

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2095
103RD GENERAL ASSEMBLY

5208H.03C

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 169.070 and 169.670, RSMo, and to enact in lieu thereof two new sections relating to limitations on cost of living increases on retirement allowances for certain public school employees.

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

Section A. Sections 169.070 and 169.670, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 169.070 and 169.670, to read as follows:

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

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

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

11

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

14 (3) Two and four-tenths percent of the member's final average salary for each year of
15 membership service, if the member's creditable service is twenty-nine years or more but less
16 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
18 each year of membership service, if the member's creditable service is twenty-eight years or
19 more but 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
25 more 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
28 than twenty-six years, and the member has not attained age fifty-five;

29 (8) Two and fifty-five hundredths percent of the member's final average salary for
30 each year of membership service, if the member's creditable service is thirty-two years or
31 more regardless of age.

32 2. In lieu of the retirement allowance provided in subsection 1 of this section, a
33 member whose age is sixty years or more on September 28, 1975, may elect to have the
34 member's 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
36 for each year of membership service;

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

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

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

48 Option 2.

49 Upon the member's death the reduced retirement allowance shall be continued
50 throughout the life of and paid to such person as has an insurable interest in the life of the
51 member as the member shall have nominated in the member's election of the option, and
52 provided further that if the person so nominated dies before the retired member, the retirement

53 allowance will be increased to the amount the retired member would be receiving had the
54 retired member elected option 1; or

55 Option 3.

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

62 Option 4.

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

69 Option 5.

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

82 Option 6.

83 Upon the death of the member prior to the member having received sixty monthly
84 payments of the member's reduced allowance, the remainder of the sixty monthly payments
85 of the reduced allowance shall be paid to such beneficiary as the member shall have
86 nominated in the member's election of the option or in a subsequent nomination. If there is no
87 beneficiary so nominated who survives the member for the remainder of the sixty monthly
88 payments, the total of the remainder of such sixty monthly payments shall be paid to the
89 surviving spouse, surviving children in equal shares, surviving parents in equal shares, or

90 estate of the last person, in that order of precedence, to receive a monthly allowance in a lump
91 sum payment. If the total of the sixty payments paid to the retired individual and the
92 beneficiary of the retired individual is less than the total of the member's accumulated
93 contributions, the difference shall be paid to the beneficiary in a lump sum.

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

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

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

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

126 equal shares, or estate of the beneficiary, in that order of precedence, unless the retired
127 individual designates a different recipient with the board at or after retirement.

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

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

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

152 8. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, if a
153 member ceases to be a public school employee after acquiring five or more years of
154 membership service in Missouri, the member may at the option of the member leave the
155 member's contributions with the retirement system and claim a retirement allowance any time
156 after reaching the minimum age for voluntary retirement. When the member's claim is
157 presented to the board, the member shall be granted an allowance as provided in sections
158 169.010 to 169.141 on the basis of the member's age, years of service, and the provisions of
159 the law in effect at the time the member requests the member's retirement to become
160 effective.

161 9. The retirement allowance of a member retired because of disability shall be nine-
162 tenths of the allowance to which the member's creditable service would entitle the member if

163 the member's age were sixty, or fifty percent of one-twelfth of the annual salary rate used in
164 determining the member's contributions during the last school year for which the member
165 received a year of creditable service immediately prior to the member's disability, whichever
166 is greater, except that no such allowance shall exceed the retirement allowance to which the
167 member would have been entitled upon retirement at age sixty if the member had continued to
168 teach from the date of disability until age sixty at the same salary rate.

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

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

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

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

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

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

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

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

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

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

211 13. (1) If the board of trustees determines that the cost of living, as measured by
212 generally accepted standards, increases two percent or more in the preceding fiscal year, the
213 board shall increase the retirement allowances which the retired members or beneficiaries are
214 receiving by two percent of the amount being received by the retired member or the
215 beneficiary at the time the annual increase is granted by the board with the provision that the
216 increases provided for in this subsection shall not become effective until the fourth January
217 first following the member's retirement or January 1, 1977, whichever later occurs, or in the
218 case of any member retiring on or after July 1, 2000, the increase provided for in this
219 subsection shall not become effective until the third January first following the member's
220 retirement, or in the case of any member retiring on or after July 1, 2001, the increase
221 provided for in this subsection shall not become effective until the second January first
222 following the member's retirement. Commencing with January 1, 1992, if the board of
223 trustees determines that the cost of living has increased five percent or more in the preceding
224 fiscal year, the board shall increase the retirement allowances by five percent. The total of the
225 increases granted to a retired member or the beneficiary after December 31, 1976, may not
226 exceed eighty percent of the retirement allowance established at retirement or as previously
227 adjusted by other subsections.

228 (2) **Notwithstanding any other provision of this chapter to the contrary, the**
229 **limitation on the total of the increases granted to a retired member or beneficiary as**
230 **provided by subdivision (1) of this subsection shall be subject to an annual increase**
231 **approved by the board of trustees beginning on December 31, 2026, and on each**
232 **December thirty-first thereafter, except that such annual increase shall not exceed two**
233 **percent per year. If the board of trustees grants a cost-of-living adjustment for a given**
234 **year under subdivision (1) or (3) of this subsection and the system's investments earn**

235 **two percent or greater returns in excess of the investment return rate adopted by the**
236 **board of trustees in the immediately prior fiscal year, any retired member or beneficiary**
237 **who has already reached the eighty percent cap under this subdivision shall receive a**
238 **one-time cost-of-living adjustment of two percent for such year. Such adjustment shall**
239 **not be cumulative and shall not be considered part of the limitation on the total of**
240 **increases granted to a retired member or beneficiary. In any year in which a cost-of**
241 **living adjustment is not granted under subdivision (1) or (3) of this subsection, or in**
242 **which the system's investments fail to earn at least two percent returns in excess of the**
243 **investment return rate adopted by the board of trustees in the immediately prior fiscal**
244 **year, a retired member or beneficiary who has already reached the eighty percent cap**
245 **shall not receive a cost-of-living adjustment for that year. The percentage of the**
246 **retirement allowance for the total of increases granted to a retired member or**
247 **beneficiary shall not be decreased. Any reference to the limitation on the total of**
248 **increases granted to a retired member or beneficiary in any other section of this chapter**
249 **shall be construed to be the percentage of the retirement allowance in effect as increased**
250 **pursuant to this subdivision unless such increase to the percentage of the retirement**
251 **allowance is otherwise expressly excluded.**

252 **(3)** If the cost of living increases less than five percent, the board of trustees may
253 determine the percentage of increase to be made in retirement allowances, but at no time can
254 the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there
255 will be no increase in allowances for retired members on the following January first.

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

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

265 16. Notwithstanding any other provision of law, any person retired prior to September
266 28, 1983, who is receiving a reduced retirement allowance under option 1 or option 2 of
267 subsection 3 of this section, as such option existed prior to September 28, 1983, and whose
268 beneficiary nominated to receive continued retirement allowance payments under the elected
269 option dies or has died, shall upon application to the board of trustees have his or her
270 retirement allowance increased to the amount he or she would have been receiving had the

271 option not been elected, actuarially adjusted to recognize any excessive benefits which would
272 have been paid to him or her up to the time of application.

273 17. Benefits paid pursuant to the provisions of the public school retirement system of
274 Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code
275 except as provided pursuant to this subsection. Notwithstanding any other law to the
276 contrary, the board of trustees may establish a benefit plan pursuant to Section 415(m) of Title
277 26 of the United States Code. Such plan shall be created solely for the purpose described in
278 Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may
279 promulgate regulations necessary to implement the provisions of this subsection and to create
280 and administer such benefit plan.

281 18. Notwithstanding any other provision of law to the contrary, any person retired
282 before, on, or after May 26, 1994, shall be made, constituted, appointed and employed by the
283 board as a special consultant on the matters of education, retirement and aging, and upon
284 request shall give written or oral opinions to the board in response to such requests. As
285 compensation for such duties the person shall receive an amount based on the person's years
286 of service so that the total amount received pursuant to sections 169.010 to 169.141 shall be at
287 least the minimum amounts specified in subdivisions (1) to (4) of this subsection. In
288 determining the minimum amount to be received, the amounts in subdivisions (3) and (4) of
289 this subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was
290 applied to the person's retirement allowance. In determining the minimum amount to be
291 received, beginning September 1, 1996, the amounts in subdivisions (1) and (2) of this
292 subsection shall be adjusted in accordance with the actuarial adjustment, if any, that was
293 applied to the person's retirement allowance due to election of an optional form of retirement
294 having a continued monthly payment after the person's death. Notwithstanding any other
295 provision of law to the contrary, no person retired before, on, or after May 26, 1994, and no
296 beneficiary of such a person, shall receive a retirement benefit pursuant to sections 169.010 to
297 169.141 based on the person's years of service less than the following amounts:

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

302 19. Notwithstanding any other provisions of law to the contrary, any person retired
303 prior to May 26, 1994, and any designated beneficiary of such a retired member who was
304 deceased prior to July 1, 1999, shall be made, constituted, appointed and employed by the
305 board as a special consultant on the matters of education, retirement or aging and upon
306 request shall give written or oral opinions to the board in response to such requests.
307 Beginning September 1, 1996, as compensation for such service, the member shall have

308 added, pursuant to this subsection, to the member's monthly annuity as provided by this
309 section a dollar amount equal to the lesser of sixty dollars or the product of two dollars
310 multiplied by the member's number of years of creditable service. Beginning September 1,
311 1999, the designated beneficiary of the deceased member shall as compensation for such
312 service have added, pursuant to this subsection, to the monthly annuity as provided by this
313 section a dollar amount equal to the lesser of sixty dollars or the product of two dollars
314 multiplied by the member's number of years of creditable service. The total compensation
315 provided by this section including the compensation provided by this subsection shall be used
316 in calculating any future cost-of-living adjustments provided by subsection 13 of this section.

317 20. Any member who has retired prior to July 1, 1998, and the designated beneficiary
318 of a deceased retired member shall be made, constituted, appointed and employed by the
319 board as a special consultant on the matters of education, retirement and aging, and upon
320 request shall give written or oral opinions to the board in response to such requests. As
321 compensation for such duties the person shall receive a payment equivalent to eight and
322 seven-tenths percent of the previous month's benefit, which shall be added to the member's or
323 beneficiary's monthly annuity and which shall not be subject to the provisions of subsections
324 13 and 14 of this section for the purposes of the limit on the total amount of increases which
325 may be received.

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

333 22. Any member who has retired prior to July 1, 1999, and the designated beneficiary
334 of a retired member who was deceased prior to July 1, 1999, shall be made, constituted,
335 appointed and employed by the board as a special consultant on the matters of education,
336 retirement and aging, and upon request shall give written or oral opinions to the board in
337 response to such requests. As compensation for such duties, the person shall have added,
338 pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount
339 equal to five dollars times the member's number of years of creditable service.

340 23. Any member who has retired prior to July 1, 2000, and the designated beneficiary
341 of a deceased retired member shall be made, constituted, appointed and employed by the
342 board as a special consultant on the matters of education, retirement and aging, and upon
343 request shall give written or oral opinions to the board in response to such requests. As
344 compensation for such duties, the person shall receive a payment equivalent to three and five-

345 tenths percent of the previous month's benefit, which shall be added to the member or
346 beneficiary's monthly annuity and which shall not be subject to the provisions of subsections
347 13 and 14 of this section for the purposes of the limit on the total amount of increases which
348 may be received.

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

169.670. 1. The retirement allowance of a member whose age at retirement is sixty
2 years or more and whose creditable service is five years or more, or whose sum of age and
3 creditable service equals eighty years or more, or whose creditable service is thirty years or
4 more regardless of age, shall be the sum of the following items:

5 (1) For each year of membership service, one and sixty-one hundredths percent of the
6 member's final average salary;

7 (2) Six-tenths of the amount payable for a year of membership service for each year
8 of prior service;

9 (3) Eighty-five one-hundredths of one percent of any amount by which the member's
10 average compensation for services rendered prior to July 1, 1973, exceeds the average
11 monthly compensation on which federal Social Security taxes were paid during the period
12 over which such average compensation was computed, for each year of membership service
13 credit for services rendered prior to July 1, 1973, plus six-tenths of the amount payable for a
14 year of membership service for each year of prior service credit;

15 (4) In lieu of the retirement allowance otherwise provided by subdivisions (1) to (3)
16 of this subsection, a member may elect to receive a retirement allowance of:

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

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

23 (c) One and fifty-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-seven years or
25 more but less than twenty-eight years and the member has not attained the age of fifty-five;

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

29 (e) One and fifty-one hundredths percent of the member's final average salary for
30 each year of membership service, if the member's creditable service is twenty-five years or
31 more but less than twenty-six years and the member has not attained the age of fifty-five; and

32 (5) In addition to the retirement allowance provided in subdivisions (1) to (3) of this
33 subsection, a member retiring on or after July 1, 2001, whose creditable service is thirty years
34 or more or whose sum of age and creditable service is eighty years or more, shall receive a
35 temporary retirement allowance equivalent to eight-tenths of one percent of the member's
36 final average salary multiplied by the member's years of service until such time as the
37 member reaches the minimum age for Social Security retirement benefits.

38 2. (1) If the board of trustees determines that the cost of living, as measured by
39 generally accepted standards, increases five percent or more in the preceding fiscal year, the
40 board shall increase the retirement allowances which the retired members or beneficiaries are
41 receiving by five percent of the amount being received by the retired member or the
42 beneficiary at the time the annual increase is granted by the board; provided that, the increase
43 provided in this subsection shall not become effective until the fourth January first following
44 a member's retirement or January 1, 1982, whichever occurs later, and the total of the
45 increases granted to a retired member or the beneficiary after December 31, 1981, may not
46 exceed eighty percent of the retirement allowance established at retirement or as previously
47 adjusted by other provisions of law.

48 (2) **Notwithstanding any other provision of this chapter to the contrary, the**
49 **limitation on the total of the increases granted to a retired member or beneficiary as**
50 **provided by subdivision (1) of this subsection shall be subject to an annual increase**
51 **approved by the board of trustees beginning on December 31, 2026, and on each**
52 **December thirty-first thereafter, except that such annual increase shall not exceed two**
53 **percent per year. If the board of trustees grants a cost-of-living adjustment for a given**
54 **year under subdivision (1) or (3) of this subsection and the system's investments earn**
55 **two percent or greater returns in excess of the investment return rate adopted by the**
56 **board of trustees in the immediately prior fiscal year, any retired member or beneficiary**
57 **who has already reached the eighty percent cap under this subdivision shall receive a**
58 **one-time cost-of-living adjustment of two percent for such year. Such adjustment shall**
59 **not be cumulative and shall not be considered part of the limitation on the total of**

60 **increases granted to a retired member or beneficiary. In any year in which a cost-of**
61 **living adjustment is not granted under subdivision (1) or (3) of this subsection, or in**
62 **which the system's investments fail to earn at least two percent returns in excess of the**
63 **investment return rate adopted by the board of trustees in the immediately prior fiscal**
64 **year, a retired member or beneficiary who has already reached the eighty percent cap**
65 **shall not receive a cost-of-living adjustment for that year. The percentage of the**
66 **retirement allowance for the total of increases granted to a retired member or**
67 **beneficiary shall not be decreased. Any reference to the limitation on the total of**
68 **increases granted to a retired member or beneficiary in any other section of this chapter**
69 **shall be construed to be the percentage of the retirement allowance in effect as increased**
70 **pursuant to this subdivision unless such increase to the percentage of the retirement**
71 **allowance is otherwise expressly excluded.**

72 (3) If the cost of living increases less than five percent, the board of trustees may
73 determine the percentage of increase to be made in retirement allowances, but at no time can
74 the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there
75 will be no increase in allowances for retired members on the following January first.

76 3. The board of trustees may reduce the amounts which have been granted as
77 increases to a member pursuant to subsection 2 of this section if the cost of living, as
78 determined by the board and as measured by generally accepted standards, is less than the
79 cost of living was at the time of the first increase granted to the member; provided that, the
80 reductions shall not exceed the amount of increases which have been made to the member's
81 allowance after December 31, 1981.

82 4. (1) In lieu of the retirement allowance provided in subsection 1 of this section,
83 called option 1, a member whose creditable service is twenty-five years or more or who has
84 attained age fifty-five with five or more years of creditable service may elect, in the
85 application for retirement, to receive the actuarial equivalent of the member's retirement
86 allowance in reduced monthly payments for life during retirement with the provision that:

87 Option 2.

88 Upon the member's death, the reduced retirement allowance shall be continued
89 throughout the life of and paid to such person as has an insurable interest in the life of the
90 member as the member shall have nominated in the member's election of the option, and
91 provided further that if the person so nominated dies before the retired member, the retirement
92 allowance will be increased to the amount the retired member would be receiving had the
93 member elected option 1; or

94 Option 3.

95 Upon the death of the member three-fourths of the reduced retirement allowance shall
96 be continued throughout the life of and paid to such person as has an insurable interest in the

97 life of the member and as the member shall have nominated in an election of the option, and
98 provided further that if the person so nominated dies before the retired member, the retirement
99 allowance will be increased to the amount the retired member would be receiving had the
100 member elected option 1; or

101 **Option 4.**

102 Upon the death of the member one-half of the reduced retirement allowance shall be
103 continued throughout the life of, and paid to, such person as has an insurable interest in the
104 life of the member and as the member shall have nominated in an election of the option, and
105 provided further that if the person so nominated dies before the retired member, the retirement
106 allowance shall be increased to the amount the retired member would be receiving had the
107 member elected option 1; or

108 **Option 5.**

109 Upon the death of the member prior to the member having received one hundred
110 twenty monthly payments of the member's reduced allowance, the remainder of the one
111 hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary
112 as the member shall have nominated in the member's election of the option or in a subsequent
113 nomination. If there is no beneficiary so nominated who survives the member for the
114 remainder of the one hundred twenty monthly payments, the reserve for the remainder of such
115 one hundred twenty monthly payments shall be paid to the surviving spouse, surviving
116 children in equal shares, surviving parents in equal shares, or estate of the last person, in that
117 order of precedence, to receive a monthly allowance in a lump sum payment. If the total of
118 the one hundred twenty payments paid to the retired individual and the beneficiary of the
119 retired individual is less than the total of the member's accumulated contributions, the
120 difference shall be paid to the beneficiary in a lump sum; or

121 **Option 6.**

122 Upon the death of the member prior to the member having received sixty monthly
123 payments of the member's reduced allowance, the remainder of the sixty monthly payments
124 of the reduced allowance shall be paid to such beneficiary as the member shall have
125 nominated in the member's election of the option or in a subsequent nomination. If there is no
126 beneficiary so nominated who survives the member for the remainder of the sixty monthly
127 payments, the reserve for the remainder of such sixty monthly payments shall be paid to the
128 surviving spouse, surviving children in equal shares, surviving parents in equal shares, or
129 estate of the last person, in that order of precedence, to receive a monthly allowance in a lump
130 sum payment. If the total of the sixty payments paid to the retired individual and the
131 beneficiary of the retired individual is less than the total of the member's accumulated
132 contributions, the difference shall be paid to the beneficiary in a lump sum; or

133 **Option 7.**

134 A plan of variable monthly benefit payments which provides, in conjunction with the
135 member's retirement benefits under the federal Social Security laws, level or near-level
136 retirement benefit payments to the member for life during retirement, and if authorized, to an
137 appropriate beneficiary designated by the member. Such a plan shall be actuarially equivalent
138 to the retirement allowance under option 1 and shall be available for election only if
139 established by the board of trustees under duly adopted rules.

140 (2) The election of an option may be made only in the application for retirement and
141 such application must be filed prior to the date on which the retirement of the member is to be
142 effective. If either the member or the person nominated dies before the effective date of
143 retirement, the option shall not be effective, provided that:

144 (a) If the member or a person retired on disability retirement dies after attaining age
145 fifty-five and acquiring five or more years of creditable service or after acquiring twenty-five
146 or more years of creditable service and before retirement, except retirement with disability
147 benefits, and the person named by the member as the member's beneficiary has an insurable
148 interest in the life of the deceased member, the designated beneficiary may elect to receive
149 either survivorship payments under option 2 or a payment of the member's accumulated
150 contributions. If survivorship benefits under option 2 are elected and the member at the time
151 of death would have been eligible to receive an actuarial equivalent of the member's
152 retirement allowance, the designated beneficiary may further elect to defer the option 2
153 payments until the date the member would have been eligible to receive the retirement
154 allowance provided in subsection 1 of this section.

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

163 5. If the total of the retirement or disability allowances paid to an individual before
164 the person's death is less than the person's accumulated contributions at the time of the
165 person's retirement, the difference shall be paid to the person's beneficiary or, if there is no
166 beneficiary, to the surviving spouse, surviving children in equal shares, surviving parents in
167 equal shares, or person's estate, in that order of precedence; provided, however, that if an
168 optional benefit, as provided in option 2, 3 or 4 in subsection 4 of this section, had been
169 elected and the beneficiary dies after receiving the optional benefit, then, if the total
170 retirement allowances paid to the retired individual and the individual's beneficiary are less

171 than the total of the contributions, the difference shall be paid to the surviving spouse,
172 surviving children in equal shares, surviving parents in equal shares, or estate of the
173 beneficiary, in that order of precedence, unless the retired individual designates a different
174 recipient with the board at or after retirement.

175 6. If a member dies and his or her financial institution is unable to accept the final
176 payment or payments due to the member, the final payment or payments shall be paid to the
177 beneficiary of the member or, if there is no beneficiary, to the surviving spouse, surviving
178 children in equal shares, surviving parents in equal shares, or estate of the member, in that
179 order of precedence, unless otherwise stated. If the beneficiary of a deceased member dies
180 and his or her financial institution is unable to accept the final payment or payments, the final
181 payment or payments shall be paid to the surviving spouse, surviving children in equal shares,
182 surviving parents in equal shares, or estate of the member, in that order of precedence, unless
183 otherwise stated.

184 7. If a member dies before receiving a retirement allowance, the member's
185 accumulated contributions at the time of the member's death shall be paid to the member's
186 beneficiary or, if there is no beneficiary, to the surviving spouse, surviving children in equal
187 shares, surviving parents in equal shares, or to the member's estate; provided, however, that
188 no such payment shall be made if the beneficiary elects option 2 in subsection 4 of this
189 section, unless the beneficiary dies before having received benefits pursuant to that subsection
190 equal to the accumulated contributions of the member, in which case the amount of
191 accumulated contributions in excess of the total benefits paid pursuant to that subsection shall
192 be paid to the surviving spouse, surviving children in equal shares, surviving parents in equal
193 shares, or estate of the beneficiary, in that order of precedence.

194 8. If a member ceases to be an employee as defined in section 169.600 and certifies to
195 the board of trustees that such cessation is permanent or if the person's membership is
196 otherwise terminated, the person shall be paid the person's accumulated contributions with
197 interest.

198 9. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary, if a
199 member ceases to be an employee as defined in section 169.600 after acquiring five or more
200 years of creditable service, the member may, at the option of the member, leave the member's
201 contributions with the retirement system and claim a retirement allowance any time after the
202 member reaches the minimum age for voluntary retirement. When the member's claim is
203 presented to the board, the member shall be granted an allowance as provided in sections
204 169.600 to 169.715 on the basis of the member's age and years of service.

205 10. The retirement allowance of a member retired because of disability shall be nine-
206 tenths of the allowance to which the member's creditable service would entitle the member if
207 the member's age were sixty.

208 11. Notwithstanding any provisions of sections 169.600 to 169.715 to the contrary,
209 any member who is a member prior to October 13, 1969, may elect to have the member's
210 retirement allowance computed in accordance with sections 169.600 to 169.715 as they
211 existed prior to October 13, 1969.

212 12. Any application for retirement shall include a sworn statement by the member
213 certifying that the spouse of the member at the time the application was completed was aware
214 of the application and the plan of retirement elected in the application.

215 13. Notwithstanding any other provision of law, any person retired prior to August
216 14, 1984, who is receiving a reduced retirement allowance under option 1 or 2 of subsection 4
217 of this section, as the option existed prior to August 14, 1984, and whose beneficiary
218 nominated to receive continued retirement allowance payments under the elected option dies
219 or has died, shall upon application to the board of trustees have the person's retirement
220 allowance increased to the amount the person would have been receiving had the person not
221 elected the option actuarially adjusted to recognize any excessive benefits which would have
222 been paid to the person up to the time of the application.

223 14. Benefits paid pursuant to the provisions of the public education employee
224 retirement system of Missouri shall not exceed the limitations of Section 415 of Title 26 of
225 the United States Code, except as provided under this subsection. Notwithstanding any other
226 law, the board of trustees may establish a benefit plan under Section 415(m) of Title 26 of the
227 United States Code. Such plan shall be credited solely for the purpose described in Section
228 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate
229 regulations necessary to implement the provisions of this subsection and to create and
230 administer such benefit plan.

231 15. Any member who has retired prior to July 1, 1999, and the designated beneficiary
232 of a deceased retired member upon request shall be made, constituted, appointed and
233 employed by the board as a special consultant on the matters of education, retirement and
234 aging. As compensation for such duties the person shall receive a payment equivalent to
235 seven and four-tenths percent of the previous month's benefit, which shall be added to the
236 member's or beneficiary's monthly annuity and which shall not be subject to the provisions of
237 subsections 2 and 3 of this section for the purposes of the limit on the total amount of
238 increases which may be received.

239 16. Any member who has retired prior to July 1, 2000, and the designated beneficiary
240 of a deceased retired member upon request shall be made, constituted, appointed and
241 employed by the board as a special consultant on the matters of education, retirement and
242 aging. As compensation for such duties the person shall receive a payment equivalent to
243 three and four-tenths percent of the previous month's benefit, which shall be added to the
244 member's or beneficiary's monthly annuity and which shall not be subject to the provisions of

245 subsections 2 and 3 of this section for the purposes of the limit on the total amount of
246 increases which may be received.

247 17. Any member who has retired prior to July 1, 2001, and the designated beneficiary
248 of a deceased retired member upon request shall be made, constituted, appointed and
249 employed by the board as a special consultant on the matters of education, retirement and
250 aging. As compensation for such duties the person shall receive a payment equivalent to
251 seven and one-tenth percent of the previous month's benefit, which shall be added to the
252 member's or beneficiary's monthly annuity and which shall not be subject to the provisions of
253 subsections 2 and 3 of this section for the purposes of the limit on the total amount of
254 increases which may be received.

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