

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1015
90TH GENERAL ASSEMBLY

Reported from the Committee on Pensions and General Laws, March 7, 2000, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

Senate Committee Substitute adopted March 16, 2000.

Taken up March 16, 2000. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

4491S.02P

AN ACT

To repeal sections 86.403, 86.433, 86.437, 86.442, 86.493, 86.675, 86.730 and 86.780, RSMo 1994, and sections 86.440, 86.441, 86.447, 86.483, 86.750 and 86.770, RSMo Supp. 1999, relating to certain police retirement systems, and to enact in lieu thereof fourteen new sections relating to the same subject.

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

Section A. Sections 86.403, 86.433, 86.437, 86.442, 86.493, 86.675, 86.730 and 86.780, RSMo 1994, and sections 86.440, 86.441, 86.447, 86.483, 86.750 and 86.770, RSMo Supp. 1999, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 86.403, 86.433, 86.437, 86.440, 86.441, 86.442, 86.447, 86.483, 86.493, 86.675, 86.730, 86.750, 86.770 and 86.780, to read as follows:

86.403. Each member of the retirement board shall be entitled to one vote in the decisions of the board. Five votes **or more in favor** shall be necessary **[for] to pass** a **[decision] motion** by the retirement board at any meeting of the board.

86.433. Any member **[in service as a policeman for compensation or on authorized sick leave of not exceeding one year on June 15, 1946, or any member who shall enter service after that date,]** may retire when **[he] such member** has completed twenty-five or more years of creditable service and, except as otherwise provided in this section, shall retire when **[he] such member** has completed thirty years of creditable service **[and]**. Upon such retirement **[he] such member** shall

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

receive a pension equal to:

(1) Two and one-half percent of [his] such member's final compensation, as defined in section 86.370, multiplied by the number of years of [his] such member's creditable service **after August 28, 2000; and**

(2) Two percent of such member's final compensation multiplied by the number of years of creditable service prior to August 28, 2000.

Notwithstanding the provisions of subdivisions (1) and (2) of this section such member may elect to receive a pension equal to two and one-half percent of such member's final compensation multiplied by the member's total number years of creditable service upon payment by such member to the retirement system on or before such member's date of retirement an amount equal to one percent of such member's aggregate compensation, as defined in section 86.370, for all such member's years of service in years prior to August 28, 2000. The pension so calculated for a member making such election and such payment shall be such member's base pension for all purposes pursuant to sections 86.370 through 86.497. Such pension shall be not less than [one] **seven** thousand two hundred dollars annually and in any event shall not exceed [sixty] **seventy-five** percent of the member's final compensation. Any member who has completed thirty years of creditable service may continue in service by permission of the board of police commissioners on recommendation of the chief of police until [he] **such member** attains the age of sixty-five years. Contributions shall not be required of, and no service shall be credited to, any member [after] **for more than** thirty years of service.

86.437. Except as provided in section 86.443, any member in service [for compensation or on authorized sick leave of not exceeding one year on June 15, 1946, or who shall enter service after such date and] who shall have attained sixty years of age and at that time shall have completed at least [fifteen] **ten** but less than thirty years of creditable service, shall retire and shall receive an annual pension equal to:

(1) Two and one-half percent of [his] such member's final compensation as defined in section 86.370 multiplied by the number of years of [his] such member's creditable service **after August 28, 2000; and**

(2) Two percent of such member's final compensation multiplied by the number of years of creditable service prior to August 28, 2000.

Notwithstanding the provisions of subdivisions (1) and (2) of this section such member may elect to receive a pension equal to two and one-half percent of such member's final compensation multiplied by the member's total number years of creditable service upon payment by such member to the retirement system on or before such member's date of retirement an amount equal to one percent of such member's aggregate compensation, as defined in section 86.370, for all such member's years of service in years prior to August 28, 2000. The pension so calculated for a member making such election and such

payment shall be such member's base pension for all purposes pursuant to sections 86.370 through 86.497. [In no event, however, shall he receive less than nine hundred dollars annually. Except as provided in section 86.443, any member who shall have attained sixty years of age and shall have completed ten years but less than fifteen years of creditable service shall retire and receive an annual pension equal to two percent of his final compensation as defined in section 86.370 multiplied by the number of years of his creditable service. In no event shall he receive less than five dollars per month for each year of his creditable service or six hundred dollars annually, whichever may be greater.]

86.440. Any member who retires after August 28, [1999] **2000**, who is entitled to a pension benefit pursuant to the provisions of sections 86.370 to 86.497 and who either has at least twenty-five years of creditable service or is retired as a result of an [accident] **injury** or illness occurring in the line of duty or course of employment pursuant to section 86.450, shall receive a pension benefit which, [when added to] **without including** any supplemental retirement benefits paid such member by this retirement system [and any cost-of-living adjustments to amounts otherwise payable by this system], shall be not less than six hundred dollars monthly. Any member who retires on or before August 28, [1999] **2000**, who is entitled to a pension benefit pursuant to the provisions of sections 86.370 to 86.497 and who either had at least twenty-five years of creditable service or was retired as a result of an [accident] **injury** or illness occurring in the line of duty or course of employment pursuant to section 86.450, 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] **2000**, or the time of such appointment under this section, be compensated in [such] **an** amount [as shall make the aggregate benefits received by such member from this retirement system,] **which without** including [cost-of-living adjustments and] **any** supplemental retirement benefits provided by this system, [together with compensation paid pursuant to this section, equal to] **shall be** not less than six hundred dollars monthly. **A pension benefit pursuant to this section shall be paid in lieu of such member's base pension as increased by cost-of-living adjustments granted pursuant to section 86.441. The benefit pursuant to this section shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the member's base pension and cost-of-living adjustments at such time as the total base pension and such adjustments exceed six hundred dollars monthly.**

86.441. 1. Any member who retires on a pension subsequent to August 13, 1972, may receive each year, beginning January 1, 1972, in addition to such member's base pension, a cost-of-living adjustment in an amount not to exceed three percent of [his] **such member's** base pension during any one year provided that the retirement pension system shall remain actuarially

sound.

2. Any member who was retired on August 13, 1972, may receive each year, beginning January 1, 1986, 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 pension system shall remain actuarially sound.

3. If a member who has been retired and receiving a pension dies after September 28, 1987, the surviving spouse or children of such member entitled to receive a base pension pursuant to section 86.447 shall also receive a percentage cost-of-living adjustment to their respective base pension equal to the total percentage cost-of-living adjustments received during such member's lifetime pursuant to this section.

4. The cost-of-living adjustment shall be an increase or decrease computed on the base pension amount by [using the consumer price index to determine the percentage of increase or decrease] **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. [The retirement board shall utilize the consumer price index for urban wage earners and clerical workers for Kansas City, Missouri, published by the Bureau of Labor Statistics, United States Department of Labor, in determining the percentage increment for such cost-of-living adjustment or, in the event such index is or becomes unavailable, the retirement board may select such other index as it in its discretion determines to be satisfactory.]

5. In determining and granting the cost-of-living adjustments, 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 and to the surviving spouse or children of a member who has died during the year prior to such adjustments.

6. As used in this cost-of-living adjustment section, the term "base pension" shall mean, when used in connection with a member, 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 and, when used in connection with a surviving spouse or children of a member, the pension computed under the provisions of the law as of the date of death of the member without regard to cost-of-living adjustment except as provided in section 86.447. For the purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse entitled to pension benefits from this retirement system [who has not remarried] and any children of the 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] **if living.**

7. The determination of whether the retirement pension system will remain actuarially sound shall be made at the time any cost-of-living adjustment is granted. If at any time the retirement pension 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 section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement pension system would remain actuarially sound.

86.442. 1. Any member who retires subsequent to August 28, 1991, with entitlement to a pension under sections 86.370 to 86.497, shall receive each month, in addition to such member's base pension, a supplemental retirement benefit in the amount of fifty dollars per month, for assistance in meeting hospitalization and medical care costs or other expenses. Any member who receives such a supplemental retirement benefit may also receive not more frequently than annually, in addition to a base pension, as may be adjusted pursuant to section 86.441, and supplemental retirement benefit, a cost-of-living adjustment to the supplemental retirement benefit, in monthly adjustment increments to be determined by the retirement board. Such determination shall be based on advice of the plan's actuary, that the increase in the benefit will not cause the present value of anticipated future plan benefits calculated on the actuarial assumptions used for the [last] **most recent** annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated contributions to the trust fund.

2. Any member who was retired on or before August 28, 1991, and is receiving retirement benefits from the retirement system, upon application to the retirement board, shall be made, constituted, appointed and employed by the retirement board as a special consultant on the problems of retirement, aging and other matters, for the remainder of such member's life, 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 member shall be compensated monthly, in addition to a base pension, in the amount of fifty dollars per month. This employment shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.370 to 86.497, or in any way have the effect of reducing retirement benefits otherwise payable to such member. Any member who receives such monthly compensation as a special consultant to the retirement board may also receive not more frequently than annually, beginning in 1992, in addition to such member's base pension, as may be adjusted pursuant to section 86.441, and monthly compensation as a special consultant to the retirement board, a cost-of-living adjustment to such monthly compensation, in monthly adjustment increments to be determined by the retirement board. Such determination shall be based on advice of the plan's actuary, that the increase in the benefit will not cause the present value of anticipated future plan benefits calculated on the actuarial assumptions used for the [last] **most**

recent annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated future contributions to the trust fund.

3. In determining and granting cost-of-living adjustments under 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 and to the surviving spouse of a member who has died during the year prior to such adjustments.

4. For the purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse [who has not remarried] **entitled to a pension benefit pursuant to sections 86.370 to 86.497**, but shall not include any children of the member who would be entitled to receive part or all of the pension which would be received by a surviving spouse [who had not remarried or died] **if living**. In determining whether the rights of any such surviving spouse are provided under subsection 1 or under subsection 2 of this section, the surviving spouse shall be deemed to have the date of retirement of the member of whom such person is the surviving spouse, **except that if the surviving spouse of any member who retired prior to August 28, 2000, shall not have remarried prior to August 28, 2000, but remarries thereafter, such surviving spouse shall thereafter receive benefits pursuant to subsection 2 of this section, and except further that no benefits shall be payable pursuant to this section to the surviving spouse of any member who retired prior to August 28, 2000, if such surviving spouse was at any time remarried prior to August 28, 2000**. Any such surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment hereunder prior to such member's death.

5. The determination of whether the retirement pension system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement pension system becomes actuarially unsound, supplemental retirement benefit payments under subsection 1 of this section, and monthly compensation payments as a special consultant to the retirement board under subsection 2 of this section shall continue as adjusted by increases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement pension system would remain actuarially sound.

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, 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 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) **[For] Upon the death of** any member who **[retires or terminates]** **is in** service after August 28, **[1999] 2000**, and who either had at least twenty-five years of creditable service or was retired **or died** as a result of an **[accident]** **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, **[when added to]** **without including** any supplemental retirement benefits paid such surviving spouse by this retirement system **[and any cost-of-living adjustments to amounts otherwise payable by the 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, **[1999] 2000**, and who either had at least twenty-five years of creditable service or was retired **or died** as a result of an **[accident]** **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, [1999] **2000**, or the time the appointment is made pursuant to this subsection, be compensated in [such] **an** amount [as shall make the aggregate benefits received by such surviving spouse from this retirement,] **which without** including [cost-of-living adjustments and] supplemental retirement benefits provided by this system, [together with compensation paid pursuant to this section, equal to] **shall be** not less than six hundred dollars [per month] **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 [remarries or] 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 [the remarriage or] 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 [his] **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 [he] **such child** reaches the age of eighteen years or [his] **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**. [All benefits provided pursuant to this section for an eligible surviving spouse shall terminate upon remarriage of such surviving spouse.]

(3) **Any surviving spouse who would qualify for benefits pursuant to subdivisions (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.

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. 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. No order shall be drawn unless it shall have previously been allowed by resolution of the retirement board. **In the**

case of payments for services, supplies or similar items in the ordinary course of business, such board resolutions may be ongoing generalized authorizations, provided that each payment 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, to order purchases, loans or sales of investments by such custodian bank or trust company.

86.493. The right of any person to pension or pensions, to the return of contributions, disability or death benefits or any other right accrued or accruing to any person under the provisions of sections 86.370 to 86.497 and the moneys in the various funds created under sections 86.370 to 86.497 are hereby exempt from any tax of the state of Missouri or of any municipality or political subdivision thereof, and shall not be subject to execution, garnishment, attachment or any other process whatsoever and shall be unassignable except as specifically provided in sections 86.370 to 86.497, 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 86.370 to 86.497. **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 under 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.**

86.675. 1. Any member who is entitled to a pension under sections 86.600 to 86.790 may receive, in addition to [his] **such member's** base pension, a cost-of-living adjustment in an amount not to exceed three percent of [his] **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 [using the consumer price index to determine the percentage of increase or decrease; but in no event shall the adjustment reduce the pension to an

amount less than the base pension. The retirement board shall utilize the consumer price index for urban wage earners and clerical workers for Kansas City, Missouri, published by the Bureau of Labor Statistics of the United States Department of Labor, in determining the percentage increment for such cost-of-living adjustment or, in the event such index is or becomes unavailable, the retirement board may select such other index as it] **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;
- (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) who is receiving an optional annuity pursuant to an election [under subdivision (2) of] **pursuant to** subsection [1] **2** of section 86.650.

86.730. 1. Each member of the retirement board shall be entitled to one vote in the decisions of the board. [Four] **Five votes or more in favor** shall be necessary [for] **to pass** a [decision] **motion** by the retirement board at any meeting of the board.

2. The retirement board shall keep in convenient form the data necessary for the administration of the retirement system. The retirement board shall keep a record of all its proceedings which shall be open to public inspection. It shall publish annually in pamphlet form a report prepared by certified public accountants showing the fiscal transactions of the retirement system for the preceding fiscal year, the status of assets and liabilities and the amount of cash on hand. One copy of the annual report shall be delivered to each member of the retirement system, one copy to each member of the retirement board, one copy shall be filed with the city clerk and one copy delivered to each member of the board of police commissioners. The retirement board shall cause an actuarial study and calculation to be made in 1968 based upon the experiences of the retirement system by an independent firm of pension actuaries and shall cause actuarial studies and calculations to be made each five years thereafter.

3. The retirement board shall before January tenth of each year certify to the chief financial officer of the city the amount to be paid by the city under the retirement pension system for the succeeding fiscal year.

4. The retirement board shall adopt a common seal. The retirement board may sue and be sued in its own name and the suits shall constitute suits by or against the members of the retirement board in their representative capacities and not as individuals.

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. 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. No order shall be drawn unless it shall have previously been allowed by resolution of the retirement board. **In the case of payments for services, supplies or similar items in the ordinary course of business, such board resolutions may be ongoing generalized authorizations, provided**

that each payment 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, to order purchases, loans or sales of investments by such custodian bank or trust company.

86.770. All employer and member contributions or other payments to the retirement system and all income from investments shall be credited to the funds of the retirement system. All benefits and all necessary administrative expenses of the retirement system shall be paid from the funds of the retirement system. The payment of the benefits granted under the provisions of sections 86.600 to 86.790, and the expense in connection with the operation of the retirement system are hereby made obligations of the employer. All payments from the funds of the retirement system shall be made only upon voucher signed by two persons designated by the retirement board. No voucher shall be drawn unless it has been previously approved by the retirement board, **either specifically or on an ongoing generalized basis as permitted by subsection 3 of section 86.750.**

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 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.**