

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 828
101ST GENERAL ASSEMBLY

1848H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 169.070, RSMo, and to enact in lieu thereof one new section relating to school employee retirement, with an emergency clause.

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

Section A. Section 169.070, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 169.070, to read as follows:

169.070. 1. The retirement allowance of a member whose age at retirement is sixty years or more and whose creditable service is five years or more, or whose sum of age and creditable service equals eighty years or more, or who has attained age fifty-five and whose creditable service is twenty-five years or more or whose creditable service is thirty years or more regardless of age, may be the sum of the following items, not to exceed one hundred percent of the member's final average salary:

(1) Two and five-tenths percent of the member's final average salary for each year of membership service;

(2) Six-tenths of the amount payable for a year of membership service for each year of prior service not exceeding thirty years.

11

In lieu of the retirement allowance otherwise provided in subdivisions (1) and (2) of this subsection, a member may elect to receive a retirement allowance of:

(3) Two and four-tenths percent of the member's final average salary for each year of membership service, if the member's creditable service is twenty-nine years or more but less than thirty years, and the member has not attained age fifty-five;

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.

17 (4) Two and thirty-five-hundredths percent of the member's final average salary for each
18 year of membership service, if the member's creditable service is twenty-eight years or more but
19 less than twenty-nine years, and the member has not attained age fifty-five;

20 (5) Two and three-tenths percent of the member's final average salary for each year of
21 membership service, if the member's creditable service is twenty-seven years or more but less
22 than twenty-eight years, and the member has not attained age fifty-five;

23 (6) Two and twenty-five-hundredths percent of the member's final average salary for
24 each year of membership service, if the member's creditable service is twenty-six years or more
25 but less than twenty-seven years, and the member has not attained age fifty-five;

26 (7) Two and two-tenths percent of the member's final average salary for each year of
27 membership service, if the member's creditable service is twenty-five years or more but less than
28 twenty-six years, and the member has not attained age fifty-five;

29 (8) ~~Between July 1, 2001, and July 1, 2014,~~ Two and fifty-five hundredths percent of
30 the member's final average salary for each year of membership service, if the member's creditable
31 service is ~~[thirty-one]~~ **thirty-two** years or more regardless of age.

32 2. In lieu of the retirement allowance provided in subsection 1 of this section, a member
33 whose age is sixty years or more on September 28, 1975, may elect to have the member's
34 retirement allowance calculated as a sum of the following items:

35 (1) Sixty cents plus one and five-tenths percent of the member's final average salary for
36 each year of membership service;

37 (2) Six-tenths of the amount payable for a year of membership service for each year of
38 prior service not exceeding thirty years;

39 (3) Three-fourths of one percent of the sum of subdivisions (1) and (2) of this subsection
40 for each month of attained age in excess of sixty years but not in excess of age sixty-five.

41 3. (1) In lieu of the retirement allowance provided either in subsection 1 or 2 of this
42 section, collectively called "option 1", a member whose creditable service is twenty-five years
43 or more or who has attained the age of fifty-five with five or more years of creditable service may
44 elect in the member's application for retirement to receive the actuarial equivalent of the
45 member's retirement allowance in reduced monthly payments for life during retirement with the
46 provision that:

47 Option 2. Upon the member's death the reduced retirement allowance shall be continued
48 throughout the life of and paid to such person as has an insurable interest in the life of the
49 member as the member shall have nominated in the member's election of the option, and
50 provided further that if the person so nominated dies before the retired member, the retirement
51 allowance will be increased to the amount the retired member would be receiving had the retired
52 member elected option 1;

53 OR

54 Option 3. Upon the death of the member three-fourths of the reduced retirement
55 allowance shall be continued throughout the life of and paid to such person as has an insurable
56 interest in the life of the member and as the member shall have nominated in an election of the
57 option, and provided further that if the person so nominated dies before the retired member, the
58 retirement allowance will be increased to the amount the retired member would be receiving had
59 the member elected option 1;

60 OR

61 Option 4. Upon the death of the member one-half of the reduced retirement allowance
62 shall be continued throughout the life of, and paid to, such person as has an insurable interest in
63 the life of the member and as the member shall have nominated in an election of the option, and
64 provided further that if the person so nominated dies before the retired member, the retirement
65 allowance shall be increased to the amount the retired member would be receiving had the
66 member elected option 1;

67 OR

68 Option 5. Upon the death of the member prior to the member having received one
69 hundred twenty monthly payments of the member's reduced allowance, the remainder of the one
70 hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as
71 the member shall have nominated in the member's election of the option or in a subsequent
72 nomination. If there is no beneficiary so nominated who survives the member for the remainder
73 of the one hundred twenty monthly payments, the total of the remainder of such one hundred
74 twenty monthly payments shall be paid to the surviving spouse, surviving children in equal
75 shares, surviving parents in equal shares, or estate of the last person, in that order of precedence,
76 to receive a monthly allowance in a lump sum payment. If the total of the one hundred twenty
77 payments paid to the retired individual and the beneficiary of the retired individual is less than
78 the total of the member's accumulated contributions, the difference shall be paid to the
79 beneficiary in a lump sum;

80 OR

81 Option 6. Upon the death of the member prior to the member having received sixty
82 monthly payments of the member's reduced allowance, the remainder of the sixty monthly
83 payments of the reduced allowance shall be paid to such beneficiary as the member shall have
84 nominated in the member's election of the option or in a subsequent nomination. If there is no
85 beneficiary so nominated who survives the member for the remainder of the sixty monthly
86 payments, the total of the remainder of such sixty monthly payments shall be paid to the
87 surviving spouse, surviving children in equal shares, surviving parents in equal shares, or estate
88 of the last person, in that order of precedence, to receive a monthly allowance in a lump sum

89 payment. If the total of the sixty payments paid to the retired individual and the beneficiary of
90 the retired individual is less than the total of the member's accumulated contributions, the
91 difference shall be paid to the beneficiary in a lump sum.

92 (2) The election of an option may be made only in the application for retirement and such
93 application must be filed prior to the date on which the retirement of the member is to be
94 effective. If either the member or the person nominated to receive the survivorship payments
95 dies before the effective date of retirement, the option shall not be effective, provided that:

96 (a) If the member or a person retired on disability retirement dies after acquiring
97 twenty-five or more years of creditable service or after attaining the age of fifty-five years and
98 acquiring five or more years of creditable service and before retirement, except retirement with
99 disability benefits, and the person named by the member as the member's beneficiary has an
100 insurable interest in the life of the deceased member, the designated beneficiary may elect to
101 receive either survivorship benefits under option 2 or a payment of the accumulated contributions
102 of the member. If survivorship benefits under option 2 are elected and the member at the time
103 of death would have been eligible to receive an actuarial equivalent of the member's retirement
104 allowance, the designated beneficiary may further elect to defer the option 2 payments until the
105 date the member would have been eligible to receive the retirement allowance provided in
106 subsection 1 or 2 of this section;

107 (b) If the member or a person retired on disability retirement dies before attaining age
108 fifty-five but after acquiring five but fewer than twenty-five years of creditable service, and the
109 person named as the member's beneficiary has an insurable interest in the life of the deceased
110 member, the designated beneficiary may elect to receive either a payment of the member's
111 accumulated contributions, or survivorship benefits under option 2 to begin on the date the
112 member would first have been eligible to receive an actuarial equivalent of the member's
113 retirement allowance, or to begin on the date the member would first have been eligible to
114 receive the retirement allowance provided in subsection 1 or 2 of this section.

115 4. If the total of the retirement or disability allowance paid to an individual before the
116 death of the individual is less than the accumulated contributions at the time of retirement, the
117 difference shall be paid to the beneficiary of the individual, or to the surviving spouse, surviving
118 children in equal shares, surviving parents in equal shares, or estate of the individual in that order
119 of precedence. If an optional benefit as provided in option 2, 3 or 4 in subsection 3 of this
120 section had been elected, and the beneficiary dies after receiving the optional benefit, and if the
121 total retirement allowance paid to the retired individual and the beneficiary of the retired
122 individual is less than the total of the contributions, the difference shall be paid to the surviving
123 spouse, surviving children in equal shares, surviving parents in equal shares, or estate of the

124 beneficiary, in that order of precedence, unless the retired individual designates a different
125 recipient with the board at or after retirement.

126 5. If a member dies and his or her financial institution is unable to accept the final
127 payment or payments due to the member, the final payment or payments shall be paid to the
128 beneficiary of the member or, if there is no beneficiary, to the surviving spouse, surviving
129 children in equal shares, surviving parents in equal shares, or estate of the member, in that order
130 of precedence, unless otherwise stated. If the beneficiary of a deceased member dies and his or
131 her financial institution is unable to accept the final payment or payments, the final payment or
132 payments shall be paid to the surviving spouse, surviving children in equal shares, surviving
133 parents in equal shares, or estate of the member, in that order of precedence, unless otherwise
134 stated.

135 6. If a member dies before receiving a retirement allowance, the member's accumulated
136 contributions at the time of the death of the member shall be paid to the beneficiary of the
137 member or, if there is no beneficiary, to the surviving spouse, surviving children in equal shares,
138 surviving parents in equal shares, or to the estate of the member, in that order of precedence;
139 except that, no such payment shall be made if the beneficiary elects option 2 in subsection 3 of
140 this section, unless the beneficiary dies before having received benefits pursuant to that
141 subsection equal to the accumulated contributions of the member, in which case the amount of
142 accumulated contributions in excess of the total benefits paid pursuant to that subsection shall
143 be paid to the surviving spouse, surviving children in equal shares, surviving parents in equal
144 shares, or estate of the beneficiary, in that order of precedence.

145 7. If a member ceases to be a public school employee as herein defined and certifies to
146 the board of trustees that such cessation is permanent, or if the membership of the person is
147 otherwise terminated, the member shall be paid the member's accumulated contributions with
148 interest.

149 8. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, if a
150 member ceases to be a public school employee after acquiring five or more years of membership
151 service in Missouri, the member may at the option of the member leave the member's
152 contributions with the retirement system and claim a retirement allowance any time after
153 reaching the minimum age for voluntary retirement. When the member's claim is presented to
154 the board, the member shall be granted an allowance as provided in sections 169.010 to 169.141
155 on the basis of the member's age, years of service, and the provisions of the law in effect at the
156 time the member requests the member's retirement to become effective.

157 9. The retirement allowance of a member retired because of disability shall be
158 nine-tenths of the allowance to which the member's creditable service would entitle the member
159 if the member's age were sixty, or fifty percent of one-twelfth of the annual salary rate used in

160 determining the member's contributions during the last school year for which the member
161 received a year of creditable service immediately prior to the member's disability, whichever is
162 greater, except that no such allowance shall exceed the retirement allowance to which the
163 member would have been entitled upon retirement at age sixty if the member had continued to
164 teach from the date of disability until age sixty at the same salary rate.

165 10. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, from
166 October 13, 1961, the contribution rate pursuant to sections 169.010 to 169.141 shall be
167 multiplied by the factor of two-thirds for any member of the system for whom federal Old Age
168 and Survivors Insurance tax is paid from state or local tax funds on account of the member's
169 employment entitling the person to membership in the system. The monetary benefits for a
170 member who elected not to exercise an option to pay into the system a retroactive contribution
171 of four percent on that part of the member's annual salary rate which was in excess of four
172 thousand eight hundred dollars but not in excess of eight thousand four hundred dollars for each
173 year of employment in a position covered by this system between July 1, 1957, and July 1, 1961,
174 as provided in subsection 10 of this section as it appears in RSMo, 1969, shall be the sum of:

175 (1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for
176 years of membership service;

177 (2) For years of membership service after July 1, 1946, in which the full contribution rate
178 was paid, full benefits under the formula in effect at the time of the member's retirement;

179 (3) For years of membership service after July 1, 1957, and prior to July 1, 1961, the
180 benefits provided in this section as it appears in RSMo, 1959; except that if the member has at
181 least thirty years of creditable service at retirement the member shall receive the benefit payable
182 pursuant to that section as though the member's age were sixty-five at retirement;

183 (4) For years of membership service after July 1, 1961, in which the two-thirds
184 contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of
185 the member's retirement.

186 11. The monetary benefits for each other member for whom federal Old Age and
187 Survivors Insurance tax is or was paid at any time from state or local funds on account of the
188 member's employment entitling the member to membership in the system shall be the sum of:

189 (1) For years of service prior to July 1, 1946, six-tenths of the full amount payable for
190 years of membership service;

191 (2) For years of membership service after July 1, 1946, in which the full contribution rate
192 was paid, full benefits under the formula in effect at the time of the member's retirement;

193 (3) For years of membership service after July 1, 1957, in which the two-thirds
194 contribution rate was paid, two-thirds of the benefits under the formula in effect at the time of
195 the member's retirement.

196 12. Any retired member of the system who was retired prior to September 1, 1972, or
197 beneficiary receiving payments under option 1 or option 2 of subsection 3 of this section, as such
198 option existed prior to September 1, 1972, will be eligible to receive an increase in the retirement
199 allowance of the member of two percent for each year, or major fraction of more than one-half
200 of a year, which the retired member has been retired prior to July 1, 1975. This increased amount
201 shall be payable commencing with January, 1976, and shall thereafter be referred to as the
202 member's retirement allowance. The increase provided for in this subsection shall not affect the
203 retired member's eligibility for compensation provided for in section ~~[169.580-07]~~ 169.585, nor
204 shall the amount being paid pursuant to these sections be reduced because of any increases
205 provided for in this section.

206 13. If the board of trustees determines that the cost of living, as measured by generally
207 accepted standards, increases two percent or more in the preceding fiscal year, the board shall
208 increase the retirement allowances which the retired members or beneficiaries are receiving by
209 two percent of the amount being received by the retired member or the beneficiary at the time
210 the annual increase is granted by the board with the provision that the increases provided for in
211 this subsection shall not become effective until the fourth January first following the member's
212 retirement or January 1, 1977, whichever later occurs, or in the case of any member retiring on
213 or after July 1, 2000, the increase provided for in this subsection shall not become effective until
214 the third January first following the member's retirement, or in the case of any member retiring
215 on or after July 1, 2001, the increase provided for in this subsection shall not become effective
216 until the second January first following the member's retirement. Commencing with January 1,
217 1992, if the board of trustees determines that the cost of living has increased five percent or more
218 in the preceding fiscal year, the board shall increase the retirement allowances by five percent.
219 The total of the increases granted to a retired member or the beneficiary after December 31,
220 1976, may not exceed eighty percent of the retirement allowance established at retirement or as
221 previously adjusted by other subsections. If the cost of living increases less than five percent,
222 the board of trustees may determine the percentage of increase to be made in retirement
223 allowances, but at no time can the increase exceed five percent per year. If the cost of living
224 decreases in a fiscal year, there will be no increase in allowances for retired members on the
225 following January first.

226 14. The board of trustees may reduce the amounts which have been granted as increases
227 to a member pursuant to subsection 13 of this section if the cost of living, as determined by the
228 board and as measured by generally accepted standards, is less than the cost of living was at the
229 time of the first increase granted to the member; except that, the reductions shall not exceed the
230 amount of increases which have been made to the member's allowance after December 31, 1976.

231 15. Any application for retirement shall include a sworn statement by the member
232 certifying that the spouse of the member at the time the application was completed was aware
233 of the application and the plan of retirement elected in the application.

234 16. Notwithstanding any other provision of law, any person retired prior to September
235 28, 1983, who is receiving a reduced retirement allowance under option 1 or option 2 of
236 subsection 3 of this section, as such option existed prior to September 28, 1983, and whose
237 beneficiary nominated to receive continued retirement allowance payments under the elected
238 option dies or has died, shall upon application to the board of trustees have his or her retirement
239 allowance increased to the amount he or she would have been receiving had the option not been
240 elected, actuarially adjusted to recognize any excessive benefits which would have been paid to
241 him or her up to the time of application.

242 17. Benefits paid pursuant to the provisions of the public school retirement system of
243 Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code
244 except as provided pursuant to this subsection. Notwithstanding any other law to the contrary,
245 the board of trustees may establish a benefit plan pursuant to Section 415(m) of Title 26 of the
246 United States Code. Such plan shall be created solely for the purpose described in Section
247 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate
248 regulations necessary to implement the provisions of this subsection and to create and administer
249 such benefit plan.

250 18. Notwithstanding any other provision of law to the contrary, any person retired before,
251 on, or after May 26, 1994, shall be made, constituted, appointed and employed by the board as
252 a special consultant on the matters of education, retirement and aging, and upon request shall
253 give written or oral opinions to the board in response to such requests. As compensation for such
254 duties the person shall receive an amount based on the person's years of service so that the total
255 amount received pursuant to sections 169.010 to 169.141 shall be at least the minimum amounts
256 specified in subdivisions (1) to (4) of this subsection. In determining the minimum amount to
257 be received, the amounts in subdivisions (3) and (4) of this subsection shall be adjusted in
258 accordance with the actuarial adjustment, if any, that was applied to the person's retirement
259 allowance. In determining the minimum amount to be received, beginning September 1, 1996,
260 the amounts in subdivisions (1) and (2) of this subsection shall be adjusted in accordance with
261 the actuarial adjustment, if any, that was applied to the person's retirement allowance due to
262 election of an optional form of retirement having a continued monthly payment after the person's
263 death. Notwithstanding any other provision of law to the contrary, no person retired before, on,
264 or after May 26, 1994, and no beneficiary of such a person, shall receive a retirement benefit
265 pursuant to sections 169.010 to 169.141 based on the person's years of service less than the
266 following amounts:

- 267 (1) Thirty or more years of service, one thousand two hundred dollars;
268 (2) At least twenty-five years but less than thirty years, one thousand dollars;
269 (3) At least twenty years but less than twenty-five years, eight hundred dollars;
270 (4) At least fifteen years but less than twenty years, six hundred dollars.

271 19. Notwithstanding any other provisions of law to the contrary, any person retired prior
272 to May 26, 1994, and any designated beneficiary of such a retired member who was deceased
273 prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a
274 special consultant on the matters of education, retirement or aging and upon request shall give
275 written or oral opinions to the board in response to such requests. Beginning September 1, 1996,
276 as compensation for such service, the member shall have added, pursuant to this subsection, to
277 the member's monthly annuity as provided by this section a dollar amount equal to the lesser of
278 sixty dollars or the product of two dollars multiplied by the member's number of years of
279 creditable service. Beginning September 1, 1999, the designated beneficiary of the deceased
280 member shall as compensation for such service have added, pursuant to this subsection, to the
281 monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars
282 or the product of two dollars multiplied by the member's number of years of creditable service.
283 The total compensation provided by this section including the compensation provided by this
284 subsection shall be used in calculating any future cost-of-living adjustments provided by
285 subsection 13 of this section.

286 20. Any member who has retired prior to July 1, 1998, and the designated beneficiary
287 of a deceased retired member shall be made, constituted, appointed and employed by the board
288 as a special consultant on the matters of education, retirement and aging, and upon request shall
289 give written or oral opinions to the board in response to such requests. As compensation for such
290 duties the person shall receive a payment equivalent to eight and seven-tenths percent of the
291 previous month's benefit, which shall be added to the member's or beneficiary's monthly annuity
292 and which shall not be subject to the provisions of subsections 13 and 14 of this section for the
293 purposes of the limit on the total amount of increases which may be received.

294 21. Any member who has retired shall be made, constituted, appointed and employed
295 by the board as a special consultant on the matters of education, retirement and aging, and upon
296 request shall give written or oral opinions to the board in response to such request. As
297 compensation for such duties, the beneficiary of the retired member, or, if there is no beneficiary,
298 the surviving spouse, surviving children in equal shares, surviving parents in equal shares, or
299 estate of the retired member, in that order of precedence, shall receive as a part of compensation
300 for these duties a death benefit of five thousand dollars.

301 22. Any member who has retired prior to July 1, 1999, and the designated beneficiary
302 of a retired member who was deceased prior to July 1, 1999, shall be made, constituted,

303 appointed and employed by the board as a special consultant on the matters of education,
304 retirement and aging, and upon request shall give written or oral opinions to the board in
305 response to such requests. As compensation for such duties, the person shall have added,
306 pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount
307 equal to five dollars times the member's number of years of creditable service.

308 23. Any member who has retired prior to July 1, 2000, and the designated beneficiary
309 of a deceased retired member shall be made, constituted, appointed and employed by the board
310 as a special consultant on the matters of education, retirement and aging, and upon request shall
311 give written or oral opinions to the board in response to such requests. As compensation for such
312 duties, the person shall receive a payment equivalent to three and five-tenths percent of the
313 previous month's benefit, which shall be added to the member or beneficiary's monthly annuity
314 and which shall not be subject to the provisions of subsections 13 and 14 of this section for the
315 purposes of the limit on the total amount of increases which may be received.

316 24. Any member who has retired prior to July 1, 2001, and the designated beneficiary
317 of a deceased retired member shall be made, constituted, appointed and employed by the board
318 as a special consultant on the matters of education, retirement and aging, and upon request shall
319 give written or oral opinions to the board in response to such requests. As compensation for such
320 duties, the person shall receive a dollar amount equal to three dollars times the member's number
321 of years of creditable service, which shall be added to the member's or beneficiary's monthly
322 annuity and which shall not be subject to the provisions of subsections 13 and 14 of this section
323 for the purposes of the limit on the total amount of increases which may be received.

Section B. Because of the importance of providing an additional retirement allowance
2 option to Missouri teachers, the repeal and reenactment of section 169.070 of section A of this
3 act is deemed necessary for the immediate preservation of the public health, welfare, peace, and
4 safety, and is hereby declared to be an emergency act within the meaning of the constitution, and
5 the repeal and reenactment of section 169.070 of section A of this act shall be in full force and
6 effect upon its passage and approval.

✓