

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 290

91ST GENERAL ASSEMBLY

2001

1213L.11T

AN ACT

To repeal sections 56.807, 56.816, 86.200, 86.207, 86.213, 86.233, 86.237, 86.250, 86.251, 86.252, 86.253, 86.256, 86.257, 86.260, 86.263, 86.267, 86.288, 86.290, 86.292, 86.300, 86.320, 86.340, 86.353, 86.360, 86.365, 86.370, 86.447, 86.450, 86.457, 86.463, 86.483, 86.600, 86.620, 86.675, 86.690, 86.750, 86.780, 87.120, 87.130, 87.135, 87.170, 87.185, 87.205, 87.215, 87.237, 87.240, 87.288, 87.310, 87.371 and 87.615, RSMo 2000, relating to certain relief and pension systems, and to enact in lieu thereof fifty-two new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 56.807, 56.816, 86.200, 86.207, 86.213, 86.233, 86.237, 86.250, 86.251, 86.252, 86.253, 86.256, 86.257, 86.260, 86.263, 86.267, 86.288, 86.290, 86.292, 86.300, 86.320, 86.340, 86.353, 86.360, 86.365, 86.370, 86.447, 86.450, 86.457, 86.463, 86.483, 86.600, 86.620, 86.675, 86.690, 86.750, 86.780, 87.120, 87.130, 87.135, 87.170, 87.185, 87.205, 87.215, 87.237, 87.240, 87.288, 87.310, 87.371 and 87.615, RSMo 2000, are repealed and fifty-two new sections enacted in lieu thereof, to be known as sections 56.807, 56.816, 86.200, 86.207, 86.213, 86.233, 86.237, 86.250, 86.251, 86.252, 86.253, 86.256, 86.257, 86.260, 86.263, 86.267, 86.288, 86.290, 86.292, 86.300, 86.320, 86.340, 86.353, 86.360, 86.365, 86.370, 86.447, 86.450, 86.457, 86.463, 86.483, 86.600, 86.620, 86.671, 86.675, 86.690, 86.750, 86.780, 87.120, 87.130, 87.135, 87.170, 87.185, 87.205, 87.215, 87.237, 87.240, 87.288, 87.310, 87.371, 87.615 and 1, to read as follows:

56.807. 1. The funds for prosecuting attorneys and circuit attorneys provided for in subsection 2 of this section shall be paid from county or city funds.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2. Beginning thirty days after the establishment of this system and monthly thereafter, each county treasurer shall pay to the system the following amounts to be drawn from the general revenues of the county:

(1) For counties of the third and fourth classification **except as provided in subdivision (3) of this subsection**, three hundred seventy-five dollars;

(2) For counties of the second classification, five hundred forty-one dollars and sixty-seven cents;

(3) For counties of the first classification, **counties which pursuant to section 56.363 elect to make the position of prosecuting attorney and full-time position after August 28, 2001**, and the city of St. Louis, one thousand two hundred ninety-one dollars and sixty-seven cents.

3. The county treasurer shall at least monthly transmit the sums specified in subsection 2 of this section to the Missouri office of prosecution services for deposit to the credit of the "Missouri Prosecuting Attorneys and Circuit Attorneys' Retirement System Fund", which is hereby created. All moneys held by the state treasurer on behalf of the system shall be paid to the system within ninety days after August 28, 1993. Moneys in the Missouri prosecuting attorneys and circuit attorneys' retirement system fund shall be used only for the purposes provided in sections 56.800 to 56.840 and for no other purpose.

4. The board may accept gifts, donations, grants and bequests from private or public sources to the Missouri prosecuting attorneys and circuit attorneys' retirement system fund.

5. No state moneys shall be used to fund section 56.700 and sections 56.800 to 56.840 unless provided for by law.

56.816. 1. The normal annuity of a retired member who served as prosecuting attorney of a county of the third or fourth class shall, **except as provided in subsection 3 of this section**, be equal to:

(1) Any member who has served twelve or more years as a prosecuting attorney and who meets the conditions of retirement at or after the member's normal retirement age shall be entitled to a normal annuity in a monthly amount equal to one hundred five dollars multiplied by the number of two-year periods and partial two-year periods served as a prosecuting attorney;

(2) Any member who has served twenty or more years as a prosecuting attorney and who meets the conditions of retirement at or after the member's normal retirement age shall be entitled to a normal annuity in a monthly amount equal to one hundred thirty dollars multiplied by the number of two-year periods and partial two-year periods as a prosecuting attorney.

2. The normal annuity of a retired member who served as prosecuting attorney of a first or second class county or as circuit attorney of a city not within a county shall be equal to fifty percent of the final average compensation.

3. **The normal annuity of a retired member who served as a prosecuting attorney**

of a county which after August 28, 2001, elected to make the position of prosecuting attorney full-time pursuant to section 56.363 shall be equal to fifty percent of the final average compensation.

4. The actuarial present value of a retired member's benefits shall be placed in a reserve account designated as a "Retired Lives Reserve". The value of the retired lives reserve shall be increased by the actuarial present value of retiring members' benefits, and by the interest earning of the total fund on a pro rata basis and it shall be decreased by payments to retired members and their survivors. Each year the actuary shall compare the actuarial present value of retired members' benefits with the retired lives reserve. If the value of the retired lives reserve plus one year's interest at the assumed rate of interest exceeds the actuarial present value of retired lives, then distribution of this excess may be made equally to all retired members, or their eligible survivors. The distribution may be in a single sum or in monthly payments at the discretion of the board on the advice of the actuary.

86.200. The following words and phrases as used in sections 86.200 to 86.366, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions", the sum of all [amounts] **mandatory contributions** deducted from the compensation of a member and credited to the member's individual account, together with members' interest thereon;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of mortality tables and interest assumptions adopted by the board of trustees;

(3) "Average final compensation",

(a) With respect to a member who earns no creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last three years of creditable service as a police officer, or if the member has had less than three years of creditable service, the average earnable compensation of the member's entire period of creditable service;

(b) With respect to a member who is not participating in the DROP pursuant to section 86.251 on October 1, 2001, who did not participate in the DROP at any time before such date, and who earns any creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last [three] two years of creditable service as a policeman, or if the member has had less than [three] two years of creditable service, then the average earnable compensation of the member's entire period of creditable service;

(c) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer for reasons other than death or disability before earning at least two years of creditable service after such return, the portion of

the member's benefit attributable to creditable service earned before DROP entry shall be determined using average final compensation as defined in subparagraph (a) of this subdivision; and the portion of the member's benefit attributable to creditable service earned after return to active participation in the system shall be determined using average final compensation as defined in subparagraph (b) of this subdivision;

(d) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in the DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer after earning at least two years of creditable service after such return, the member's benefit attributable to all of such member's creditable service shall be determined using the member's average final compensation as defined in subparagraph (b) of this subdivision;

(e) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and whose employment as a police officer terminates due to death or disability after such return, the member's benefit attributable to all of such member's creditable service shall be determined using the member's average final compensation as defined in subparagraph (b) of this subdivision; and

(f) If a member who is described in subparagraph (c) or (e) of this subdivision completes less than one full year of creditable service after returning to active participation in the system, the member's earnable compensation for the period immediately prior to DROP entry shall be added to the member's earnable compensation after the member's return to active participation for purposes of determining such member's average final compensation for his or her last year of creditable service.

(4) "Beneficiary", any person in receipt of a retirement allowance or other benefit;

(5) "Board of police commissioners", any board of police commissioners, police commissioners and any other officials or boards now or hereafter authorized by law to employ and manage a permanent police force in such cities;

(6) "Board of trustees", the board provided in sections 86.200 to 86.366 to administer the retirement system;

(7) "Creditable service", prior service plus membership service as provided in sections 86.200 to 86.366;

(8) "DROP", the deferred retirement option plan provided for in section 86.251;

(9) "Earnable compensation", the annual salary which a member would earn during one year on the basis of the member's rank or position as specified in the applicable salary matrix in section 84.160, RSMo, plus additional compensation for academic work as provided in subsection

9 of section 84.160, RSMo, plus shift differential as provided in subdivision (4) of subsection 10 of section 84.160, RSMo. Such amount shall be determined without regard to the member's deferrals to a deferred compensation plan pursuant to Section 457 of the Internal Revenue Code or to a cafeteria plan pursuant to Section 125 of the Internal Revenue Code. Earnable compensation shall not include a member's additional compensation for overtime, standby time, court time, nonuniform time or unused vacation time. Notwithstanding the foregoing, the earnable compensation taken into account under the plan established pursuant to sections 86.200 to 86.366 with respect to a member who is a noneligible participant, as defined in this subdivision, for any plan year beginning on or after October 1, 1996, shall not exceed the amount of compensation that may be taken into account under Section 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost of living, for such plan year. [If a member who is a noneligible participant is a highly compensated employee, as defined in Section 414(q) of the Internal Revenue Code, and one of the ten persons paid the highest compensation by the employer for the plan year, the aggregate earnable compensation of the member's family members who are members, including only the member's spouse and lineal descendants who have not reached the age of nineteen years, shall not exceed the compensation limit of Section 401(a)(17) of the Internal Revenue Code.] For purposes of this subdivision, a "noneligible participant" is an individual who first becomes a member on or after the first day of the first plan year beginning after the earlier of:

- (a) The last day of the plan year that includes August 28, 1995; or
- (b) December 31, 1995;

(10) "Internal Revenue Code", the federal Internal Revenue Code of 1986, as amended;

(11) **"Mandatory contributions", the contributions required to be deducted from the salary of each member who is not participating in DROP in accordance with section 86.320;**

(12) "Medical board", the board of physicians provided for in section 86.237;

[(12)] (13) "Member", a member of the retirement system as defined by sections 86.200 to 86.366;

(14) **"Members' interest", interest on accumulated contributions at such rate as may be set from time to time by the board of trustees;**

[(13)] (15) "Membership service", service as a policeman rendered since last becoming a member, except in the case of a member who has served in the armed forces of the United States and has subsequently been reinstated as a policeman, in which case "membership service" means service as a policeman rendered since last becoming a member prior to entering such armed service;

[(14)] (16) "Plan year" or "limitation year", the twelve consecutive-month period beginning each October first and ending each September thirtieth;

[(15)] (17) "Policeman" or "police officer", any member of the police force of such cities who holds a rank in such police force for which the annual salary is listed in section 84.160, RSMo;

[(16)] **(18)** "Prior service", all service as a policeman rendered prior to the date the system becomes operative or prior to membership service which is creditable in accordance with the provisions of sections 86.200 to 86.366;

[(17)] "Members' interest", interest on accumulated contributions at such rate as may be set from time to time by the board of trustees;

(18)] (19) "Retirement allowance", annual payments for life as provided by sections 86.200 to 86.366 which shall be payable in equal monthly installments or any benefits in lieu thereof granted to a member upon **termination of employment as a police officer and actual** retirement;

[(19)] **(20)** "Retirement system", the police retirement system of the cities as defined in sections 86.200 to 86.366;

[(20)] **(21)** "Surviving spouse", the surviving spouse of a member who was the member's spouse at the time of the member's death.

86.207. 1. All persons who become policemen and all policemen who enter or reenter the service of the city after the first day of October, 1957, become members as a condition of their employment and shall receive no pensions or retirement allowance from any other pension or retirement system supported wholly or in part by the city or the state of Missouri, nor shall they be required to make contributions under any other pension or retirement system of the city or the state of Missouri, anything to the contrary notwithstanding.

2. If any member ceases to be in service for more than one year unless the member has attained the age of fifty-five or has twenty years or more of creditable service, or if the member withdraws the member's accumulated contributions or if the member receives benefits under the retirement system or dies, the member thereupon ceases to be a member; except in the case of a member who has served in the armed forces of the United States and has subsequently been reinstated as a policeman. A member who **has terminated employment as a police officer, has actually retired and** is receiving retirement benefits under the system shall be considered a retired member.

86.213. 1. The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of sections 86.200 to 86.366 are hereby vested in a board of trustees of ten persons. The board shall be constituted as follows:

(1) The president of the board of police commissioners of the city, ex officio. If the president is absent from any meeting of the board of trustees for any cause whatsoever, the president may be represented by any member of the board of police commissioners who in such case shall have full power to act as a member of the board of trustees;

(2) The comptroller of the city, ex officio. If the comptroller is absent from any meeting of the board of trustees for any cause whatsoever, the comptroller may be represented by either the deputy comptroller or the first assistant comptroller who in such case shall have full power to act

as a member of the said board of trustees;

(3) Three members to be appointed by the mayor of the city to serve for a term of two years;

(4) Three members to be elected by the members of the retirement system of the city for a term of three years; provided, however, that the term of office of the first three members so elected shall begin immediately upon their election and one such member's term shall expire one year from the date the retirement system becomes operative, another such member's term shall expire two years from the date the retirement system becomes operative and the other such member's term shall expire three years from the date the retirement system becomes operative; provided, further, that such members shall be members of the system and hold office only while members of the system;

(5) Two members who shall be [retirees] **retired members** of the retirement system to be elected by the [retirees] **retired members** of the retirement system for a term of three years; except that, the term of office of the first two members so elected shall begin immediately upon their election and one such member's term shall expire two years from the date of election and the other such member's term shall expire three years from the date of election.

2. Any member elected chairman of the board of trustees may serve a total of four years in that capacity which shall be limited to no more than two consecutive terms.

3. Each commissioned elected trustee shall be granted travel time by the St. Louis metropolitan police department to attend any and all functions that have been authorized by the board of trustees of the police retirement system of St. Louis. Travel time for a trustee shall not exceed thirty days in any board fiscal year.

86.233. 1. The board of trustees shall keep in convenient form such data as shall be necessary for actuarial valuation of the [various funds of the] retirement system and for checking the experience of the system.

2. The board of trustees shall keep a record of all its proceedings which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the retirement system for the preceding fiscal year, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

86.237. 1. The [city counselor of the said cities shall be the legal adviser of the] board of trustees **is authorized to use the city counselor of the specified cities as a legal advisor to the board of trustees and may also appoint an attorney at law or firm of attorneys at law to serve as the legal advisor and consultant to the board of trustees and to represent the system and the board of trustees in all legal proceedings.**

2. The board of trustees shall designate a medical board to be composed of three physicians who shall arrange for and pass upon all medical examinations required under the provisions of sections 86.200 to 86.366, shall investigate all essential statements and certificates made by or on

behalf of a member in connection with an application for disability retirement and shall report in writing to the board of trustees its conclusions and recommendations upon all the matters referred to it. In addition, the board of trustees may appoint a fourth physician to act as an administrator of the medical board who may, with the consent of the board of trustees, select the members of the medical board and coordinate any reports to the board of trustees.

86.250. Retirement of a member on a service retirement allowance shall be made by the board of trustees as follows:

(1) Any member may **terminate employment as a police officer and actually** retire after completing twenty or more years of creditable service or attaining the age of fifty-five upon the member's written application to the board of trustees setting forth at what time, but not more than ninety days subsequent to the execution and filing of the application, the member desires to be retired;

(2) Any member in service who has attained the age of sixty-five shall be **terminated as a police officer and actually** retired forthwith provided that upon request of the board of police commissioners the board of trustees may permit such member to remain in service for periods of not to exceed one year from the date of the last request from the board of police commissioners.

86.251. 1. The board of trustees may develop and establish a deferred retirement option plan (DROP) in which members **who are** eligible for retirement **but who have not terminated employment as police officers and who have not actually retired** may participate. The DROP shall be designed to allow members with at least twenty years of creditable service or who have attained the age of fifty-five who have achieved eligibility for retirement and are entitled to a service retirement allowance and other benefits to **postpone actual retirement**, continue active employment and accumulate a deferred receipt of the service retirement allowance. No one shall participate in the DROP for a period exceeding five years.

2. Any member who has at least twenty years of creditable service or has attained the age of fifty-five may elect in writing before retirement to participate in the DROP. A member electing to participate in the DROP shall **postpone actual retirement, shall** continue in active employment and shall not receive any direct retirement allowance payments or benefits during the period of participation.

3. Upon the start of the participation in the DROP, the member shall cease to make any **mandatory** contributions to the system. No contribution shall be required by the city into the DROP account. During the period of participation in the DROP, the amount that the member would have received as a service retirement allowance if the member had **actually** retired **instead of entering DROP** shall be deposited monthly in the member's DROP account which shall be established in the member's name by the board of trustees. The member's service retirement allowance shall not be adjusted for any cost-of-living increases for any period prior to the member's **termination of employment as a police officer and actual** retirement. Cost-of-living

increases, if any, for any period following the member's **termination of employment as a police officer and actual** retirement shall be applied only to monthly service retirement payments made following **termination of employment as a police officer and actual** retirement. Service earned during the period of participation in the DROP shall not be creditable service and shall not be counted in determination of any service retirement allowance or surviving spouse's or dependents' benefits. **Compensation paid during the period of participation in the DROP shall not be earnable compensation and shall not be counted in the determination of any service retirement allowance or surviving spouse's or dependent's benefits. The member's service retirement allowance shall be frozen as of the date the member enters DROP. Except as specifically provided in sections 86.200 to 86.366, the member's frozen service retirement allowance shall not increase while the member is participating in DROP or after the member's participation in DROP ends, and the member shall not share in any benefit improvement that is enacted or that becomes effective while such member is participating in the DROP.**

4. [The member's contributions to the retirement system shall be paid to the member or the member's surviving spouse pursuant to sections 86.253 and 86.288 within sixty days after the member's date of retirement and not the date of the conclusion of the member's participation in the DROP, unless such dates are the same.

5.] A member shall cease participation in the DROP upon the [earlier of the] termination of the member's employment as a police officer **and actual retirement**, or at the end of the five-year period commencing on the first day of the **member's** participation in the DROP, **or as of the effective date, but in no event prior to October 1, 2001, of the member's election to return to active participation in the system, whichever occurs first. A member's election to return to active participation in the system before the end of the five-year period commencing on the first day of participation in the DROP shall be made and shall become effective in accordance with procedures established by the board of trustees, but in no event prior to October 1, 2001. Upon the member's termination of employment as a police officer and actual retirement**, the member shall[, upon the member's termination of employment,] elect to receive the [amount in] **value of** the member's DROP account[, including any accrued interest], in one of the following forms of payment:

- (a) A lump sum payment; or
- (b) Equal monthly installments over a ten-year period.

[Any interest earned pursuant to this section during the installment period shall be paid as soon as reasonably possible after the final monthly installment.] Either form of payment should begin within thirty days after the member's notice to the board of trustees that the member has selected a particular option.

[6. A member who has elected to participate in the DROP may not reenter the system in

any fashion. At the conclusion of the member's participation in the DROP by reason of the expiration of the five-year period, if the member does not terminate the member's employment as a police officer in the city for which the retirement system was established pursuant to sections 86.200 to 86.366, the member shall continue not to have any percentage of the member's salary deducted for a contribution nor shall any of the member's employment period count as creditable service.]

5. If a member who is participating in the DROP elects to return to active participation in the system or if a member who is participating in the DROP does not terminate employment as a police officer in the city for which the retirement system was established pursuant to sections 86.200 to 86.366 and actually retires at the end of the five-year period commencing on the first day of the member's participation in the DROP, the member shall return to active participation in the system and shall resume making mandatory contributions to the system effective as of the day after participation in the DROP ends or, if later, October 1, 2001. The board of trustees shall notify the police commissioners to begin deducting mandatory contributions from the member's salary and the member's employment period shall count as creditable service beginning as of the day the member returns to active participation.

6. In no event shall a member whose participation in DROP has ended for any reason be eligible to participate in DROP again.

7. Upon the member's termination of employment as a police officer and actual retirement, the member's mandatory contributions to the retirement system shall be paid to the member pursuant to subsection 4 of section 86.253.

[7.] **8.** If a member dies prior to termination of employment **as a police officer and actual retirement** while participating in the DROP or before the member has received full withdrawal of the amount in the member's DROP account under the installment optional payment form, the [funds in] **remaining balance of** the member's DROP account[, including any accumulated interest,] shall be payable to the member's surviving spouse; or, if the member is then unmarried, to the member's dependent children in equal shares; or, if none, to the member's dependent mother or father; or, if none, to the member's designated beneficiary or, if no such beneficiary is then living, to the member's estate. Payment shall be made within sixty days after the retirement system is notified of the member's death. **In addition, the member's mandatory contributions, if any, that were not already paid to the member pursuant to subsection 4 of section 86.253 shall be paid to the member's surviving spouse pursuant to section 86.288.**

[8.] **9.** If a member has elected to participate in the DROP and during such participation period applies for and receives benefits for an accidental disability retirement allowance pursuant to the provisions of section 86.263, the member shall forfeit all rights, claims or interest in the

member's DROP account and the member's benefits shall be calculated as if the member has continued in employment and had not elected to participate in the DROP. Any portion of a DROP account that has been forfeited as provided in this subsection shall be a general asset of the system.

[9.] **10.** A member's DROP account shall earn interest equal to the rate of return earned by the system's investment portfolio on a market value basis, including realized and unrealized gains and losses, net of investment expense, as certified by the system's actuary. As of the first day of each year, beginning with the second fiscal year of participation, the member's DROP account balance, determined as of the first day of such year, shall be credited with interest at the investment rate earned by the assets of the retirement system for the prior year. If distribution of the member's DROP account balance is completed during the year, interest shall be credited, based on the beginning balance for the year, in proportion to the part of the year preceding the date of final distribution. No interest shall be credited on amounts, if any, added to the member's DROP account during the year in which the distribution of the account is completed. **If the member's DROP account is paid in equal monthly installments pursuant to subsection 5 of this section, any interest credited to the DROP account during the installment period shall be paid as soon as reasonably possible after the final monthly installment.**

[10.] **11.** The board of trustees shall not incur any liability individually or on behalf of other individuals for any act or omission, made in good faith in relation to the DROP or assets credited to DROP accounts[.

11. The DROP] established by this section. The provisions of the Internal Revenue Code and regulations promulgated thereunder shall supersede any [DROP] provision **of this section** if there is any inconsistency with the Internal Revenue Code or regulation.

12. Upon the receipt by the board of trustees of evidence and proof that the death of a member resulted from an event occurring while the member was in the actual performance of duty, and if the member is participating in the DROP, the member's surviving spouse or, if the member is then unmarried, the member's unmarried dependent children, may elect within thirty days after the member's death to have the amount in the member's DROP account paid in the form of a monthly survivor annuity. Payment of the survivor annuity shall begin within sixty days after the election is received. Payment to the member's surviving spouse shall continue until the surviving spouse's death; payment to the member's unmarried dependent children shall be made while any child qualifies as an unmarried dependent child pursuant to section 86.280. The survivor annuity shall be the actuarial equivalent of the member's DROP account as of the date payment begins. In no event shall the total amount paid pursuant to this subsection be less than the member's DROP account balance as of the date payment begins.

86.252. Notwithstanding any provision of sections 86.200 to 86.366, to the contrary, the entire interest of a member shall be distributed or begin to be distributed no later than the member's required beginning date. The general required beginning date of a member's benefit is

April first of the calendar year following the calendar year in which the member attains age seventy and one-half years or, if later, in which the member **terminates employment as a police officer and actually** retires. All distributions required pursuant to this section shall be determined and made in accordance with the income tax regulations under Section 401(a)(9) of the Internal Revenue Code, including the minimum distribution incidental benefit requirement of Section 1.401(a)(9)-2 of the income tax regulations. As of the first distribution year, distributions, if not made in a single sum, may only be made over one of the following periods, or a combination thereof:

- (1) The life of the member;
- (2) The life of the member and a designated beneficiary;
- (3) A period certain not extending beyond the life expectancy of the member; or
- (4) A period certain not extending beyond the joint and last survivor expectancy of the member and a designated beneficiary.

86.253. 1. Upon **termination of employment as a police officer and actual** retirement for service, a member shall receive a service retirement allowance which shall be an amount equal to two percent of the member's average final compensation multiplied by the number of years of the member's creditable service, up to twenty-five years, plus an amount equal to four percent of the member's average final compensation for each year of creditable service in excess of twenty-five years but not in excess of thirty years; plus an additional five percent of the member's average final compensation for any creditable service in excess of thirty years. Notwithstanding the foregoing, the service retirement allowance of a member who does not earn any creditable service after August 11, 1999, shall not exceed an amount equal to seventy percent of the member's average final compensation, and the service retirement allowance of a member who earns creditable service on or after August 12, 1999, shall not exceed an amount equal to seventy-five percent of the member's average final compensation; **provided, however, that the service retirement allowance of a member who is participating in the DROP pursuant to section 86.251 on August 12, 1999, who returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer and actually retires for reasons other than death or disability before earning at least two years of creditable service after such return shall be the sum of (1) the member's service retirement allowance as of the date the member entered DROP and (2) an additional service retirement allowance based solely on the creditable service earned by the member following the member's return to active participation. The member's total years of creditable service shall be taken into account for the purpose of determining whether the additional allowance attributable to such additional creditable service is two percent, four percent or five percent of the member's average final compensation.**

2. If, at any time since first becoming a member of the retirement system, the member has

served in the armed forces of the United States, and has subsequently been reinstated as a policeman within ninety days after the member's discharge, the member shall be granted credit for such service as if the member's service in the police department of such city had not been interrupted by the member's induction into the armed forces of the United States. If earnable compensation is needed for such period in computation of benefits it shall be calculated on the basis of the compensation payable to the officers of the member's rank during the period of the member's absence. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, the retirement system governed by sections 86.200 to 86.366 shall be operated and administered in accordance with the applicable provisions of the Uniformed Services Employment and Reemployment Rights Act of [1984] **1994**, as amended.

3. The service retirement allowance of each present and future retired member who **terminated employment as a police officer and actually** retired from service after attaining age fifty-five or after completing twenty years of creditable service shall be increased annually at a rate not to exceed three percent as approved by the board of trustees beginning with the first increase in the second October following the member's retirement and subsequent increases in each October thereafter, provided that each increase is subject to a determination by the board of trustees that the consumer price index (United States City Average Index) as published by the United States Department of Labor shows an increase of not less than the approved rate during the latest twelve-month period for which the index is available at the date of determination; and provided further, that if the increase is in excess of the approved rate for any year, such excess shall be accumulated as to any retired member and increases may be granted in subsequent years subject to a maximum of three percent for each full year from October following the member's retirement but not to exceed a total percentage increase of thirty percent. In no event shall the increase described under this subsection be applied to the amount, if any, paid to a member or surviving spouse of a deceased member for services as a special consultant under subsection 5 of this section or, if applicable, subsection 6 of this section. If the board of trustees determines that the index has decreased for any year, the benefits of any retired member that have been increased shall be decreased but not below the member's initial benefit. No annual increase shall be made of less than one percent and no decrease of less than three percent except that any decrease may be limited in amount by the initial benefit.

4. In addition to any other retirement allowance payable under this section and section 86.250, a member, upon **termination of employment as police officer and actual** service retirement, shall be repaid the total amount of the member's [contribution] **mandatory contributions** to the retirement system without interest. The board shall pay the retired member such total amount of the member's [contribution] **mandatory contributions** to the retirement system **to be paid pursuant to this subsection** within sixty days after such retired member's date of **termination of employment as a police officer and actual** retirement.

5. Any person who is receiving retirement benefits from the retirement system, upon application to the board of trustees, shall be made, constituted, appointed and employed by the board of trustees as a special consultant on the problems of retirement, aging and other matters, for the remainder of the person's life or, in the case of a deceased member's surviving spouse, until the earlier of the person's death or remarriage, and upon request of the board of trustees shall give opinions and be available to give opinions in writing or orally, in response to such requests, as may be required. For such services the special consultant shall be compensated monthly, in an amount which, when added to any monthly retirement benefits being received from the retirement system, including any cost-of-living increases under subsection 3 of this section, shall total six hundred fifty dollars a month. This employment shall in no way affect any person's eligibility for retirement benefits under this chapter, or in any way have the effect of reducing retirement benefits, notwithstanding any provisions of law to the contrary.

86.256. 1. In no event shall a member's annual benefit paid under the plan established pursuant to sections 86.200 to 86.366, exceed the amount specified in Section 415(b) of the Internal Revenue Code, as adjusted for any applicable increases in the cost of living, as in effect on the last day of the plan year, including any increases after the member's termination of employment.

2. In no event shall the annual additions to the plan established pursuant to sections 86.200 to 86.366, on behalf of the member, including the member's own **mandatory** contributions, exceed the lesser of:

(1) Twenty-five percent of the member's compensation, as defined for purposes of Section 415(c) of the Internal Revenue Code; or

(2) Thirty thousand dollars, as adjusted for increases in the cost of living.

3. Effective for limitation years beginning prior to January 1, 2000, in no event shall the combined plan limitation of Section 415(e) of the Internal Revenue Code be exceeded; provided that, if necessary to avoid exceeding such limitation, the member's annual benefit under the plan established pursuant to sections 86.200 to 86.366 shall be reduced to the extent necessary to satisfy such limitations.

4. For purposes of this section, Section 415 of the Internal Revenue Code, including the special rules under Section 415(b) applicable to governmental plans and qualified participants in police and fire department plans, is incorporated in this section by reference.

86.257. Upon the application of a member in service or of the board of police commissioners, any member who has had ten or more years of creditable service shall **terminate employment as a police officer and shall be actually** retired by the board of trustees, not more than ninety days next following the date of filing such application on an ordinary disability retirement allowance; provided, that the medical board after a medical examination of such member shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

86.260. 1. Upon **termination of employment as a police officer and actual** retirement for ordinary disability a member shall receive a service retirement allowance if the member has attained the age of fifty-five or completed twenty years of creditable service; otherwise the member shall receive an ordinary disability retirement allowance which shall be equal to ninety percent of the member's accrued service retirement in section 86.253, but not less than one-fourth of the member's average final compensation; provided, however, that no such allowance shall exceed ninety percent of the member's accrued service retirement benefit based on continuation of the member's creditable service to the age set out in section 86.250.

2. Effective October 1, 1999, the ordinary disability retirement allowance will be increased by fifteen percent of the member's average final compensation for each unmarried dependent child of the disabled member who is under the age of eighteen, or who, regardless of age, is totally and permanently mentally or physically disabled and incapacitated from engaging in gainful occupation sufficient to support himself or herself, but not in excess of a total of three children; provided, however, that the combined benefit shall not exceed seventy percent of such average final compensation.

3. Any member receiving benefits pursuant to the provisions of this section immediately prior to October 1, 1999, shall upon application to the board of trustees, be made, constituted, appointed and employed by the board of trustees as a special consultant on the problems of retirement, aging and other matters while the member is receiving such benefits, and upon request of the board of trustees shall give opinions in writing or orally in response to such requests as may be required. Beginning October 1, 1999, for such services as may be required, there shall be payable an additional monthly compensation of one hundred dollars or five percent of the member's average final compensation, whichever is greater, for each unmarried dependent child of the member, but not in excess of a total of three children.

4. Any benefit payable to or for the benefit of a child or children under the age of eighteen years pursuant to the provisions of subsections 2 and 3 of this section shall continue to be paid beyond the age of eighteen years through the age of twenty-two years in those cases where the child is a full-time student at a regularly accredited college, business school, nursing school, school for technical or vocational training, or university, but such extended benefit shall cease whenever the child ceases to be a student. A college or university shall be deemed to be regularly accredited which maintains membership in good standing in a national or regional accrediting agency recognized by any state college or university.

5. No benefits pursuant to this section shall be paid to a child over eighteen years of age who is totally and permanently disabled if such child is a patient or resident of a public-supported institution, nor shall such benefits be paid unless such disability occurred prior to such child reaching the age of eighteen.

86.263. Upon application by the member or the board of police commissioners any member

who has become totally and permanently incapacitated for duty **at some definite time and place** as the natural and proximate result of an accident occurring while in the actual performance of duty through no negligence on the member's part, and if such accident occurred not more than five years prior to date of application unless the accident was reported and an examination made of the member by the medical staff of the board of police commissioners within five years of the date of the accident with subsequent examinations made as requested, shall be retired by the board of trustees provided that the medical board shall certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that such member should be retired; provided that if the accident occurred prior to the age and year set out in section 86.250, application for benefits must be made before such age and year except that the interval between date of accident and of application may be six months.

86.267. 1. Upon **termination of employment as a police officer and actual** retirement for accidental disability, other than permanent total disability as defined in subsection 2, a member shall receive a retirement allowance of seventy-five percent of the member's average final compensation.

2. Any member who, as the natural and proximate result of an accident occurring **at some definite time and place** in the actual performance of the member's duty through no negligence on the member's part, is permanently and totally incapacitated from performing any work, occupation or vocation of any kind whatsoever shall receive a retirement allowance as under subsection 1 or, in the discretion of the board of trustees, may receive a larger retirement allowance in an amount not exceeding the member's rate of compensation as a policeman in effect as of the date the allowance begins.

3. The board of trustees, in its discretion, may, in addition to the allowance granted in accordance with the provisions of subsections 1 and 2, grant an allowance in an amount to be determined by the board of trustees, to provide such member with surgical, medical and hospital care reasonably required after retirement, which are the result and in consequence of the accident causing such disability.

4. Any person who is receiving benefits pursuant to subsection 2 of this section on or after August 28, 1997, **and any person who is receiving benefits pursuant to subsection 1 of this section on or after October 1, 2001, and who made mandatory contributions to the retirement system**, upon application to the board of trustees, shall be made, constituted, appointed and employed by the board of trustees as a special consultant on the problems of retirement, aging and other matters, and upon request of the board of trustees shall give opinions and be available to give opinions in writing or orally, in response to such requests, as may be required. For such services the retired member shall be paid a lump sum payment in an amount equal to the total amount of the member's **mandatory** contributions to the retirement system, without interest, within sixty days after approval of the retired member's application by the board

of trustees.

86.288. In addition to any other benefits payable, notwithstanding any provisions of sections 86.280 and 86.287 to the contrary, if a member dies while commissioned as a peace officer, or after retiring and before receiving a refund of the member's **mandatory** contributions in accordance with section 86.253 or 86.290, or while receiving a disability retirement allowance in accordance with section 86.253 or 86.257, the total amount of the member's [contribution] **mandatory contributions** to the retirement system shall be paid without interest to the surviving spouse of such member. Payment pursuant to this section shall be made within sixty days after the later of the date proper proofs of death are provided or August 28, 1994, regardless of when the member died or **actually** retired, provided that the surviving spouse shall be alive on the date that payment is made.

86.290. Should a member cease to be a policeman except by death or **actual** retirement, the member may request payment of the amount of the accumulated contributions standing to the credit of the member's individual account, including members' interest, in which event such amount shall be paid to the member not later than one year after the member ceases to be a policeman. If the former member is reemployed as a policeman before any portion of such former member's accumulated contributions is distributed, no distribution shall be made. If the former member is reemployed as a policeman after a portion of the former member's accumulated contributions is distributed, the amount remaining shall also be distributed.

86.292. If the board of trustees is unable to refund the **accumulated** contributions of a member or to commence payment of benefits within five years after such refund or benefits are otherwise first due and payable, the accumulated contributions shall remain assets of the retirement system. If proper application is thereafter made for refund or benefits, the board shall make payment, but no credit shall be allowed for any interest after the date the refund or benefits were first due and payable.

86.300. The board of trustees shall be the trustees of the assets of the retirement system created by sections 86.200 to 86.366 [as provided in section 86.317] and shall have full power to [invest and reinvest such assets, subject to all the terms, conditions, limitations and restrictions imposed by law upon life or casualty insurance companies in the state of Missouri in making and disposing of their investments; and subject to like terms, conditions, limitations and restrictions said trustees shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which any of the assets shall have been invested, as well as of the proceeds of said investments and any moneys belonging to the retirement system] **hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which any of the assets shall have been invested, as well as the proceeds of such investments and any moneys belonging to the retirement system, subject to the terms, conditions and limitations provided in sections 105.687 to 105.689, RSMo.**

86.320. 1. The board of trustees shall certify to the board of police commissioners and the board of police commissioners shall cause to be deducted from the salary of each member on each and every payroll for each and every pay period, seven percent of the compensation of each member **who is** not participating in the DROP, **including each member whose participation in the DROP has ended and who has returned to active participation in the system pursuant to section 86.251**, and zero percent of the compensation of each member **who is** participating in the DROP or [after the conclusion of the member's participation in the DROP if the officer does not retire at that time] **whose participation in the DROP has ended but who has not returned to active participation in the system pursuant to section 86.251**.

2. The deductions provided for in this section shall be made notwithstanding that the minimum compensation provided by law for any member shall be reduced thereby. Every member shall be deemed to consent to the deductions made and provided for in this section, and shall receipt for the member's full salary or compensation and payment of salary or compensation less such deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered during the period covered by the payment except as to benefits provided by sections 86.200 to 86.366. The board of police commissioners shall certify to the board of trustees on each and every payroll or in such other manner as the board of trustees shall prescribe the amount deducted, and such amounts shall be paid into the system and shall be credited together with members' interest thereon to the individual account of the member from whose compensation such deduction was made.

3. The board of trustees is authorized to grant additional benefits for such parts of contributions as were made prior to the adoption of the seven-percent rate for all members which were in excess of the compulsory contributions required of each member.

86.340. The accrued liability contribution should be discontinued as soon as the accumulated reserve in the general [reserve] fund shall equal the present value, as actuarially computed and approved by the board of trustees, of the total liability of said fund, less the present value, computed on the basis of the normal contribution rate then in force, of the prospective normal contributions to be received on account of persons who are at that time members.

86.353. The right of any person to a benefit, any other right accrued or accruing to any person under the provisions of sections 86.200 to 86.366 and the moneys created pursuant to sections 86.200 to 86.366 [are exempt from any tax of the state of Missouri and] are not subject to execution, garnishment, attachment or any other process whatsoever and are unassignable except as in sections 86.200 to 86.366 specifically provided. Notwithstanding the foregoing, nothing in this section shall prevent the board of trustees from honoring the terms of a court order requiring the retirement system to pay all or any portion of the retirement benefit otherwise payable to a retired or disabled member to a third party to satisfy the member's obligation to pay child support or maintenance. **Any relief association created pursuant to section 86.500 shall be exempt**

from the tax imposed by sections 143.011 to 143.1013, RSMo.

86.360. The board of trustees provided for by section 86.213 is hereby authorized to consolidate, combine and transfer funds provided by sections 86.010 to 86.193 with the funds provided by sections 86.200 to 86.366 in such a manner as will simplify the operations of the two systems. [The accounts of all members of the two systems will be in the members' savings fund, and the pension accumulation fund will be in the general reserve fund.] Separate records shall be maintained only to the extent necessary to determine and pay the benefits provided by sections 86.010 to 86.193 for those policemen electing not to become members of the retirement system provided by sections 86.200 to 86.366. The board of trustees may accept the membership records of the older system in lieu of the requirements in section 86.210. The board of trustees may authorize the use of the same actuarial assumptions and interest rate in the calculation of the contributions by the cities for both systems and the accrued liability rate may be a combined rate for both systems.

86.365. Any person who served as a policeman for a period of thirty years and who **terminated employment and actually** retired prior to October 1, 1957, in the police department of any city [having a population of over seven hundred thousand] **not within a county**, under the provisions of this chapter, shall, upon application to the police department of that city, be employed by the department as a special advisor and supervisor in connection with city police problems. Any person so employed shall perform such duties as the chief of police directs and shall receive a salary of one hundred dollars per month, payable out of the department budget pursuant to appropriations for the purpose; except that, the payment to the retired person for such services, together with the retirement benefits such retired person receives under this chapter, shall not exceed two hundred dollars per month. The employment provided for by this section shall in no way affect any person's eligibility for retirement benefits under any provision of this chapter.

86.370. The following words and phrases as used in sections 86.370 to 86.497, unless a different meaning is plainly required by the context, shall have the following meanings, and the use of masculine gender shall include the feminine:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and paid to the retirement board, together with all amounts paid to the retirement board by a member or by a member's beneficiary, for the purchase of prior service credits or any other purpose permitted under sections 86.370 to 86.497;

(2) "Beneficiary", any person in receipt of pension or other benefit as provided in sections 86.370 to 86.497;

(3) "Board of police commissioners", any board composed of police commissioners and any other officials or boards authorized by law to employ and manage an organized police force in the cities;

(4) "City" or "cities", any city which now has or may hereafter have a population of more

than three hundred thousand and less than seven hundred thousand inhabitants;

(5) "Compensation", whenever used in connection with members of the police retirement system created by sections 86.370 to 86.497, and whether used solely or as part of another defined term, the regular compensation which a member would earn during one year on the basis of the stated compensation for his rank and position, and therefore excluding any overtime pay, meal and travel expenses, uniform or other clothing allowances, any sick leave or vacation entitlements accrued from prior years, college incentive or skill incentive allowances and any other allowances available only to particular individuals and not a part of the base stated compensation for all persons holding the given rank and position;

(6) "Creditable service", prior service plus membership service as provided in section 86.423;

(7) "Final compensation", the average annual compensation of a member during his service if less than two years, or the twenty-four months of his service for which he **or she** received the highest salary whether consecutive or otherwise. In computing the average annual compensation of a member under this subdivision, no compensation received for service which occurred after the thirtieth full year of membership service and no compensation attributable to any time a member was suspended from service without pay shall be included. **For any period of time when a member is paid on a frequency other than monthly, the member's salary for such period shall be deemed to be the monthly equivalent of the member's annual rate of compensation for such period**

(8) "Fiscal year", the fiscal year of the cities;

(9) "Medical board", not less than one nor more than three physicians appointed by the retirement board to arrange for and conduct medical examinations as directed by the retirement board;

(10) "Member", a member of the police retirement system as defined in section 86.380;

(11) "Membership service", all service rendered as a policeman for compensation after June 15, 1946, excluding all probationary service of six months or less served prior to May 1, 1951;

(12) "Pension", annual payments for life, payable monthly, beginning with the date of retirement and ending with death; if the total of such monthly payments plus benefits pursuant to section 86.447 is less than the total of the member's accumulated contributions, the excess of such accumulated contributions over the total of such monthly payments shall be paid in one sum to the beneficiary named by the member;

(13) "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.370 to 86.497 and by the members of the police retirement system;

(14) "Policeman", entitled to membership in the police retirement system created by sections 86.370 to 86.497, is an officer or member of the police department of the cities employed for compensation by the boards of police commissioners of the cities for police duty and includes the chief of police, lieutenant colonels, majors, superintendents, captains, lieutenants, sergeants,

corporals, detectives, patrolmen, supervisors, technicians, radio operators, radio dispatchers, jailers, and matrons, but does not include any police commissioner or members of the police reserve corps, or special officers appointed to serve at elections, or temporary police appointed at school crossings or special officers appointed to serve during emergencies, or anyone employed in a clerical or other capacity not involving police duties; except that any policeman as herein defined, who is assigned to the performance of other duties for the police departments of the cities, by reason of personal injury by accident or disability arising out of and in the course of his employment as a policeman, shall be and remain a member of the police retirement system without regard to the duties performed under such assignment; in case of dispute as to whether any person is a policeman qualified for membership in the retirement system, the decision of the board of police commissioners shall be final;

(15) "Retirement board", the board provided in section 86.393 to administer the retirement system;

(16) "Retirement system", the police retirement system of the cities as defined in section 86.373.

86.447. 1. Upon receipt of the proper proofs of death of a member in service for any reason whatever or of the death of a member after having been retired and pensioned, there shall be paid, in addition to all other benefits **but subject to subsection 7 of this section**, the following:

(1) If a member dies while in service, such member's surviving spouse, if any, shall be paid a base pension equal to forty percent of the final compensation of such member, subject to subsequent adjustments, if any, as provided in section 86.441;

(2) If a member retires or terminates service after August 28, 1999, and dies after commencement of benefits pursuant to the provisions of sections 86.370 to 86.497, the member's surviving spouse, if any, shall be paid a base pension equal to eighty percent of the pension being received by such member, including cost-of-living adjustments to such pension but excluding supplemental retirement benefits, at the time of such member's death, subject to subsequent adjustments, if any, as provided in section 86.441;

(3) If a member retired or terminated service on or before August 28, 1999, and died after August 28, 1999, and after commencement of benefits, such member's surviving spouse shall upon application to the retirement board, be appointed and employed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be required. For such services, the surviving spouse shall, beginning the later of August 28, 1999, or the time of such appointment under this subsection, be compensated in such amount as shall make the benefits received by such surviving spouse pursuant to this subsection equal to eighty percent of the pension being received by such member, including cost-of-living adjustments to such pension but excluding supplemental retirement

benefits, at the time of such member's death, subject to subsequent adjustments, if any, as provided in section 86.441;

(4) Upon the death of any member who is in service after August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment pursuant to section 86.450, the surviving spouse's benefit provided pursuant to this subsection, without including any supplemental retirement benefits paid such surviving spouse by this retirement system, shall not be less than six hundred dollars per month. For any member who dies, retires or terminates service on or before August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment pursuant to section 86.450, the surviving spouse shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be required. For such services, the surviving spouse shall, beginning the later of August 28, 2000, or the time the appointment is made pursuant to this subsection, be compensated in an amount which without including supplemental retirement benefits provided by this system shall be not less than six hundred dollars monthly. A pension benefit pursuant to this subdivision shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted pursuant to section 86.441. The benefit pursuant to this subdivision shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly;

(5) Such member's child or children under the age of eighteen years at the time of the member's decease shall be paid fifty dollars per month each, subject to adjustments, if any, as provided in section 86.441, until he or she shall attain the age of eighteen years; however, each such child who is or becomes a full-time student at an accredited educational institution shall continue to receive payments hereunder for so long as such child shall remain such a full-time student or shall be in a summer or other vacation period scheduled by the institution with intent by such child, demonstrated to the satisfaction of the retirement board, to return to such full-time student status upon the resumption of the institution's classes following such vacation period, but in no event shall such payments be continued after such child shall attain the age of twenty-one years except as hereinafter provided. Any child eighteen years of age or older, who is physically or mentally incapacitated from wage earning, so long as such incapacity exists as certified by a member of the medical board, shall be entitled to the same benefits as a child under the age of eighteen;

(6) A funeral benefit of one thousand dollars.

2. For the purposes of this section, "commencement of benefits" shall begin, for any benefit, at such time as all requirements have been met entitling the member to a payment of such benefit at the next following payment date, disregarding advance notice periods required by any paying agent for physical preparation of the payment, so that a member who dies between the date all such requirements are met and the date when the system would have delivered such member's initial payment shall be deemed to have commenced such benefit.

3. If there is no person qualified to receive a pension as a surviving spouse or if a surviving spouse dies, the total amount which would be received by a qualified surviving spouse or which is being received by the surviving spouse at the date of death of such surviving spouse shall be added to the amounts received by and shall be divided among the children under the age of eighteen years and the incapacitated children in equal shares. As each child attains the age of eighteen years or has such incapacity removed, the total of the surviving spouse's pension shall then be added to and divided among the remaining children, and when there is only one child under the age of eighteen years or incapacitated, whether such child is the sole surviving child of the member or the youngest child of several children, the total amount of the surviving spouse's pension shall be paid to the child until such child reaches the age of eighteen years or such incapacity is removed.

4. (1) The surviving spouse of a member who retired or died prior to August 28, 1997, shall not be entitled to receive benefits or the payment of a pension pursuant to sections 86.370 to 86.497 unless marriage to the member occurred at least two years before the member's retirement or at least two years before the death of the member while in service; provided, that no benefits shall be denied pursuant to this subsection to the surviving spouse of a member whose death occurred in the line of duty or from an occupational disease arising out of and in the course of the member's employment.

(2) No surviving spouse of a member who retired or died while in service after August 28, 1997, and before August 28, 2000, shall be entitled to receive any benefits pursuant to this section unless such spouse was married to the member at the time of the member's retirement or death while in service.

(3) Any surviving spouse who would qualify for benefits pursuant to subdivision (1) or (2) of this subsection and who has not remarried prior to August 28, 2000, but remarries thereafter, shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be required. For such services, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received pursuant to sections 86.370 to 86.497 in the absence of such remarriage.

(4) No surviving spouse of a member who retires or dies in service after August 28, 2000, shall be entitled to receive any benefits pursuant to sections 86.370 to 86.497 unless such spouse

was married to the member at the time of the member's retirement or death in service. Any surviving spouse who was married to such a member at the time of the member's retirement or death in service shall be entitled to all benefits for surviving spouses pursuant to sections 86.370 to 86.497 for the life of such surviving spouse without regard to remarriage.

5. If no benefits are otherwise payable to a surviving spouse or child of a deceased member, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse or child of such member, shall be paid in one lump sum to the member's named beneficiary or, if none, to the member's estate.

6. For purposes of this section, a determination of whether a child of a member is physically or mentally incapacitated from wage earning so that the child is entitled to benefits under this section shall be made at the time of the member's death. If a child becomes incapacitated after the member's death, or if a child's incapacity existing at the member's death is removed and such child later becomes incapacitated again, such child shall not be entitled to benefits as an incapacitated child under the provisions of this section. A child shall be deemed incapacitated only for so long as the incapacity existing at the time of the member's death continues.

7. Any beneficiary of benefits pursuant to sections 86.600 to 86.790 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member.

86.450. 1. Any member who is permanently unable to perform the full and unrestricted duties of a police officer as the natural, proximate and exclusive result of an accident occurring within the actual performance of duty at some definite time and place or through an occupational disease arising exclusively out of and in the course of his or her employment shall be retired by the board of police commissioners upon certification by one or more physicians of the medical board of the retirement board that the member is mentally or physically unable to perform the full and unrestricted duties of a police officer, that the inability is permanent or likely to become permanent, and that the member should be retired. The inability to perform the full and unrestricted duties of a police officer means that the member is unable to perform all the essential job functions for the position of police officer as established by the board of police commissioners.

2. Upon such retirement, a member shall receive a pension equal to [sixty] **seventy-five** percent of his or her final compensation for so long as the permanent disability shall continue, during which time such member shall for purposes of this section be referred to as a disability beneficiary. Such pension may be subject to offset or reduction under section 86.460 by amounts paid or payable under any workers' compensation law.

3. Once each year during the first five years following his or her retirement, and at least once in every three-year period thereafter, the retirement board may, and upon the member's

application shall, require any disability beneficiary who has not yet attained the age of sixty years, to undergo a medical examination at a place designated by the medical board or some member thereof. If any disability beneficiary who has not attained the age of sixty years refuses to submit to a medical examination his or her disability pension may be discontinued until his or her withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to such pension may be revoked by the retirement board.

4. If one or more members of the medical board certify to the retirement board that a disability beneficiary is able to perform the full and unrestricted duties of a police officer, and if the retirement board concurs on the report, then such beneficiary's disability pension shall cease.

5. If upon cessation of a disability pension pursuant to subsection 4 of this section, the former disability beneficiary is restored to active service, he or she shall again become a member, and he or she shall contribute thereafter at the same rate as other members. Upon his or her subsequent retirement, he or she shall be credited with all his or her service as a member, including any years in which such disability beneficiary received a disability pension pursuant to this section.

6. If upon cessation of a disability pension pursuant to subsection 4 of this section, the former disability beneficiary is not restored to active service, such former disability beneficiary shall be entitled to the retirement benefit to which such former disability beneficiary would have been entitled if such former disability beneficiary had terminated service for any reason other than dishonesty, intemperate habits or being convicted of a felony at the time of such cessation of such former disability beneficiary's disability pension. For the purpose of such retirement benefits, such former disability beneficiary will be credited with all the former disability beneficiary's service as a member, including any years in which the former disability beneficiary received a disability beneficiary pension under this section.

86.457. 1. Any member who has completed ten or more years of creditable service and who has become permanently unable to perform the full and unrestricted duties of a police officer as the result of an injury or illness not exclusively caused or induced by the actual performance of his or her official duties or by his or her own negligence, shall be retired by the board of police commissioners upon certification by one or more physicians of the medical board of the retirement board that the member is mentally or physically unable to perform the full and unrestricted duties of a police officer, that the incapacity is permanent or likely to become permanent and that the member should be retired. The inability to perform the full and unrestricted duties of a police officer means that the member is unable to perform all the essential job functions for the position of police officer as established by the board of police commissioners.

2. Upon such retirement, a member shall receive a pension equal to two **and one-half** percent of his final compensation multiplied by the number of years of his creditable service. Such pension shall be paid for so long as the permanent disability shall continue, during which time such member shall for purposes of this section be referred to as a nonduty disability beneficiary.

3. Once each year during the first five years following such member's retirement, and at least once in every three-year period thereafter, the retirement board may, and upon the member's application shall, require any nonduty disability beneficiary who has not yet attained the age of sixty years, to undergo a medical examination at a place designated by the medical board or some member thereof. If any nonduty disability beneficiary who has not attained the age of sixty years refuses to submit to a medical examination his or her nonduty disability pension may be discontinued until his or her withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to such pension may be revoked by the retirement board.

4. If one or more members of the medical board certify to the retirement board that a nonduty disability beneficiary is able to perform the full and unrestricted duties of a police officer, and if the retirement board concurs on the report, then such beneficiary's nonduty disability pension shall cease.

86.463. 1. Whenever the service of a member is not terminated by death or retirement, but by order of the board of police commissioners for any reason other than dishonesty, intemperate habits or being convicted of a felony, and the member has not less than ten years of creditable service, the member shall become entitled to an annual pension beginning at the age of sixty, if he **or she** is then living, bearing the same ratio to fifty percent of his **or her** final compensation, as defined in section 86.370, that the number of years of creditable service bears to thirty. When the member has less than ten years of creditable service, upon termination of service he **or she** shall be paid the amount of his **or her** accumulated contributions in one lump sum payment without interest, which shall constitute payment in full of all benefits to which he **or she** might be entitled under sections 86.370 to 86.497.

2. Whenever the service of a member is not terminated by death or retirement, but by voluntary resignation and the member has not less than fifteen years of creditable service, the member may elect not to withdraw his **or her** accumulated contributions and shall become entitled to an annual pension beginning at the age of fifty-five, if he **or she** is then living, equal to two **and one-half** percent of his **or her** final compensation multiplied by the number of years of his **or her** creditable service. When the member has less than fifteen years of creditable service, upon resignation from service he **or she** shall be paid the amount of his **or her** accumulated contributions in one lump sum payment without interest, which shall constitute payment in full of all benefits to which he **or she** might be entitled under sections 86.370 to 86.497.

86.483. 1. The retirement board shall act as trustee of the funds created by or collected pursuant to the provisions of sections 86.370 to 86.497. With appropriate safeguards against loss by the retirement system, the board may designate one or more banks or trust companies to serve as a depository of retirement system funds and intermediary in the investment of those funds and payment of system obligations. The board shall promptly deposit the funds with any such designated bank or trust company.

2. The retirement board shall have power, in the name and on behalf of the retirement pension system, to purchase, acquire, hold, invest, lend, lease, sell, assign, transfer and dispose of all property, rights, and securities, and enter into written contracts, all as may be necessary or proper to carry out the purposes of sections 86.370 to 86.497. No investment transaction authorized by the retirement board shall be handled by any company or firm in which a member of the board has an interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the retirement system, and any securities or other properties obtained by the retirement board may be held by a custodian in the name of the retirement system, or in the name of a nominee in order to facilitate the expeditious transfer of such securities or other properties. Such securities or other properties may be held by such custodian in bearer form or in book entry form. The retirement system is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the uniform commercial code, sections 400.8-102 and 400.8-109, RSMo. When such eligible securities of the retirement system are so deposited with the central depository system they may be merged and held in the name of the nominee of such securities depository and title to such securities may be transferred by bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

3. The income from investments shall be credited [at least annually] to the funds of the retirement system **at frequent intervals satisfactory to the retirement board**. All payments from the funds shall be made by the bank or trust company only upon orders signed by the secretary and treasurer of the retirement board, **except as otherwise provided in this subsection**. No order shall be drawn unless it shall have previously been allowed by **a specific or an ongoing generalized** resolution of the retirement board. In the case of payments for **benefits**, services, supplies or similar items in the ordinary course of business, such board resolutions may be ongoing generalized authorizations, provided that each payment **other than payments to members or beneficiaries for benefits** shall be reported to the board at its next following meeting and shall be subject to ratification and approval by the board. All bonds or securities acquired and held by the retirement board shall be kept in a safe-deposit box, and access thereto shall be had only by the secretary and treasurer, jointly; except that, the retirement board may contract with a bank or trust company to act as the custodian of the bonds and securities, in which case the retirement board may authorize [its secretary and treasurer, jointly,] **such custodian bank or trust company** to order purchases, loans or sales of investments by such custodian bank or trust company, **and may also appoint one or more investment managers to manage investments of the retirement pension system and in the course of such management to order purchases, loans or sales of investments by such custodian bank or trust company, subject to such limitations, reporting requirements and other terms**

and restrictions as the retirement board may include in the terms of each such appointment.

86.600. As used in sections 86.600 to 86.790, unless a different meaning is plainly required by the context, the following words and phrases mean:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and paid to the retirement board, together with all amounts paid to the retirement board by a member or by a member's beneficiary for the purchase of prior service credits or any other purpose permitted under sections 86.600 to 86.790 in all cases with interest thereon at a rate determined from time to time for such purpose by the retirement board;

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

(3) "Appointing authority", any person or group of persons having power by law to make appointments to any position in the police departments of the cities;

(4) "Beneficiary", any person receiving a benefit from the retirement system as a result of the death of a member;

(5) "Compensation", the basic wage or salary paid an employee for any period, excluding bonuses, overtime pay, expense allowance, and other extraordinary compensation;

(6) "Creditable service", the period of service to which an employee, a former employee, or a member is entitled, as prescribed by sections 86.600 to 86.790;

(7) "Employee", any regularly appointed civilian employee of the police departments of the cities as specified in sections 86.600 to 86.790, who is not eligible to receive a pension from the police pension system;

(8) "Employer", the police boards of the cities as specified in sections 86.600 to 86.790;

(9) "Final compensation", the average annual compensation of a member during his **or her** service if less than two years, or the twenty-four months of his **or her** service for which he **or she** received the highest salary whether consecutive or otherwise. In computing the average annual compensation of a member under this subsection, no compensation attributable to any time a member was suspended from service without pay shall be included. **For any period of time when a member is paid on a frequency other than monthly, the member's salary for such period shall be deemed to be the monthly equivalent of the member's annual rate of compensation for such period.**

(10) "Medical board", the board of physicians chosen by the retirement board;

(11) "Member", any member of the retirement system as provided by sections 86.600 to 86.790;

(12) "Normal retirement", retirement from the service of the employer on or after the normal retirement date;

(13) "Operative date", the date this retirement system becomes operative;

(14) "Pension", the annual payments for life which shall be payable in equal monthly installments to a member or his **or her** spouse;

(15) "Retirement board", the persons appointed or elected to be members of the retirement board for civilian employees of police departments of the cities;

(16) "Retirement system", the retirement system of the civilian employees of the cities as specified in sections 86.600 to 86.790;

(17) "Surviving spouse", the legally married wife or husband of a member surviving the member's death.

86.620. 1. [All civilian employees of the police departments of the cities specified herein] **Every person who becomes an employee, as defined in subdivision (7) of section 86.600, after August 28, 2001,** shall become [members] **a member** of the retirement system [on the first day of the month following completion of six months of continuous employment] **defined in sections 86.600 to 86.790** as a condition of **such** employment.

2. All civilian employees of such police departments who have completed six months of continuous employment as of August 13, 1990, but who have not theretofore been members of this retirement system because they were proscribed from participation by provisions of law in effect prior to such date, shall become members on that date.

3. Any employee described in subsection 2 of this section may establish creditable service for purposes of calculating such employee's pension under sections 86.600 to 86.790 for all years of such employee's employment by such police department, by paying as an employee contribution to the retirement system, on or before August 13, 1991, a single sum equal to the aggregate amount of contributions, without interest, which would have been deducted from such employee's compensation for all years pursuant to section 86.760 if such employee had not been proscribed from participation.

4. Except as provided in subsection 5 of this section, upon termination of employment prior to completion of five years of creditable service, an employee member shall be paid all of such member's accumulated contributions to the fund, and such member's membership in the retirement system shall cease and such member shall forfeit all rights to any other benefits under the system arising from such member's service to date of termination.

5. A terminated employee member with five or more years of creditable service may choose to withdraw all of such member's accumulated contributions to the fund, in which case such member shall be paid upon demand the amount of such member's accumulated contributions in one lump payment and all provisions of subsection 4 of this section shall apply, or such terminated employee member may permit such member's contributions to remain in the fund until such member reaches such member's normal retirement date. Should a terminated member choose to withdraw his **or her** contributions, his **or her** membership in the retirement system shall cease, and he **or she** shall forfeit all rights to any other benefits under the system arising from his **or her**

service to date of termination. The following shall apply to members described in this subsection:

(1) If such member retires after August 28, 1999, and allows such member's contributions to remain in the fund, such member shall be entitled to receive a pension upon such member's normal retirement date pursuant to section 86.650 or may elect to receive a pension commencing upon or after any date, prior to his **or her** normal retirement date, upon which early retirement would have been permitted pursuant to section 86.660 if such member had remained a civilian employee of such police department, except that in calculating any qualification pursuant to section 86.660, such member shall not be entitled to count any year of creditable service in excess of such member's total years of creditable service at the time of such member's termination of employment. The amount of any pension commenced upon the basis of a date permitted pursuant to section 86.660 shall be computed on the basis of the member's final compensation and number of years of creditable service, subject to such adjustments as may be applicable pursuant to section 86.660 upon which such member relies in electing the commencement of such member's pension;

(2) If such member retired on or before August 28, 1999, and allowed his **or her** contributions to remain in the fund, such member shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be required. For such services the member shall, beginning the later of August 28, 1999, or the time of such appointment pursuant to this subsection, be entitled to elect to receive compensation in such amount and commencing at such time as such member would have been entitled to elect pursuant to any of the provisions of section 86.660 if such member had terminated service after August 28, 1999. Such member shall be entitled to the same cost-of-living adjustments following the commencement of such compensation as if such member's compensation had been a pension.

86.671. 1. Any period payment, excluding payments for medical treatment, which may be paid or payable by the cities pursuant to the provisions of any workers' compensation or similar law to a member or to the dependents of a member on account of any disability or death shall be offset against any benefits payable to the recipient of the workers' compensation payments from funds provided by the cities pursuant to the provisions of sections 86.600 to 86.790 on account of the same disability or death. In no event, however, shall the amount paid from funds pursuant to the provisions of sections 86.600 to 86.790 be less than the amount which represents the member's percentage, as defined in subsection 4 of this section, of total benefits payable pursuant to sections 86.600 to 86.790, before any offset for workers' compensation benefits.

2. Any lump sum amount, excluding payments for medical treatments, which may be paid or payable by the cities pursuant to the provisions of any workers' compensation or similar law to a member or to the dependents of a member on account

of any disability or death shall be offset against any benefits payable from funds provided by the cities pursuant to the provisions of sections 86.600 to 86.790 on account of the same disability or death. The amounts by which each periodic payment made pursuant to the provisions of sections 86.600 to 86.790 is offset or reduced shall be computed as the periodic amount necessary to amortize as an annuity over the period of time represented by the respective workers' compensation benefits the total amount of the lump sum settlement received as a workers' compensation benefit by a beneficiary of the retirement system. Such computation shall be based upon the same interest rate and mortality assumptions as used for the retirement system at the time of such computation. In no event, however, shall the amount paid from funds pursuant to the provisions of sections 86.600 to 86.790 be less than the amount which represents the member's percentage, as defined in subsection 4 of this section, of total benefits payable pursuant to sections 86.600 to 86.790, before any offset for workers' compensation benefits.

3. The retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section.

4. As used in this section, the term "member's percentage" shall be the fraction of which the numerator is the percentage of compensation contributed by a working member to the retirement pension system pursuant to section 86.760 during the pay period immediately preceding such member's death or disability which created entitlement to benefits and the denominator is the sum of percentages of a member's compensation contributed by a working member and the city pursuant to section 86.760 to the retirement pension system during such pay period. Such percentage shall identify the portion of any benefits due pursuant to the provisions of sections 86.600 to 86.790 which is deemed to have been provided by the member's own contributions.

86.675. 1. Any member, **as defined in subsection 4 of this section**, who is entitled to a pension under sections 86.600 to 86.790 may receive, in addition to such member's base pension, a cost-of-living adjustment in an amount not to exceed three percent of such base pension during any one year, provided that the retirement system shall remain actuarially sound. The determination of whether the retirement system will remain actuarially sound shall be made at the time such cost-of-living adjustment is granted. If at any time the retirement system becomes actuarially unsound, pension payments shall continue as adjusted by increases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this subsection if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

2. The cost-of-living adjustment provided by this section shall be an increase or decrease computed on the base pension amount by the retirement board in an amount that the board, in its

discretion, determines to be satisfactory, but in no event shall the adjustment be more than three percent or reduce the pension to an amount less than the base pension.

3. In determining and granting the cost-of-living adjustments provided by this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board, and may apply such adjustments in full to members who have retired during the year prior to such adjustments but who have not been retired for one full year.

4. As used in this section, the term "base pension" shall mean the pension computed under the provisions of the law as of the date of retirement of the member without regard to cost-of-living adjustment. As used in this section, the term "member" shall include:

- (1) A surviving spouse [who has not remarried;] **without regard to remarriage; and**
- (2) [Any children of a member who are entitled to receive part or all of the pension which would be received by a surviving spouse who had not remarried or died; and
- (3) A surviving spouse (whether or not remarried)] **A surviving spouse, without regard to remarriage**, who is receiving an optional annuity pursuant to an election pursuant to subsection 2 of section 86.650.

5. If a member who has been retired and receiving a pension dies after August 28, 2001, the surviving spouse of such member entitled to receive a base pension pursuant to section 86.690 shall also receive a percentage cost-of-living adjustment to his or her respective base pension equal to the total percentage cost-of-living adjustments received during such member's lifetime pursuant to this section.

86.690. 1. Upon death **after August 28, 2001**, of a member for any cause prior to retirement, the following amounts shall be payable **subject to subsection 5 of this section**, as full and final settlement of any and all claims for benefits under this retirement system:

(1) If the member has less than five years of creditable service, the member's surviving spouse shall be paid, in a lump sum, the amount of accumulated contributions and interest. If there be no surviving spouse, payment shall be made to the member's designated beneficiary, or if none, to the executor or administrator of the member's estate.

(2) If the member has at least five, but less than twenty years of creditable service, the member's surviving spouse may elect, in lieu of the lump sum settlement in subdivision (1) of this subsection, an annuity. Such annuity shall be one-half of the member's accrued annuity at date of death as computed in section 86.650. The effective date of the election shall be the latter of the first day of the month after the member's death or attainment of what would have been the member's early retirement date as provided in section 86.660.

(3) If the member has at least twenty years of creditable service, the member's surviving

spouse may elect, in lieu of the lump sum settlement in subdivision (1) of this subsection, the larger of the annuity as computed in subdivision (2) of this subsection or an annuity determined on a joint and survivor's basis from the actuarial value of the member's accrued annuity at date of death.

(4) Any death of a retired member occurring before the date of first payment of the retirement annuity shall be deemed to be a death before retirement.

(5) [Should a surviving spouse remarry, benefits from this retirement system shall cease as of the first day of the month following such remarriage] **Benefits payable pursuant to this section shall continue for the lifetime of such surviving spouse without regard to remarriage.**

(6) No surviving spouse of a member who dies in service after August 28, 2001, shall be entitled to receive any benefits pursuant to sections 86.600 to 86.790 unless such spouse was married to the member at the time of the member's death in service.

2. Upon death **following retirement for any cause after August 28, 2001**, of a member [following retirement for any cause] **who has not elected the optional annuity pursuant to section 86.650**, the member's surviving spouse shall receive a pension payable for life, [or until the first day of the month following remarriage,] equaling one-half of the member's normal retirement allowance, computed under section 86.650, as of the member's actual retirement date, **subject to adjustments provided in subsection 5 of section 86.675, if any; provided, no surviving spouse of a member who retires after August 28, 2001, shall be entitled to receive any benefits pursuant to sections 86.600 to 86.790 unless such spouse was married to the member at the time of the member's retirement. Any surviving spouse who was married to such a member at the time of the member's retirement shall be entitled to all benefits for surviving spouses pursuant to sections 86.600 to 86.790 for the life of such surviving spouse without regard to remarriage.** If there be no surviving spouse, payment of the member's accumulated contributions less the amount of any prior payments from the retirement system to the member or to any beneficiary of the member shall be made to the member's designated beneficiary or, if none, to the personal representative of the member's estate.

3. **Any surviving spouse of a member who dies in service or retired prior to August 28, 2001, who otherwise qualify for benefits pursuant to subsection 1 or 2 of this section and who has not remarried prior to August 28, 2001, but remarries thereafter, shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions in writing or orally in response to such requests, as may be required. For such services, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received pursuant to sections 86.600 to 86.790 in the absence of such remarriage.**

4. Should the total amount paid from the retirement system to a member, the member's

surviving spouse and any other beneficiary of the member be less than the member's accumulated contributions, an amount equal to such difference shall be paid to the member's designated beneficiary or, if none, to the personal representative of the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

5. Any beneficiary of benefits pursuant to sections 86.600 to 86.790 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member, except that any surviving spouse for whom an election has been made for an optional annuity under subsection 2 of section 86.650 shall be entitled to every annuity for which such surviving spouse has so contracted.

86.750. 1. The retirement board shall act as trustee of the funds created by or collected pursuant to the provisions of sections 86.600 to 86.790. With appropriate safeguards against loss by the retirement system, the board may designate one or more banks or trust companies to serve as a depository of retirement system funds and intermediary in the investment of those funds and payment of system obligations. The board shall promptly deposit the funds with any such designated bank or trust company.

2. The retirement board shall have power, in the name and on behalf of the retirement pension system, to purchase, acquire, hold, invest, lend, lease, sell, assign, transfer and dispose of all property, rights, and securities, and enter into written contracts, all as may be necessary or proper to carry out the provisions of sections 86.600 to 86.790. No investment transaction authorized by the retirement board shall be handled by any company or firm in which a member of the board has an interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the retirement system, and any securities or other properties obtained by the retirement board may be held by the custodian in the name of the retirement system, or in the name of the nominee in order to facilitate the expeditious transfer of such securities or other property. Such securities or other properties may be held by such custodian in bearer form or in book entry form. The retirement system is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the uniform commercial code, sections 400.8-102 and 400.8-109, RSMo. When such eligible securities of the retirement system are so deposited with the central depository system they may be merged and held in the name of the nominee of such securities depository and title to such securities may be transferred by bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

3. The income from investments shall be credited [at least annually] to the funds of the retirement system **at frequent intervals satisfactory to the retirement board**. All payments from the funds shall be made by the bank or trust company only upon orders signed by the secretary and treasurer of the retirement board, **except as otherwise provided in this section**. No order shall be drawn unless it shall have previously been allowed by **a specific or an ongoing generalized** resolution of the retirement board. In the case of payments for **benefits**, services, supplies or similar items in the ordinary course of business, such board resolutions may be ongoing generalized authorizations, provided that each payment **other than payments to members or beneficiaries for benefits** shall be reported to the board at its next following meeting and shall be subject to ratification and approval by the board. All bonds or securities acquired and held by the retirement board shall be kept in a safe-deposit box, and access thereto shall be had only by the secretary and treasurer, jointly; except that, the retirement board may contract with a bank or trust company to act as a custodian of the bonds and securities, in which case the retirement board may authorize [its secretary and treasurer, jointly,] **such custodian bank or trust company** to order purchases, loans or sales of investments by such custodian bank or trust company, **and may also appoint one or more investment managers to manage investments of the retirement pension system and in the course of such management to order purchases, loans or sales of investments by such custodian bank or trust company, subject to such limitations, reporting requirements and other terms and restrictions as the retirement board may include in the terms of each such appointment**.

86.780. The [right of any person to a benefit accruing under the provisions of sections 86.600 to 86.790 and to the] moneys in the various funds created [under] **pursuant to** sections 86.600 to 86.790 **are hereby exempt from any tax of the state of Missouri or of any other municipality or political subdivision thereof. Neither such funds, nor the right of any person to a benefit accruing pursuant to the provisions of sections 86.600 to 86.790** shall [not] be subject to execution, garnishment, attachment, or to any other process whatsoever and the right shall be unassignable except as specifically provided in sections 86.600 to 86.790 and except for court orders or assignments approved by a court to provide support for family members or a former spouse of any person entitled to benefits under sections 86.600 to 86.790. A revocable request or authorization by a member or a beneficiary to withhold and apply for the requester's convenience some portion or all of a benefit payment, such as a request to apply some portion of a benefit payment to a medical insurance premium, shall not be deemed an assignment prohibited pursuant to this section provided that any such request shall remain revocable at all times except as to payments or withholdings effected prior to any such revocation. The retirement system may, but shall not be obligated to, comply with any such request.

87.120. The following words and phrases as used in sections 87.120 to 87.370, unless a

different meaning is plainly required by the context, have the following meanings:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and credited to his **or her** individual account in the members' savings fund together with interest thereon;

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

(3) "Average final compensation", the average earnable compensation of the member during his **or her** last two years of service as a [fireman] **firefighter**, or if [he] **the firefighter** has less than two years of service, then the average earnable compensation of his **or her** entire period of service;

(4) "Beneficiary", any person in receipt of a retirement allowance or other benefit as provided by sections 87.120 to 87.370;

(5) "Benefit reserve", the present value of all payments to be made on account of any retirement allowance or benefit in lieu of a retirement allowance upon the basis of such mortality tables and interest rate as shall be adopted by the board of trustees;

(6) "Board of trustees", the board provided for in section 87.140 to administer the retirement system;

(7) "City", any city not within a county and adopting the retirement system provided by sections 87.120 to 87.370;

(8) "Creditable service", prior service plus membership service as provided in section 87.135;

(9) "DROP", the deferred retirement option plan provided in section 87.182;

(10) "Earnable compensation", the regular compensation which a member would earn during one year on the basis of the stated compensation for his **or her** rank or position;

(11) "[Fireman] **Firefighter**", any officer or employee of the fire department of the city employed by the city for the duty of fighting fires, but does not include anyone employed in a clerical or other capacity not involving fire-fighting duties. In case of doubt as to whether any person is a [fireman] **firefighter** within the meaning of sections 87.120 to 87.370, the decision of the board of trustees shall be final;

(12) "Medical board", the board of physicians provided for in section 87.160;

(13) "Member", a member of the retirement system as defined by section 87.130;

(14) "Membership service", service as a [fireman] **firefighter** rendered since last becoming a member;

(15) "Prior service", all service as a [fireman] **firefighter** rendered prior to the date the system becomes operative which is creditable in accordance with the provisions of section 87.135;

(16) "Retirement allowance", annual payments for life which shall be payable in equal monthly installments or any benefits in lieu thereof granted to a member upon retirement or to a beneficiary;

(17) "Retirement system", the [firemen's] **firefighter's** retirement system of any city as defined in section 87.125[;

(18) "Widow", the surviving spouse of a member].

87.130. 1. All persons who are [firemen] **firefighters** shall be members as a condition of their employment and shall receive no pension or retirement allowance from any other pension or retirement system supported wholly or in part by the city or the state of Missouri because of years of service for which they are entitled to benefits under this system nor shall they be required to make contributions under any other pension or retirement system of the city or the state of Missouri, anything to the contrary notwithstanding.

2. If any member, in any period of five consecutive years after last becoming a member, is absent from service for more than four years unless the member has twenty years or more of creditable service, or if any member withdraws the member's accumulated contributions, or if any member becomes a beneficiary, the person shall thereupon cease to be a member; except in the case of a member who has served in the armed forces of the United States or retired pursuant to section 87.170 and is subsequently reinstated as a [fireman] **firefighter** or as a member in beneficiary status as a [widow] **surviving spouse**.

3. Any member who is reinstated after retiring pursuant to conditions in section 87.170 shall not be eligible to participate in the benefit provided pursuant to section 87.182.

87.135. 1. Under such rules and regulations as the board of trustees shall adopt, each member who was a [fireman] **firefighter** on and prior to the date of the establishment of the retirement system shall file a detailed statement of all service as a [fireman] **firefighter** rendered by him **or her** prior to that date for which [he] **the firefighter** claims credit.

2. The board of trustees shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all service in one calendar year, nor shall the board of trustees allow credit as service for any period of more than one month's duration during which the member was absent without pay.

3. Subject to the above restrictions and to such other rules and regulations as the board of trustees may adopt, the board of trustees shall verify the service claims as soon as practicable after the filing of the statement of service.

4. Upon verification of the statements of service the board of trustees shall issue prior service certificates, certifying to each member the length of prior service with which [he] **the member** is credited on the basis of his **or her** statement of service. So long as the holder of the certificate continues to be a member, a prior service certificate shall be final and conclusive for retirement purposes as to such service, except that any member may, within one year from the date of issuance or modification of the certificate, request the board of trustees to modify or correct [his] **the member's** prior service certificate, and upon such request or of its own motion the board may

correct the certificate. When any [fireman] **firefighter** ceases to be a member his **or her** prior service certificate shall become void. Should he **or she** again become a member, he **or she** shall enter the retirement system as a member not entitled to prior service credit except as provided in section 87.215.

5. Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of creditable membership service rendered by him **or her**, and also if [he] **the member** has a prior service certificate which is in full force and effect, the amount of the service certified on [his] **the member's** prior service certificate. Service rendered by a [fireman] **firefighter** after the operative date and prior to becoming a member shall be included as creditable membership service provided the service was rendered since he **or she** last became a [fireman] **firefighter**.

87.170. Retirement of a member on a service retirement allowance shall be made by the board of trustees as follows:

(1) Any member may retire upon the member's written application to the board of trustees setting forth at what time, not less than thirty days nor more than ninety days subsequent to the execution and filing therefor, the member desires to be retired, if the member at the time so specified for such member's retirement has twenty-five years or more of service; except that a member who ceases to be a [fireman] **firefighter** after twenty years or more of service may retire prior to the twenty-five years of service with a retirement allowance based on the member's years of service;

(2) Any member in service upon attaining the age of sixty, if qualifying for a service retirement allowance equal to seventy-five percent of the average final compensation, shall be retired forthwith; except that with respect to any member, the board shall not retire such member when the member attains sixty years of age or more merely because the member has attained that age unless the member so requests or the member has completed thirty or more years of service, even if a portion of such service is not creditable service pursuant to participation in the deferred retirement option plan prescribed by section 87.182;

(3) Any member who qualifies for a service retirement allowance of seventy-five percent or over and has not attained sixty years of age may be retained as a member until sixty years of age, with no increase in retirement allowance.

87.185. If, at any time since first becoming a member of the retirement system, a member has served in the armed forces of the United States, in any war or period of armed hostilities between the armed forces of the United States and those of a foreign power, and is subsequently reinstated as a [fireman] **firefighter** within ninety days after his **or her** discharge, [he] **the member** shall be granted credit for such service as if his **or her** service in the fire department of the city had not been interrupted by his **or her** induction into the armed forces of the United States, and as if [he] **the member** had made the required contributions during such service. If

earnable compensation is needed for such period in computation of benefits it shall be calculated on the basis of the compensation payable to the officers of his **or her** rank during the period of his **or her** absence.

87.205. 1. Upon retirement for accidental disability, a member shall receive seventy-five percent of the pay then provided by law for the highest step in the range of salary for the title or rank held by such member at the time of such retirement unless the member is permanently and totally incapacitated from performing any work, occupation or vocation of any kind whatsoever and is continuously confined to the member's home except for visits to obtain medical treatment, in which event the member may receive, in the discretion of the board of trustees, a retirement allowance in an amount not exceeding the member's rate of compensation as a [fireman] **firefighter** in effect as of the date the allowance begins.

2. Anyone who has retired pursuant to the provisions of section 87.170 and has been reinstated pursuant to subsection 2 of section 87.130 who subsequently becomes disabled, as provided in section 87.200, shall receive a total benefit which is the higher of either the disability pension or the service pension.

87.215. 1. If the medical board reports and certifies to the board of trustees that the disability beneficiary is engaged or is able to engage in a gainful occupation other than [fireman] **firefighter** paying more than the difference between his **or her** retirement allowance and one and one-half times the then current rate of pay for the rank held by the member at the time of retirement, and if the board of trustees concurs in the report, then the amount of his **or her** retirement allowance shall be reduced to an amount which together with the amount earnable by him **or her** in such other occupation shall equal the amount of such current rate of pay. If his **or her** earning capacity is later changed, the amount of his **or her** retirement may be further modified. If any such disability beneficiary is found by such medical board to be able to engage in the occupation of [fireman] **firefighter**, his **or her** retirement allowance shall not cease until he **or she** is restored to active service at the position and title held by such disability beneficiary at the time such disability occurred.

2. If a disability beneficiary is restored to active service, his **or her** retirement allowance shall cease and he **or she** shall again become a member. His **or her** creditable service at the time of his **or her** retirement shall be restored to full force and effect and in addition, upon his **or her** subsequent retirement, he **or she** shall be credited with all his **or her** additional service as a member, and if his **or her** then average final compensation is less than the average final compensation used in determining his **or her** disability benefits, the latter amount shall be used in determining benefits. In addition, an accident disabled member restored to active service shall be credited with all the time he **or she** has served as a beneficiary.

87.237. 1. Any person who served as a [fireman] **firefighter** and who is retired and receiving a retirement allowance of less than one hundred percent of the federal poverty level for

a single person as set and updated by the United States Department of Health and Human Services or its successor agency may act as a special advisor to the retirement system.

2. For the additional service as a special advisor, each retired person shall receive, in addition to the retirement allowance provided **[under] pursuant to** this chapter, an additional amount, which amount, together with the retirement allowance he **or she** is receiving **[under] pursuant to** other provisions of this chapter, shall equal, but not exceed, one hundred percent of the federal poverty level for a single person as set and updated by the United States Department of Health and Human Services or its successor agency. Any retirement allowance paid to a retiree **[under] pursuant to** this subsection shall be withdrawn from the **[firemen's] firefighters'** retirement and relief system fund and no moneys shall be withdrawn from the general revenue fund of any city not within a county.

87.240. If a member ceases to be a **[fireman] firefighter** except by death or retirement, **[he] the firefighter** shall be paid on demand the amount of his **or her** accumulated contributions standing to the credit of his **or her** individual account in the members' savings fund, and such a member who has left his **or her** contributions with the system may later withdraw his **or her** accumulated contributions at any time prior to the beginning of his **or her** retirement benefits.

87.288. 1. Any person who served as a **[fireman] firefighter** who is retired and not receiving a cost-of-living benefit and any **[widow] surviving spouse** or dependent child receiving retirement benefits, but not receiving a cost-of-living benefit shall be made, constituted, and appointed as a special consultant on the problems of retirement, aging, and other state matters, and be available to give opinion in writing or orally, in response to such requests as may be required and for such services shall be compensated annually in accordance with the provisions of subsection 2 of this section.

2. Effective September 1, 1996, and annually thereafter, one-half of the annual interest earned in the future benefits fund created **[under] pursuant to** section 87.287 shall be appropriated to provide an ad hoc COLA administered by the board of trustees and from September 1, 2016, and annually thereafter three-fourths of the annual interest earned in the future benefits fund created **[under] pursuant to** section 87.287 shall be appropriated to provide an ad hoc COLA administered by the board of trustees based upon the formula in this subsection. The distributable amount shall be divided by the number of retirees and surviving spouses and dependent children eligible to receive the ad hoc COLA **[under] pursuant to** this provision calculated and distributed based upon the following years of service:

(1) Members retiring with thirty or more years of service shall receive a full share of the distributable amount;

(2) Members retiring with twenty-five or more years of service but less than thirty years shall receive a three-quarter share of the distributable amount;

(3) Members retiring with less than twenty-five years shall receive a one-half share of the

distributable amount;

(4) Surviving spouses and dependent children shall receive one-half of the ad hoc COLA the member would have been entitled to receive.

87.310. When any member terminates his **or her** employment as a [fireman] **firefighter** and withdraws his **or her** accumulated contributions from the retirement system, he **or she** ceases to be a member of the retirement system. If he **or she** is reinstated as a [fireman he] **firefighter** he **or she** will again become a member of the retirement system as a new member with no creditable service prior to his **or her** termination. However, any member currently employed as a [fireman] **firefighter** may repay the retirement system his **or her** total accumulated contribution withdrawn at the time of his **or her** termination and an amount of interest on such contribution at the same rate per annum as allowed in the member's savings account in the same period. Such repayment shall occur within two years after August 13, 1984, and when made the member shall then receive full credit for service prior to the date of his **or her** termination.

87.371. 1. Any member retiring pursuant to the provisions of sections 87.120 to 87.370, after working continuously for an entity covered by sections 87.120 to 87.370, until reaching retirement age, but not including retirement for service-connected disability, shall be credited with all of the member's unused sick leave as certified by the member's employing entity.

2. No member working on or after [June 1, 1999] **July 1, 2000**, shall be credited with sick leave at a rate less than **or more than** the rate being earned on [June 1, 1999] **July 1, 2000**, nor shall any cap or limit applied to accumulated sick leave after [June 1, 1999] **July 1, 2000**, be construed as a limit on the number of sick days actually earned without reference to the cap or limit which may be credited pursuant to the provisions of this section. When calculating years of service, each member shall be entitled to one day of creditable service for each day of unused accumulated sick leave earned by the member.

3. Accumulated sick leave shall allow a member to vest in the retirement system by using such credited sick leave to reach the time of vesting and shall also allow a member to exceed a seventy-five percent service retirement allowance by adding accumulated sick leave to no more than thirty years of creditable service or a member who is participating in the DROP program established in section 87.182 may elect upon retirement to have placed in his or her DROP account a dollar amount equal to his or her accumulated number of sick leave hours multiplied by his or her hourly rate of pay at the time of retirement, **or to place one-half of this dollar amount in the member's DROP account, to have one-fourth of this dollar amount added to the member's average final compensation, and to have the remaining one-fourth of this dollar amount remain as time and added to the member's creditable service.**

87.615 1. Any firefighter who has retired or who retires and was not or is not a member of the retirement system governed by sections 70.600 to 70.755, RSMo, and any beneficiary of any such firefighter shall, upon application to any city with a population of at least seventy thousand

located in a county of the first classification without a charter form of government, be made, constitutionally appointed, and employed by the city as a special consultant on the problems of retirement and upon request of the city council, shall give opinions and be available to give opinions in writing or orally in response to requests of the city council. As compensation for the services required by this section, the city may directly compensate the retired firefighter or beneficiary thereof in an amount established by ordinance of the city. Such amount of additional compensation may be paid directly by the city to each qualified retiree or beneficiary and shall not be considered employer contributions to the local government retirement system nor benefits paid therefrom.

2. Notwithstanding any other law to the contrary, beginning August 29, 2001, any beneficiary of a firefighter who had retired or who retires and was not or is not a member of the retirement system governed by sections 70.600 to 70.755, RSMo, shall upon application to any city with a population of at least seventy thousand located in a county of the first classification without a charter form of government, be made, constitutionally appointed, and employed by the city as a special consultant on the problems of retirement and upon request of the city council, shall give opinions and be available to give opinions in writing or orally in response to request of the city council. As compensation for the services required by this section, the city may directly compensate the beneficiary thereof by continuing the death benefit payment upon remarriage of the beneficiary. Such amount of compensation may be paid directly by the city to each qualifying special consultant and shall not be considered employer contributions to the local government employees retirement system nor benefits paid therefrom.

Section 1. Notwithstanding the provisions of sections 610.010 to 610.035, RSMo, to the contrary, any retirement plan as defined in section 105.660, RSMo, located in a city not within a county, providing retirement benefits for general employees shall provide, upon request by any retiree organization, sufficient information enabling such organization to contact retired members.