

FIRST REGULAR SESSION

HOUSE BILL NO. 864

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE TAYLOR.

0246H.031

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 169, RSMo, by adding thereto eight new sections relating to retirement benefits for certain public school employees, with a delayed effective date.

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

Section A. Chapter 169, RSMo, is amended by adding thereto eight new sections, to be known as sections 169.025, 169.151, 169.154, 169.157, 169.161, 169.164, 169.167, and 169.171, to read as follows:

169.025. The contribution and distribution arrangement administered by the public school retirement system of Missouri and found under sections 169.030 to 169.035 and sections 169.060 to 169.075 shall be referred to as the "original retirement contribution system" or the "default retirement contribution system". The contribution and distribution arrangement administered by the public school retirement system of Missouri and found under sections 169.151 to 169.171 shall be referred to as the "defined contribution option".

169.151. The following terms, as used in sections 169.151 to 169.171, shall have the following meanings:

(1) **"Board"**, the board of trustees of the public school retirement system of Missouri established under section 169.020;

(2) **"Fund"**, the defined contribution option fund established under section 169.161;

(3) **"Member"**, a person who holds membership in the public school retirement system of Missouri, as defined under section 169.010;

(4) **"Option"**, the defined contribution option established under section 169.154;

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.

10 (5) "System", the public school retirement system of Missouri established under
11 section 169.020.

169.154. There is hereby established the "Defined Contribution Option" under the
2 Public School Retirement System of Missouri. The general administration and the
3 responsibility for the proper operation of the defined contribution option is hereby vested
4 in the board of trustees of the Public School Retirement System of Missouri. The board
5 shall set up the option as a defined contribution plan, as defined under 26 U.S.C. Section
6 414. The board shall adopt such rules, regulations, and procedures as are necessary to
7 ensure the smooth and effective functioning of the option.

169.157. 1. Notwithstanding any provisions of sections 169.010 to 169.141 to the
2 contrary, all members of the system shall be eligible to participate in the option; however,
3 a member of the system who elects to participate in the option shall not be allowed to
4 change his or her election to participate in the default retirement contribution system at
5 any time after an election to participate in the option has been made. Eligibility for
6 membership in the system shall be determined under section 169.051.

7 2. In order to participate in the option, members of the system shall make an
8 affirmative election. A failure to make such election shall automatically cause the member
9 to be placed in the default retirement contribution system. The board shall design such
10 forms and paperwork as may be required for members to make an election to join the
11 option.

12 3. (1) Members shall not be permitted to simultaneously participate in the option
13 and the default retirement contribution system.

14 (2) Members who are participating in the option shall be exempt from the
15 contribution requirements found under section 169.030. Employers shall not be required
16 to make contributions under section 169.030 for members who are participating in the
17 option.

18 4. (1) Subject to the exception found in subdivision (2) of this subsection, no
19 member who elects to participate in the option, and no beneficiary or estate of such
20 member, shall be eligible to receive any retirement allowance or retirement benefits
21 provided under the default retirement contribution system including, but not limited to,
22 those retirement allowances and retirement benefits provided under sections 169.070 to
23 169.075.

24 (2) A member who elects to participate in the option after having previously
25 participated in the default retirement contribution system may, upon retirement, receive
26 any vested benefits under the default retirement contribution system to which he or she is
27 entitled under sections 169.010 to 169.141. A beneficiary of such a member may also

28 receive any such benefits to which the beneficiary is entitled under sections 160.010 to
29 169.141.

169.161. 1. There is hereby established the "Defined Contribution Option Fund".
2 The fund shall be administered by the board.

3 2. The moneys required for the operation of the option shall come from
4 contributions made by members and employers and shall be deposited into the fund.

5 3. The assets of the fund shall be divided into separate accounts for each member
6 participating in the option. Each member's account balance shall include the total portion
7 of the overall fund assets attributable to the contributions by or on behalf of any particular
8 member, including contributions made by an employer on behalf of the particular member,
9 combined with the investment returns on such contributions, less the proportionate share
10 of administrative costs of the fund over the period of time under which such contributions
11 and returns were a part of the fund.

12 4. (1) Any member who elects to participate in the option shall participate in an
13 automatic payroll deduction, whereby a percentage of such member's payroll amount shall
14 be automatically transferred and contributed to the fund, under such rules and regulations
15 as shall be promulgated by the board.

16 (2) When a member elects to participate in the option, the employer of such
17 member shall make automatic contributions in specified amounts to the fund, under such
18 rules and regulations as may be promulgated by the board.

19 5. Regardless of the provisions of any law governing compensation and contracts,
20 every member who elects to participate in the option shall be deemed to consent and agree
21 to the payroll deductions required herein.

22 6. For all members who elect to participate in the option:

23 (1) The employer contribution rate shall be equal to five percent of payroll;

24 (2) The member contribution rate shall be selected by each individual member from
25 a set of contribution rate options established by the board, but the member contribution
26 rate shall be equal to no less than three percent of payroll and equal to no more than fifty
27 percent of payroll. Moreover, the member contribution rate shall be subject to any
28 contribution limitations imposed by federal law regarding qualified defined contribution
29 retirement plans including, but not limited to, any such restriction as may be found under
30 26 U.S.C. Section 401.

31 7. Each member participating in the defined contribution option shall select specific
32 investment options for his or her own contributions, any contributions made on such
33 member's behalf, and all funds in such member's total account balance. The board shall
34 ensure that the defined contribution option provides participating members with a

35 significant variety of investment options and strategies. The board shall ensure that
36 members are able to change their investment options and strategies at any time.

37 **8. A member who elects to participate in the option shall be allowed to rollover or**
38 **directly transfer assets from a retirement plan sponsored by a previous employer, subject**
39 **to provisions of the Internal Revenue Code relating to defined contribution plans and any**
40 **rules promulgated by the board. All rollover or direct transfer contributions shall be**
41 **credited to a member's total account balance.**

169.164. 1. All fund assets, including all contributions made to the fund, shall be
2 **held in trust by the board, for the exclusive benefit of members and their beneficiaries.**
3 **The fund assets may be pooled solely for investment management purposes.**

4 **2. The provisions found in subsections 2 to 7 of section 169.040 are hereby expressly**
5 **made applicable to the board with respect to the board's administration of the fund.**

6 **3. All administrative costs of the fund, including staffing, investment advisory and**
7 **management services, and overhead expenses, may be paid out of assets of the fund. These**
8 **administrative costs may reduce the amount ultimately due participants in the fund upon**
9 **their retirement.**

10 **4. The board and employees of the system shall be immune from suit and shall not**
11 **be liable for investment decisions.**

12 **5. The system shall be immune from suit and shall not be subject to any claim or**
13 **liability associated with the administration of the fund by the board and employees of the**
14 **system.**

169.167. 1. A member's total account balance shall, at all times, be portable, and
2 **members shall be allowed to transfer the full amount of their total account balances to**
3 **third-party investment accounts or other financial accounts including, but not limited to,**
4 **retirement accounts administered by subsequent employers.**

5 **2. The board shall ensure that participating members are able to access up-to-date**
6 **electronic information regarding their total account balances and the performances of their**
7 **investment selections. Additionally, the board shall ensure that participating members**
8 **receive annual reports providing such members with their total account balances and**
9 **performance summaries for their investment selections.**

10 **3. The board shall publish and distribute documents explaining the current options**
11 **for members to access and receive their total account balances. These documents shall be**
12 **distributed to all members annually and prior to any changes in rules affecting members'**
13 **access to their total account balances.**

169.171. 1. The provisions of sections 169.010 to 169.141 shall apply to sections
2 **169.151 to 169.171, but only where the former sections are not in conflict with the latter.**

3 Participants in the option, and their beneficiaries and estates, are expressly made not
4 subject to the requirements of sections 169.010 to 169.141 to the extent that these sections
5 impose conflicting requirements, impose separate contribution requirements, or establish
6 any claims to specific retirement benefits for a member or a member's beneficiaries or
7 estate.

8 2. Although membership in the system shall be determined by the provisions of
9 section 169.050, the board may promulgate supplementary rules and regulations to clarify
10 the eligibility requirements for those electing to participate in the option, including
11 requirements for current members who have made contributions under the default
12 retirement contribution system but would like to join the option. The board is hereby
13 authorized to establish reasonable time frames for submission of any paperwork needed
14 for enrollment into the option. Any rules and regulations created by the board shall treat
15 all members of the system in a substantively identical way with respect to general eligibility
16 for retirement benefits.

17 3. Neither the system nor the board shall encourage or discourage employees or
18 members from electing to participate in the option.

19 4. The system shall provide an informational brochure to each school district
20 included in the system under section 169.020. The brochure shall be reproducible, and
21 shall include an overview of both the default retirement contribution system and the
22 defined contribution option. An updated version of the brochure shall be distributed to
23 all school districts included in the system, upon any substantial changes to either the
24 default retirement contribution system or the defined contribution option. Every school
25 district shall provide a copy of such brochure, or a separate document containing the
26 information provided therein, to all new school district employees, as defined under section
27 169.010.

28 5. The board is authorized to adopt those rules that are reasonable and necessary
29 to accomplish the limited duties specifically delegated within sections 169.151 to 169.171.
30 Any rule or portion of a rule, as that term is defined in section 536.010, that is created
31 under the authority delegated in this section shall become effective only if it complies with
32 and is subject to all the provisions of chapter 536 and, if applicable, section 536.028. This
33 section and chapter 536 are nonseverable, and if any of the powers vested with the general
34 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove
35 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
36 authority and any rule proposed or adopted after January 1, 2020, shall be invalid and
37 void.

Section B. The enactment of section A of this act shall become effective on January 1,
2 2020.

✓