

FIRST REGULAR SESSION

# HOUSE BILL NO. 905

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE DINKINS.

1975H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

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

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

Section A. Section 169.070, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 169.070, to read as follows:

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

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

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

11

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

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

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

32 2. In lieu of the retirement allowance provided in subsection 1 of this section, a  
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. 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. If the cost of living increases less than five percent, the board  
228 of trustees may determine the percentage of increase to be made in retirement allowances, but  
229 at no time can the increase exceed five percent per year. If the cost of living decreases in a  
230 fiscal year, there will be no increase in allowances for retired members on the following  
231 January first.

232 14. The board of trustees may reduce the amounts which have been granted as  
233 increases to a member pursuant to subsection 13 of this section if the cost of living, as  
234 determined by the board and as measured by generally accepted standards, is less than the

235 cost of living was at the time of the first increase granted to the member; except that, the  
236 reductions shall not exceed the amount of increases which have been made to the member's  
237 allowance after December 31, 1976.

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

241 16. Notwithstanding any other provision of law, any person retired prior to September  
242 28, 1983, who is receiving a reduced retirement allowance under option 1 or option 2 of  
243 subsection 3 of this section, as such option existed prior to September 28, 1983, and whose  
244 beneficiary nominated to receive continued retirement allowance payments under the elected  
245 option dies or has died, shall upon application to the board of trustees have his or her  
246 retirement allowance increased to the amount he or she would have been receiving had the  
247 option not been elected, actuarially adjusted to recognize any excessive benefits which would  
248 have been paid to him or her up to the time of application.

249 17. Benefits paid pursuant to the provisions of the public school retirement system of  
250 Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code  
251 except as provided pursuant to this subsection. Notwithstanding any other law to the  
252 contrary, the board of trustees may establish a benefit plan pursuant to Section 415(m) of Title  
253 26 of the United States Code. Such plan shall be created solely for the purpose described in  
254 Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may  
255 promulgate regulations necessary to implement the provisions of this subsection and to create  
256 and administer such benefit plan.

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



272 beneficiary of such a person, shall receive a retirement benefit pursuant to sections 169.010 to  
273 169.141 based on the person's years of service less than the following amounts:

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

278 19. Notwithstanding any other provisions of law to the contrary, any person retired  
279 prior to May 26, 1994, and any designated beneficiary of such a retired member who was  
280 deceased prior to July 1, 1999, shall be made, constituted, appointed and employed by the  
281 board as a special consultant on the matters of education, retirement or aging and upon  
282 request shall give written or oral opinions to the board in response to such requests.  
283 Beginning September 1, 1996, as compensation for such service, the member shall have  
284 added, pursuant to this subsection, to the member's monthly annuity as provided by this  
285 section a dollar amount equal to the lesser of sixty dollars or the product of two dollars  
286 multiplied by the member's number of years of creditable service. Beginning September 1,  
287 1999, the designated beneficiary of the deceased member shall as compensation for such  
288 service have added, pursuant to this subsection, to the monthly annuity as provided by this  
289 section a dollar amount equal to the lesser of sixty dollars or the product of two dollars  
290 multiplied by the member's number of years of creditable service. The total compensation  
291 provided by this section including the compensation provided by this subsection shall be used  
292 in calculating any future cost-of-living adjustments provided by subsection 13 of this section.

293 20. Any member who has retired prior to July 1, 1998, and the designated beneficiary  
294 of a deceased retired member shall be made, constituted, appointed and employed by the  
295 board as a special consultant on the matters of education, retirement and aging, and upon  
296 request shall give written or oral opinions to the board in response to such requests. As  
297 compensation for such duties the person shall receive a payment equivalent to eight and  
298 seven-tenths percent of the previous month's benefit, which shall be added to the member's or  
299 beneficiary's monthly annuity and which shall not be subject to the provisions of subsections  
300 13 and 14 of this section for the purposes of the limit on the total amount of increases which  
301 may be received.

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

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

316           23. Any member who has retired prior to July 1, 2000, and the designated beneficiary  
317 of a deceased retired member shall be made, constituted, appointed and employed by the  
318 board as a special consultant on the matters of education, retirement and aging, and upon  
319 request shall give written or oral opinions to the board in response to such requests. As  
320 compensation for such duties, the person shall receive a payment equivalent to three and five-  
321 tenths percent of the previous month's benefit, which shall be added to the member or  
322 beneficiary's monthly annuity and which shall not be subject to the provisions of subsections  
323 13 and 14 of this section for the purposes of the limit on the total amount of increases which  
324 may be received.

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

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