

FIRST REGULAR SESSION

# HOUSE BILL NO. 406

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CLEMENS.

1383H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 169.410, 169.450, and 169.490, RSMo, and to enact in lieu thereof three new sections relating to retirement benefits for certain teacher retirement systems.

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

Section A. Sections 169.410, 169.450, and 169.490, RSMo, are repealed and three  
2 new sections enacted in lieu thereof, to be known as sections 169.410, 169.450, and 169.490,  
3 to read as follows:

169.410. The following words and phrases as used in sections 169.410 to 169.540,  
2 unless a different meaning is plainly required by the context, shall have the following  
3 meanings:

4 (1) "Accumulated contributions", the sum of all amounts deducted from the  
5 compensation of a member and credited to the member's individual account together with  
6 interest allowed on such an account;

7 (2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of  
8 interest and such mortality tables as shall be adopted by the board of trustees;

9 (3) "Average final compensation", the highest average annual compensation of the  
10 member received for any three consecutive years of credited service of the member's last ten  
11 years of credited service or if the member has had less than three years of such credited  
12 service, during the member's entire period of credited service;

13 (4) "Beneficiary", any person other than a retired member receiving a pension benefit,  
14 optional pension benefit or other benefit;

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.

15 (5) "Board of education", the board of education or corresponding board having  
16 charge of the public schools of the school district other than those public schools which are  
17 operated by the board of regents;

18 (6) "Board of regents", the board of regents or corresponding board having charge of  
19 a public city teacher training school within the school district which was operated by its board  
20 of education prior to September 1, 1978;

21 (7) "Board of trustees", the board which administers the retirement system;

22 (8) "Charter school", any charter school established pursuant to sections 160.400 to  
23 160.420 and located, at the time it is established, within the school district;

24 (9) "Compensation", the regular compensation which a member has earned as an  
25 employee during any period, excluding, however, any compensation earned by a person who  
26 became a member after December 31, 1995, which is in excess of the limitation set forth in  
27 Section 401(a)(17) of the Internal Revenue Code;

28 (10) "Consumer price index", the Consumer Price Index for All Urban Consumers for  
29 the United States, or its successor index, as approved by the board of trustees, as such index is  
30 defined and officially reported by the United States Department of Labor, or its successor  
31 agency;

32 (11) "Credited service", prior service plus membership service plus service purchased  
33 pursuant to applicable Missouri statute;

34 (12) "Employee", any person regularly employed by (a) the board of education, or (b)  
35 the board of trustees, or (c) the board of regents who was employed at a public teacher  
36 training school within the school district prior to September 1, 1978, and who did not become  
37 a member of the Missouri state employees' retirement system pursuant to section 104.342, or  
38 (d) a charter school. In case of doubt as to whether any person is an employee, the decision of  
39 the board of education, or the board of trustees, or the board of regents shall be final and  
40 conclusive;

41 (13) "Employer", the board of education, the board of trustees, the board of regents or  
42 a charter school;

43 (14) **"Funded ratio", the ratio of the actuarial value of assets over the actuarial**  
44 **accrued liability, whereas the actuarial accrued liability shall be based on the entry age**  
45 **normal actuarial cost method with normal cost expressed as a level percentage of**  
46 **covered compensation;**

47 (15) "Medical board", the board of physicians;

48 [~~15~~] (16) "Member", a member of the retirement system defined as an:

49 (a) "Active member", a person who is an employee;

50 (b) "Inactive member", a former active member who has accumulated contributions  
51 with the retirement system; or

52 (c) "Retired member", a former active member who has retired and is receiving  
53 benefits;

54 ~~[(16)]~~ (17) "Membership service", service rendered as an employee for which the  
55 employee received compensation. For the purpose of computing creditable service at  
56 retirement, membership service shall include a member's accumulated and unused days of  
57 sick leave. The decision of the employing board as to the number of accumulated and unused  
58 days of sick leave held by a member shall be final and conclusive;

59 ~~[(17)]~~ (18) "Pension benefit" or "pension", monthly payments for life to a retired  
60 member or to such beneficiary as is entitled to the payments;

61 ~~[(18)]~~ (19) "Prior service", service prior to the date the system became operative  
62 which is credited;

63 ~~[(19)]~~ (20) "Public school", any school for elementary, secondary or higher education,  
64 open and public, which is supported and maintained from public funds and which is operated  
65 by the board of education of the school district, by the board of regents, or as a charter school  
66 as defined pursuant to sections 160.400 to 160.420;

67 ~~[(20)]~~ (21) "Retired member", a member receiving a retirement benefit or other  
68 benefit;

69 ~~[(21)]~~ (22) "Retirement system", the public school retirement system of a school  
70 district;

71 ~~[(22)]~~ (23) "School administrator", an employee whose job classification is included  
72 on the school administrators' position schedule of the employing board;

73 ~~[(23)]~~ (24) "School district", any metropolitan school district as defined pursuant to  
74 section 160.011;

75 ~~[(24)]~~ (25) "Teacher", any teacher, substitute teacher, supervisor, principal,  
76 supervising principal, superintendent or assistant superintendent, who shall teach or be  
77 employed on a full-time basis in the public schools of a school district or charter school,  
78 except those teachers electing to become members of the Missouri state employees'  
79 retirement system pursuant to section 104.342. In case of doubt as to whether any person is a  
80 teacher, the decision of the board of education, or the board of regents with respect to  
81 individuals within its charge, shall be final and conclusive;

82 (26) **"Total actuarially required contribution", the total dollar amount necessary**  
83 **to finance the costs of benefits earned by employees and unfunded accrued liability with**  
84 **such amount determined for a calendar year based on the actuarial valuation as of the**  
85 **first day of the preceding calendar year and the actuarial cost method and assumptions**  
86 **adopted by the board of trustees and in accordance with actuarial standards of practice**  
87 **applicable as of such valuation date;**

88           **(27) "Total actuarially required contribution rate", the total actuarially**  
89 **required contribution expressed as a percentage of annualized compensation of**  
90 **retirement system members, and which consists of both a member contribution and**  
91 **employer contribution.**

          169.450. 1. The general administration and responsibility for the proper operation of  
2 the retirement system and for making effective the provisions of sections 169.410 to 169.540  
3 are hereby vested in a board of trustees of eleven persons, as follows:

4           (1) Four trustees to be appointed for terms of four years by the board of education;  
5 provided, however, that their terms shall be fixed so the terms of one of the trustees so  
6 appointed shall expire each year. The members of such board of trustees appointed by the  
7 board of education may be members of the board of education or other individuals deemed  
8 qualified to hold such positions by the board of education;

9           (2) Four trustees to be elected for terms of four years by and from the active members  
10 of the retirement system who shall hold office as trustees only while active members;  
11 provided, however, that their terms shall be fixed so that the terms of one of the trustees so  
12 elected shall expire each year; and provided further, that not more than two of such persons  
13 shall be teachers and two shall be nonteachers. For the purposes of this subsection, a school  
14 administrator shall not be eligible for the positions established pursuant to this subdivision  
15 and shall be eligible for the position established pursuant to subdivision (4) of this subsection;

16           (3) Two trustees, who shall be retired members, to be elected for terms of four years  
17 by and from the retired members of the retirement system; provided, however, that the terms  
18 of office of the first two trustees so elected shall begin immediately upon their election and  
19 shall expire two and four years from the date of their election, respectively; and provided  
20 further, that not more than one of such persons shall be a teacher and one shall be a  
21 nonteacher;

22           (4) One member, who shall be a school administrator, to be elected for a term of four  
23 years by and from the active members of the retirement system who shall hold office as a  
24 trustee only while an active member; except that, the initial term of office of such trustee shall  
25 expire on December 31, 1999.

26           2. If a vacancy occurs in the office of trustee, the vacancy shall be filled for the  
27 unexpired term in the same manner as the office was previously filled. No vacancy or  
28 vacancies on the board of trustees shall impair the power of the remaining trustees to  
29 administer the retirement system pending the filling of such vacancies.

30           3. In the event of a lapse of a school district's corporate organization as described in  
31 subsections 1 and 4 of section 162.081, or for any other reason, the general administration and  
32 the responsibility for the proper operation of the retirement system shall continue to be fully  
33 vested in the trustees then currently serving and such trustees shall continue to serve and be

34 elected in the same manner as set forth in this statute as if no lapse had occurred, except that  
35 in the event of vacancies occurring in the office of trustees appointed by the board of  
36 education prior to the lapse, the board of trustees shall appoint a qualified person or persons to  
37 fill such vacancy or vacancies for terms of up to four years.

38         4. Trustees shall serve without compensation, and any trustee shall be reimbursed  
39 from the expense fund for all necessary expenses which the trustee may incur through service  
40 on the board of trustees.

41         5. Each trustee shall, within ten days after such trustee's appointment or election, take  
42 an oath of office before the clerk of the circuit court of the judicial circuit in which the school  
43 district is located that, so far as it devolves upon the trustee, the trustee will diligently and  
44 honestly administer the affairs of the board of trustees and that the trustee will not knowingly  
45 violate or willingly permit to be violated any of the provisions of the law applicable to the  
46 retirement system. Such oath shall be subscribed to by the trustee making it and filed in the  
47 office of the clerk of the circuit court.

48         6. The circuit court of the judicial circuit in which the school district is located shall  
49 have jurisdiction over the members of the board of trustees to require them to account for  
50 their official conduct in the management and disposition of the funds and property committed  
51 to their charge; to order, decree and compel payment by them to the public school retirement  
52 system of their school district of all sums of money, and of the value of all property which  
53 may have been improperly retained by them, or transferred to others, or which may have been  
54 lost or wasted by any violation of their duties or abuse of their powers as such members of  
55 such board; to remove any such member upon proof that the trustee has abused the trustee's  
56 trust or has violated the duties of the trustee's office; to restrain and prevent any alienation or  
57 disposition of property of such public school retirement system by the members, in cases  
58 where it may be threatened, or there is good reason to apprehend that it is intended to be made  
59 in fraud of the rights and interests of such public school retirement system. The jurisdiction  
60 conferred by sections 169.410 to 169.540 shall be exercised as in ordinary cases upon  
61 petition, filed by the board of education of such school district, or by any two members of the  
62 board of trustees. Such petition shall be heard in a summary manner after ten days' notice in  
63 writing to the member complained of, and an appeal shall lie from the judgment of the circuit  
64 court as in other causes and be speedily determined, but such appeal shall not operate under  
65 any condition as a supersedeas of a judgment of removal from office.

66         7. Each trustee shall be entitled to one vote in the board of trustees. Six votes shall be  
67 necessary for a decision by the trustees at any meeting of the board of trustees.

68         8. Subject to the limitations of sections 169.410 to 169.540, the board of trustees  
69 shall, from time to time, establish rules and regulations for the administration of the  
70 retirement system, for eligibility for and determination of benefits under the retirement

71 system, for the investment of retirement system assets, and for the transaction of the  
72 retirement system's business.

73           9. The board of trustees shall elect from its membership a chairman and shall, by  
74 majority vote of its members, appoint a secretary, who may be, but need not be, one of its  
75 members. It shall engage such actuarial and other services as shall be required to transact the  
76 business of the retirement system. It shall also engage an investment counselor who shall be  
77 experienced in the investment of moneys to advise the trustees on investments of the  
78 retirement system. The compensation of all persons engaged by the board of trustees and all  
79 other expenses of the board necessary for the operation of the retirement system shall be paid  
80 at such rates and in such amounts as the board of trustees shall approve.

81           10. The board of trustees shall keep in convenient form such data as shall be  
82 necessary for actuarial valuations of the assets of the retirement system and for checking the  
83 experience of the system.

84           11. The board of trustees shall keep a record of all its proceedings which shall be  
85 open to public inspection. It shall prepare annually and send to the board of education and to  
86 each member of the retirement system a report showing the fiscal transactions of the  
87 retirement system for the preceding fiscal year, a detailed listing of all salaries and  
88 expenditures incurred by the trustees for its operation, the amount of the accumulated cash  
89 and securities of the system, and the last balance sheet showing the financial condition of the  
90 system by means of an actuarial valuation of the assets and liabilities of the retirement  
91 system. The board of trustees shall also prepare or cause to be prepared an annual report  
92 concerning the operation of the retirement system herein provided for, which report shall be  
93 sent by the chairman of the board of trustees to the board of education.

94           12. The board of trustees shall arrange for necessary legal advice for the operation of  
95 the retirement system.

96           13. The board of trustees shall designate a medical board to be composed of three  
97 physicians, none of whom shall be eligible for benefits pursuant to sections 169.410 to  
98 169.540, who shall arrange for and pass upon all medical examinations required pursuant to  
99 the provisions of sections 169.410 to 169.540, shall investigate all essential statements and  
100 certificates made by or on behalf of a member in connection with an application for disability  
101 retirement and shall report in writing to the board of trustees its conclusions and  
102 recommendations upon all matters referred to it.

103           14. The actuary shall be the technical adviser of the board of trustees on matters  
104 regarding the operation of the system created by sections 169.410 to 169.540 and shall  
105 perform such other duties as are required in connection therewith. Such person shall be  
106 qualified as an actuary by membership as a fellow in the Society of Actuaries or by objective  
107 standards which are no less stringent than those established by the Society of Actuaries.

108           15. At least once in each five-year period the actuary shall make an investigation into  
109 the actuarial experience of the retirement system, and taking into account the results of such  
110 investigation of the experience, the board of trustees shall adopt for the retirement system  
111 such actuarial assumptions as shall be deemed necessary.

112           16. On the basis of such actuarial assumptions as the board of trustees shall adopt, the  
113 actuary shall make an annual valuation of the assets and liabilities of the funds of the  
114 retirement system.

115           17. On the basis of the valuation **and in accordance with the provisions of section**  
116 **169.490**, the board of trustees shall certify the rates of contribution payable by the board of  
117 education.

169.490. 1. All the assets of the retirement system shall be held as one fund.

2           2. (1) For any member hired before January 1, 2018, the employing board shall cause  
3 to be deducted from the compensation of each member at every payroll period five percent of  
4 his or her compensation.

5           (2) Beginning January 1, 2018, the percentage in subdivision (1) of this subsection  
6 shall increase one-half of one percent annually until such time as the percentage equals nine  
7 percent **unless a lower member contribution rate applies for any period in accordance**  
8 **with the provisions of subdivision (4) of subsection 5 of this section.**

9           (3) For any member hired for the first time on or after January 1, 2018, the employing  
10 board shall cause to be deducted from the compensation of each member at every payroll  
11 period nine percent of such member's compensation **unless a lower member contribution**  
12 **rate applies for any period in accordance with the provisions of subdivision (4) of**  
13 **subsection 5 of this section.**

14           (4) The amounts so deducted shall be transferred to the board of trustees and credited  
15 to the individual account of each member from whose compensation the deduction was made.  
16 In determining the amount earnable by a member in any payroll period, the board of trustees  
17 may consider the rate of earnable compensation payable to such member on the first day of  
18 the payroll period as continuing throughout such payroll period; it may omit deduction from  
19 compensation for any period less than a full payroll period if the employee was not a member  
20 on the first day of the payroll period; and to facilitate the making of the deductions, it may  
21 modify the deduction required of any member by such amount as shall not exceed one-tenth  
22 of one percent of the compensation upon the basis of which such deduction was made.

23           (5) The deductions provided for herein are declared to be a part of the salary of the  
24 member and the making of such deductions shall constitute payments by the member out of  
25 his or her salary or earnings and such deductions shall be made notwithstanding that the  
26 minimum compensation provided by law for any member shall be reduced thereby. Every  
27 member shall be deemed to consent to the deductions made and provided for herein, and shall

28 receipt for his or her full salary or compensation, and the making of said deductions and the  
29 payment of salary or compensation less said deduction shall be a full and complete discharge  
30 and acquittance of all claims and demands whatsoever for services rendered during the period  
31 covered by the payment except as to benefits provided by sections 169.410 to 169.540.

32 (6) The employing board may elect to pay member contributions required by this  
33 section as an employer pick up of employee contributions under Section 414(h)(2) of the  
34 Internal Revenue Code of 1986, as amended, and such contributions picked up by the  
35 employing board shall be treated as contributions made by members for all purposes of  
36 sections 169.410 to 169.540.

37 3. If a retired member receiving a pension pursuant to sections 169.410 to 169.540 is  
38 restored to active service and again becomes an active member of the retirement system, there  
39 shall be credited to his or her individual account an amount equal to the excess, if any, of his  
40 or her accumulated contributions at retirement over the total pension benefits paid to him or  
41 her.

42 4. Annually, the actuary for the retirement system shall calculate each employer's  
43 contribution as an amount equal to a certain percentage of the total compensation of all  
44 members employed by that employer. The percentage shall be fixed on the basis of the  
45 liabilities of the retirement system as shown by the annual actuarial valuation. The annual  
46 actuarial valuation shall be made on the basis of such actuarial assumptions and the actuarial  
47 cost method adopted by the board of trustees, provided that the actuarial cost method adopted  
48 shall be in accordance with generally accepted actuarial standards and that the unfunded  
49 actuarial accrued liability, if any, shall be amortized by level annual payments over a period  
50 not to exceed thirty years. The provisions of this subsection shall expire on December 31,  
51 2017; thereafter subsection 5 of this section shall apply.

52 5. For calendar year 2018, the rate of contribution payable by each employer shall  
53 equal sixteen percent of the total compensation of all members employed by that employer.  
54 For each calendar year thereafter, the percentage rate of contribution payable by each  
55 employer of the total compensation of all members employed by that employer shall decrease  
56 one-half of one percent annually until calendar year ~~[2032]~~ **2026** when the rate of contribution  
57 payable by each employer shall equal ~~[nine]~~ **fourteen** percent of the total compensation of all  
58 members employed by that employer. For ~~[subsequent]~~ calendar ~~[years after 2032]~~ **year 2027**  
59 **and each calendar year thereafter**, the rate of contribution payable by each employer shall  
60 ~~[equal nine percent of the total compensation of all members employed by that employer]~~ **be**  
61 **determined as follows:**

62 (1) **Annually, the board of trustees shall instruct the retirement system actuary**  
63 **to determine the total actuarially required contribution as well as the total actuarially**



64 required contribution rate for the applicable calendar year based on a valuation as of  
65 the first day of the preceding calendar year;

66 (2) If the retirement system's funded ratio as of the first day of the preceding  
67 calendar year is below one hundred percent, the employer contribution rate shall be the  
68 greater of fourteen percent or the difference between the total actuarially required  
69 contribution rate and the member contribution rate or rates in effect under subsection  
70 two of this section, subject to the limits on annual adjustments stated in subdivision (6)  
71 of this subsection;

72 (3) If the retirement system's funded ratio as of the first day of the preceding  
73 calendar year equals or exceeds one hundred percent and the total actuarially required  
74 contribution rate exceeds eighteen percent, the employer contribution rate shall be the  
75 difference between the total actuarially required contribution rate and the member  
76 contribution rate or rates in effect under subsection two of this section, subject to the  
77 limits on annual adjustments stated in subdivision (6) of this subsection;

78 (4) If the retirement system's funded ratio as of the first day of the preceding  
79 calendar year equals or exceeds one hundred percent and the total actuarially required  
80 contribution rate does not exceed eighteen percent, the total actuarially required  
81 contribution rate shall be allocated equally between the employer contribution rate and  
82 the member contribution rate. If the total actuarially required contribution rate falls  
83 below eighteen percent after being above eighteen percent for the preceding twelve-  
84 month period, the member contribution rate and the employer contribution rate shall  
85 be adjusted to one-half of the total actuarially required contribution rate for such  
86 period, regardless of the magnitude of the decrease from the rate in effect for the prior  
87 period, in order to equalize the employer and member contribution rates. Otherwise,  
88 adjustments in the contribution rates shall be limited by the annual adjustment limits  
89 stated in subdivision (6) of this subsection;

90 (5) If the retirement system's funded ratio as of the first day of the preceding  
91 calendar year again falls below one hundred percent, or if the total actuarially required  
92 contribution rate rises above eighteen percent, the provisions of subdivision (2) or (3) of  
93 this subsection shall apply, as applicable, subject to the limits on annual adjustments  
94 stated in subdivision (6) of this subsection; and

95 (6) Except as stated in subdivision (4) of this subsection, in transitioning to the  
96 contribution rates prescribed in this subsection for periods beginning on or after  
97 January 1, 2027, the employer contribution rate and the member contribution rate,  
98 respectively, shall not increase by more than one percent or decrease by more than one-  
99 half of one percent for any period from the corresponding rate in effect immediately  
100 before such increase or decrease.

101           6. The expense and contingency reserve shall be a reserve for investment  
102 contingencies and estimated expenses of administration of the retirement system as  
103 determined annually by the board of trustees.

104           7. Gifts, devises, bequests and legacies may be accepted by the board of trustees to be  
105 held and invested as a part of the assets of the retirement system and shall not be separately  
106 accounted for except where specific direction for the use of a gift is made by a donor.

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