

FIRST REGULAR SESSION

# SENATE BILL NO. 516

92ND GENERAL ASSEMBLY

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INTRODUCED BY SENATORS KENNEDY AND COLEMAN.

Read 1st time February 18, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1661S.011

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## AN ACT

To repeal section 86.251, RSMo, and to enact in lieu thereof one new section relating to pension and relief systems for police officers.

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

Section A. Section 86.251, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 86.251, to read as follows:

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. **Except as specifically provided in subsection 6 of this section,** 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. A member shall cease participation in the DROP upon 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 elect to receive the value of the member's DROP account, in one of the following forms of payment:

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

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.

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. Any member ceasing participation in the DROP and returning to active participation in the system, may elect to purchase creditable service for participation during the DROP period. Upon such election, the member shall provide payment of the employee contributions the member would have made for the entire DROP participation period to the retirement system. When the member terminates employment and actually retires, the service retirement allowance shall then be calculated using the members's total membership service including the DROP period and the average final compensation in effect at date of final retirement.**

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

[7.] 8. 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.

[8.] 9. 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 remaining balance of the member's DROP account 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 in a lump sum within sixty days after receipt by the board of trustees of evidence and proof of the death of a member. 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.

[9.] 10. 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.

[10.] 11. 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 last day of each plan year beginning after DROP participation begins, the member's DROP account balance, determined as of the last day of the prior plan year, shall be credited with interest at the investment rate earned by the assets of the retirement system for such prior plan year. If distribution of the member's DROP account balance is made in a lump sum under subsection 4 or [8] 9 of this section, interest for the plan year of distribution shall be credited on the ending balance for the prior plan year at the investment rate earned on the assets of the retirement system for the prior plan year, in proportion to the part of the plan year preceding the date of the member's termination of employment or death, whichever is earlier. If the member's DROP account is paid in equal monthly installments pursuant to subsection 4 of this section, interest during the installment period shall be credited as of the last day of each plan year ending after installment payment begins on the account balance as of the first or last day of the plan year, whichever is lower, at the investment rate earned by the assets of the system for the prior plan year. Interest for the year in which the final installment is paid shall be credited on the balance remaining after the final installment is paid, at the investment rate earned on the assets of the system for the prior plan year, in proportion to the part of the plan year preceding payment of the final installment. Any interest credited to the DROP account during the installment period shall be paid as soon as reasonably possible after the final monthly installment. 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.

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

[12.] 13. 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 of the member's death. 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 of the member's death.

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