

SECOND REGULAR SESSION

SENATE BILL NO. 938

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR JUSTUS.

Read 1st time February 11, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4793S.02I

AN ACT

To repeal sections 169.270, 169.280, 169.301, 169.324, and 169.328, RSMo, and to enact in lieu thereof five new sections relating to school retirement systems.

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

Section A. Sections 169.270, 169.280, 169.301, 169.324, and 169.328, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 169.270, 169.280, 169.301, 169.324, and 169.328, to read as follows:

169.270. Unless a different meaning is clearly required by the context, the following words and phrases as used in sections 169.270 to 169.400 shall have the following meanings:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member or paid on behalf of the member by the employer and credited to the member's individual account together with interest thereon in the employees' contribution fund. The board of trustees shall determine the rate of interest allowed thereon as provided for in section 169.295;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of formulas and/or tables which have been approved by the board of trustees. **The formulas and tables in effect at any time shall be set forth in a written document which shall be maintained at the offices of the retirement system and treated for all purposes as part of the documents governing the retirement system established by section 169.280. The formulas and tables may be changed from time to time if recommended by the retirement system's actuary and approved by the board of trustees;**

(3) "Average final compensation", the highest average annual compensation received for any four consecutive years of service. In determining

20 whether years of service are "consecutive", only periods for which creditable
21 service is earned shall be considered, and all other periods shall be disregarded;

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

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

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

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

42 (8) "Charter school", any charter school established pursuant to sections
43 160.400 to 160.420, RSMo, and located, at the time it is established, within the
44 school district;

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

54 (10) "Creditable service", the amount of time that a regular employee is
55 a member of the retirement system and makes contributions thereto in

56 accordance with the provisions of sections 169.270 to 169.400;

57 (11) "Employee", any person who is classified by the school district, a
58 charter school, the library district or the retirement system established by section
59 169.280 as an employee of such employer and is reported contemporaneously for
60 federal and state tax purposes as an employee of such employer. A person is not
61 considered to be an employee for purposes of such retirement system with respect
62 to any service for which the person was not reported contemporaneously for
63 federal and state tax purposes as an employee of such employer, regardless of
64 whether the person is or may later be determined to be or to have been a common
65 law employee of such employer, including but not limited to a person classified
66 by the employer as independent contractors and persons employed by other
67 entities which contract to provide staff and services to the employer. In no event
68 shall a person reported for federal tax purposes as an employee of a private,
69 for-profit entity be deemed to be an employee eligible to participate in the
70 retirement system established by section 169.280 with respect to such
71 employment;

72 (12) "Employer", the school district, any charter school, the library
73 district, or the retirement system established by section 169.280, or any
74 combination thereof, as required by the context to identify the employer of any
75 member, or, for purposes only of subsection 2 of section 169.324, of any retiree;

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

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

82 (15) "Medical board", the board of physicians provided for in section
83 169.291;

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

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

92 fractional years;

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

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

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

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

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

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

16 2. In the event that (i) the population of a school district having a
17 retirement system created hereunder should increase to a number greater than
18 seven hundred thousand, or (ii) the population of the city in which not less than
19 seventy percent of the population of the school district resides should decrease to

20 a number less than four hundred thousand, or (iii) less than seventy percent of
21 the population of the school district should reside in a city having a population
22 of at least four hundred thousand, or (iv) the corporate organization of the school
23 district shall lapse in accordance with subsections 1 and 4 of section 162.081,
24 RSMo, the retirement system of such school district shall continue to be governed
25 by and subject to sections 169.270 to 169.400 and all other statutes, rules, and
26 regulations applicable to retirement systems in school districts having a
27 population of not more than seven hundred thousand and not less than seventy
28 percent of whose population resides in a city, other than a city not within a
29 county, of four hundred thousand or more, as if the population of such school
30 district and city continued to be within such numerical limits.

31 **3. The plan of retirement benefits administered by the**
32 **retirement system established hereby is intended to be a qualified plan**
33 **under the provisions of applicable federal law. The board of trustees**
34 **shall interpret the statutes governing the retirement system and shall**
35 **administer the retirement system in all respects consistent with such**
36 **intent. The assets of the retirement system shall be held in trust for**
37 **the exclusive benefit of members and their beneficiaries and for**
38 **defraying reasonable administrative expenses of the retirement system.**
39 **No part of such assets shall, at any time prior to the satisfaction of all**
40 **liabilities with respect to members and their beneficiaries, be used for**
41 **or diverted to any purposes other than for such exclusive benefit or for**
42 **any purpose inconsistent with the requirements of sections 169.270 to**
43 **169.400.**

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

9 2. Any member who elected on October 13, 1961, or within thirty days
10 thereafter, to continue to contribute and to receive benefits under sections
11 169.270 to 169.400 may continue to be a member of the retirement system under
12 the terms and conditions of the plan in effect immediately prior to October 13,

13 1961, or may, upon written request to the board of trustees, transfer to the
14 present plan, provided that the member pays into the system any additional
15 contributions with interest the member would have credited to the member's
16 account if such person had been a member of the current plan since its inception
17 or, if the person's contributions and interest are in excess of what the person
18 would have paid, such person will receive a refund of such excess. The board of
19 trustees shall adopt appropriate rules and regulations governing the operation
20 of the plan in effect immediately prior to October 13, 1961.

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

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

169.324. 1. The annual service retirement allowance payable pursuant
2 to section 169.320 in equal monthly installments for life shall be the retirant's
3 number of years of creditable service multiplied by one and three-fourths percent
4 of the person's average final compensation, subject to a maximum of sixty percent
5 of the person's average final compensation. For any member who retires as an
6 active member on or after June 30, 1999, the annual service retirement allowance
7 payable pursuant to section 169.320 in equal monthly installments for life shall
8 be the retirant's number of years of creditable service multiplied by two percent
9 of the person's average final compensation, subject to a maximum of sixty percent
10 of the person's average final compensation. Any member whose number of years
11 of creditable service is greater than thirty-four and one-quarter on August 28,
12 1993, shall receive an annual service retirement allowance payable pursuant to
13 section 169.320 in equal monthly installments for life equal to the retirant's
14 number of years of creditable service as of August 28, 1993, multiplied by one and
15 three-fourths percent of the person's average final compensation but shall not
16 receive a greater annual service retirement allowance based on additional years
17 of creditable service after August 28, 1993. Provided, however, that, effective
18 January 1, 1996, any retiree who retired on, before or after January 1, 1996, with

19 at least twenty years of creditable service shall receive at least three hundred
20 dollars each month as a retirement allowance, or the actuarial equivalent thereof
21 if the retiree elected any of the options available under section
22 169.326. Provided, further, any retiree who retired with at least ten years of
23 creditable service shall receive at least one hundred fifty dollars each month as
24 a retirement allowance, plus fifteen dollars for each additional full year of
25 creditable service greater than ten years but less than twenty years (or the
26 actuarial equivalent thereof if the retiree elected any of the options available
27 under section 169.326). Any beneficiary of a deceased retiree who retired with
28 at least ten years of creditable service and elected one of the options available
29 under section 169.326 shall also be entitled to the actuarial equivalent of the
30 minimum benefit provided by this subsection, determined from the option chosen.

31 2. Except as otherwise provided in sections 169.331, 169.580 and 169.585,
32 payment of a retirant's retirement allowance will be suspended for any month for
33 which such person receives remuneration from the person's employer or from any
34 other employer in the retirement system established by section 169.280 for the
35 performance of services except any such person other than a person receiving a
36 disability retirement allowance under section 169.322 may serve as a nonregular
37 substitute, part-time or temporary employee for not more than six hundred hours
38 in any school year without becoming a member and without having the person's
39 retirement allowance discontinued, **provided that through such substitute,**
40 **part-time, or temporary employment, the person may earn no more than**
41 **fifty percent of the annual salary or wages the person was last paid by**
42 **the employer before the person retired and commenced receiving a**
43 **retirement allowance, adjusted for inflation. If a person exceeds such**
44 **hours limit or such compensation limit, payment of the person's**
45 **retirement allowance shall be suspended for the month in which such**
46 **limit was exceeded and each subsequent month in the school year for**
47 **which the person receives remuneration from any employer in the**
48 **retirement system.** If a retirant is reemployed by any employer in any
49 capacity, whether pursuant to this section, or section 169.331, 169.580, or
50 169.585, or as a regular employee, the amount of such person's retirement
51 allowance attributable to service prior to the person's first retirement date shall
52 not be changed by the reemployment. If the person again becomes an active
53 member and earns additional creditable service, upon the person's second
54 retirement the person's retirement allowance shall be the sum of:

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

61 (2) An additional retirement allowance computed using the benefit
62 formula in effect on the person's second retirement date, the person's creditable
63 service following reemployment, and the person's average **final** annual
64 compensation as of the second retirement date. The sum calculated pursuant to
65 this subsection shall not exceed the greater of sixty percent of the person's
66 average final compensation as of the second retirement date or the amount
67 determined pursuant to subdivision (1) of this subsection. Compensation earned
68 prior to the person's first retirement date shall be considered in determining the
69 person's average final compensation as of the second retirement date if such
70 compensation would otherwise be included in determining the person's average
71 final compensation.

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

80 (1) After determination by the actuary of the investment return for the
81 preceding year as of December thirty-first (the "valuation year"), the actuary shall
82 recommend to the board of trustees what portion of the investment return is
83 available to provide such benefits increase, if any, and shall recommend the
84 amount of such benefits increase, if any, to be implemented as of the first day of
85 the thirteenth month following the end of the valuation year, and the first
86 payable on or about the first day of the fourteenth month following the end of the
87 valuation year. The actuary shall make such recommendations so as not to affect
88 the financial soundness of the retirement system, recognizing the following
89 safeguards:

90 (a) The retirement system's funded ratio as of January first of the year

91 preceding the year of a proposed increase shall be at least one hundred percent
92 after adjusting for the effect of the proposed increase. The funded ratio is the
93 ratio of assets to the pension benefit obligation;

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

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

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

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

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

104 5. If an inactive member becomes an active member after June 30, 2001,
105 and after a break in service, unless the person earns at least four additional
106 years of creditable service without another break in service, upon retirement the
107 person's retirement allowance shall be calculated separately for each separate
108 period of service ending in a break in service. The retirement allowance shall be
109 the sum of the separate retirement allowances computed for each such period of
110 service using the benefit formula in effect, the person's average final
111 compensation as of the last day of such period of service and the creditable
112 service the person earned during such period of service; provided, however, if the
113 person earns at least four additional years of creditable service without another
114 break in service, all of the person's creditable service prior to and including such
115 service shall be aggregated and, upon retirement, the retirement allowance shall
116 be computed using the benefit formula in effect and the person's average final
117 compensation as of the last day of such period of four or more years and all of the
118 creditable service the person earned prior to and during such period.

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

126 7. All retirement systems established by the laws of the state of Missouri

127 shall develop a procurement action plan for utilization of minority and women
128 money managers, brokers and investment counselors. Such retirement systems
129 shall report their progress annually to the joint committee on public employee
130 retirement and the governor's minority advocacy commission.

169.328. 1. Should a member cease to be a regular employee, except by
2 retirement, the member, if living, shall be paid on demand, made by written
3 notice to the board of trustees, the amount of the person's accumulated
4 contributions (with interest as determined by the board of trustees as provided
5 in sections 169.270 to 169.400) standing to the credit of the person's individual
6 account in the employees' contribution fund. The accumulated contributions with
7 interest shall not be paid to a member so long as the person remains a regular
8 employee or before the member incurs a break in service. If the member dies
9 before retirement such accumulated contributions (with interest) shall be paid to
10 the member's estate or designated beneficiary unless the provisions of subsection
11 3 of section 169.326 apply.

12 2. If a former unvested member's accumulated contributions have not been
13 withdrawn four years after the person has ceased to be a member (other than by
14 reason of death or retirement), the board of trustees shall pay the same to such
15 former member within a reasonable time after the expiration of such four-year
16 period.

17 3. If, on account of undeliverability, improper mailing or forwarding
18 address, or other similar problem, the board of trustees is unable to refund the
19 accumulated contributions of a former unvested member or to commence payment
20 of retirement benefits within four years after the end of the calendar year in
21 which such former member ceased to be a regular employee, the board may
22 transfer the accumulated contributions to the general reserve fund. If, thereafter,
23 written application is made to the board of trustees for such refund or benefits,
24 the board shall cause the same to be paid from the general reserve fund, but no
25 interest shall be accrued after the end of the fourth year following the end of the
26 calendar year in which such former member ceased to be a regular employee.

27 4. In its discretion the board of trustees may approve extensions of any
28 time periods in this section on account of a former member's military or naval
29 service, academic study or illness.

30 **5. Any member or beneficiary who is entitled to receive a**
31 **distribution that is an eligible rollover distribution, as defined in**
32 **Section 402(c)(4) of the Internal Revenue Code, may elect to have that**

33 **distribution transferred directly to another eligible retirement plan, as**
34 **defined in Section 402(c)(8) of the Internal Revenue Code, designated**
35 **by the member or beneficiary in accordance with procedures**
36 **established by the board of trustees. An eligible rollover distribution**
37 **shall include a distribution to a nonspouse beneficiary that is treated**
38 **as an eligible rollover distribution under Section 402(c)(11) of the**
39 **Internal Revenue Code. All such transfers shall be made in compliance**
40 **with the requirements of Section 401(a)(31) of the Internal Revenue**
41 **Code and regulations thereunder.**

Unofficial ✓

Bill

Copy