall receive a refund upon the survivor's or

80 beneficiary's death equal to the amount, if any, of the judge's contributions less any
81 annuity amounts received by the judge and the survivor or beneficiary.

82 7. The employee contribution rate, the benefits provided under sections 476.515 to
83 476.565, and any other provision of sections 476.515 to 476.565 with regard to judges
84 covered under this section may be altered, amended, increased, decreased, or repealed, but
85 only with respect to services rendered by the judge after the effective date of such
86 alteration, amendment, increase, decrease, or repeal, or, with respect to interest credits, for
87 periods of time after the effective date of such alteration, amendment, increase, decrease,
88 or repeal.

 476.527. Any judge who is receiving retirement compensation under section 476.530
2 who becomes employed on or after January 1, 2011, as an employee eligible to participate
3 in the year 2000 plan under chapter 104, shall not receive such retirement compensation
4 for any calendar month in which the retired judge is so employed. Any judge who is
5 receiving retirement compensation under section 476.530 who subsequently serves as a
6 judge as defined pursuant to subdivision (4) of subsection 1 of section 476.515 shall not
7 receive such retirement compensation for any calendar month in which the retired judge
8 is serving as a judge; except that upon retirement such judge's annuity shall be
9 recalculated to include any additional service or salary accrued based on the judge's
10 subsequent service. A judge who is receiving compensation under section 476.530 may
11 continue to receive such retirement compensation while serving as a senior judge or senior
12 commissioner and shall receive additional credit and salary for such service pursuant to
13 section 476.682.

 476.529. 1. In lieu of the retirement compensation provided in section 476.530, a
2 judge employed for the first time on or after January 1, 2011, may elect in the judge's
3 application for retirement whether or not to have such judge's annuity reduced, and
4 designate a beneficiary, as provided by the options set forth in this subsection prior to the
5 judge's annuity starting date:

6 Option 1. A judge's annuity shall be reduced to a certain percent of the annuity
7 otherwise payable. Such percent shall be eighty-eight and one half percent adjusted as
8 follows: if the judge's age on the annuity starting date is younger than sixty-seven years,
9 an increase of three-tenths of one percent for each year the judge's age is younger than age
10 sixty-seven years; and if the beneficiary's age is younger than the judge's age on the
11 annuity starting date, a decrease of three-tenths of one percent for each year of age
12 difference; and if the judge's age is younger than the beneficiary's age on the annuity
13 starting date, an increase of three-tenths of one percent for each year of age difference;
14 provided, after all adjustments the option 1 percent cannot exceed ninety-four and one

15 quarter percent. Upon the judge's death, fifty percent of the judge's reduced annuity shall
16 be paid to such beneficiary who was the judge's spouse on the annuity starting date or as
17 otherwise provided by subsection 5 of this section.

18 **Option 2.** A judge's life annuity shall be reduced to a certain percent of the annuity
19 otherwise payable. Such percent shall be eighty-one percent adjusted as follows: if the
20 judge's age on the annuity starting date is younger than sixty-seven years, an increase of
21 four-tenths of one percent for each year the judge's age is younger than sixty-seven years;
22 and if the beneficiary's age is younger than the judge's age on the annuity starting date, a
23 decrease of five-tenths of one percent for each year of age difference; and if the judge's age
24 is younger than the beneficiary's age on the annuity starting date, an increase of five-tenths
25 of one percent for each year of age difference; provided, after all adjustments the option
26 2 percent cannot exceed eighty-seven and three quarter percent. Upon the judge's death
27 one hundred percent of the judge's reduced annuity shall be paid to such beneficiary who
28 was the judge's spouse on the annuity starting date or as otherwise provided by subsection
29 5 of this section.

30 **Option 3.** A judge's life annuity shall be reduced to ninety-three percent of the
31 annuity otherwise payable. If the judge dies before having received one hundred twenty
32 monthly payments, the reduced annuity shall be continued for the remainder of the one
33 hundred twenty-month period to the judge's designated beneficiary provided that if there
34 is no beneficiary surviving the judge, the present value of the remaining annuity payments
35 shall be paid as provided under subsection 4 of section 104.1054 as if the judge was a
36 deceased member under that section. If the beneficiary survives the judge but dies before
37 receiving the remainder of such one hundred twenty monthly payments, the present value
38 of the remaining annuity payments shall be paid as provided under subsection 4 of section
39 104.1054 for a deceased beneficiary under that section.

40 **Option 4.** A judge's life annuity shall be reduced to eighty-six percent of the
41 annuity otherwise payable. If the judge dies before having received one hundred eighty
42 monthly payments, the reduced annuity shall be continued for the remainder of the one
43 hundred eighty-month period to the judge's designated beneficiary provided that if there
44 is no beneficiary surviving the judge, the present value of the remaining annuity payments
45 shall be paid as provided under subsection 4 of section 104.1054 as if the judge was a
46 deceased member under that section. If the beneficiary survives the judge but dies before
47 receiving the remainder of such one hundred twenty monthly payments, the present value
48 of the remaining annuity payments shall be paid as provided under subsection 4 of section
49 104.1054 for a deceased beneficiary under that section.

50 **2. If a judge is married as of the annuity starting date, the judge's annuity shall be**
51 **paid under the provisions of either option 1 or option 2 as set forth in subsection 1 of this**
52 **section, at the judge's choice, with the spouse as the judge's designated beneficiary unless**
53 **the spouse consents in writing to the judge electing another available form of payment.**

54 **3. If a judge has elected at the annuity starting date option 1 or 2 pursuant to this**
55 **section and if the judge's spouse or eligible former spouse dies after the annuity starting**
56 **date but before the judge dies, then the judge may cancel the judge's election and return**
57 **to the unreduced annuity form of payment and annuity amount, effective the first of the**
58 **month following the date of such spouse's or eligible former spouse's death. If a judge dies**
59 **prior to notifying the system of the spouse's death, the benefit will not revert to an**
60 **unreduced annuity and no retroactive payments shall be made.**

61 **4. If a judge designates a spouse as a beneficiary pursuant to this section and**
62 **subsequently that marriage ends as a result of a dissolution of marriage, such dissolution**
63 **shall not affect the option election pursuant to this section and the former spouse shall**
64 **continue to be eligible to receive survivor benefits upon the death of the judge.**

65 **5. A judge may make an election under option 1 or 2 after the annuity starting date**
66 **as described in this section if the judge makes such election within one year from the date**
67 **of marriage pursuant to any of the following circumstances:**

68 **(1) The judge elected to receive a life annuity and was not eligible to elect option**
69 **1 or 2 on the annuity starting date; or**

70 **(2) The judge's annuity reverted to a normal or early retirement annuity pursuant**
71 **to subsection 3 of this section, and the judge remarried.**

72 **6. A judge may change a judge's election made under this section at any time prior**
73 **to the system mailing or electronically transferring the first annuity payment to such**
74 **member.**

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