

FIRST REGULAR SESSION

[ P E R F E C T E D ]

# SENATE BILL NO. 357

93RD GENERAL ASSEMBLY

---

INTRODUCED BY SENATOR SHIELDS.

Read 1st time February 15, 2005, and ordered printed.

Read 2nd time February 17, 2005, and referred to the Committee on Pensions, Veterans' Affairs and General Laws.

Reported from the Committee March 15, 2005, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up March 31, 2005. Read 3rd time and placed upon its final passage; bill passed.

1381S.01P

TERRY L. SPIELER, Secretary.

---

## AN ACT

To repeal sections 86.370, 86.373, 86.374, 86.377, 86.380, 86.383, 86.387, 86.390, 86.393, 86.394, 86.397, 86.398, 86.400, 86.403, 86.407, 86.410, 86.413, 86.417, 86.420, 86.423, 86.427, 86.430, 86.433, 86.434, 86.437, 86.440, 86.441, 86.442, 86.443, 86.445, 86.447, 86.450, 86.453, 86.457, 86.460, 86.463, 86.467, 86.470, 86.473, 86.477, 86.480, 86.483, 86.487, 86.490, 86.493, 86.497, 86.600, 86.610, 86.611, 86.620, 86.630, 86.640, 86.650, 86.660, 86.665, 86.670, 86.671, 86.672, 86.675, 86.676, 86.680, 86.690, 86.700, 86.710, 86.720, 86.730, 86.740, 86.745, 86.750, 86.760, 86.770, 86.780, and 86.790, RSMo, and to enact in lieu thereof seventy-three new sections relating to Kansas City police retirement.

---

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

Section A. Sections 86.370, 86.373, 86.374, 86.377, 86.380, 86.383, 86.387, 86.390, 86.393, 86.394, 86.397, 86.398, 86.400, 86.403, 86.407, 86.410, 86.413, 86.417, 86.420, 86.423, 86.427, 86.430, 86.433, 86.434, 86.437, 86.440, 86.441, 86.442, 86.443, 86.445, 86.447, 86.450, 86.453, 86.457, 86.460, 86.463, 86.467, 86.470, 86.473, 86.477, 86.480, 86.483, 86.487, 86.490, 86.493, 86.497, 86.600, 86.610, 86.611, 86.620, 86.630, 86.640, 86.650, 86.660, 86.665, 86.670, 86.671, 86.672, 86.675, 86.676, 86.680, 86.690, 86.700, 86.710, 86.720, 86.730, 86.740, 86.745, 86.750, 86.760, 86.770, 86.780, and 86.790, RSMo, are repealed and seventy-three new sections enacted in lieu thereof, to be known as sections 86.900, 86.910, 86.920, 86.930, 86.940, 86.950, 86.951, 86.960, 86.970, 86.980, 86.990, 86.1000, 86.1010, 86.1020, 86.1030, 86.1040, 86.1050, 86.1060, 86.1070, 86.1080, 86.1090, 86.1100, 86.1110, 86.1120, 86.1130,

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

86.1140, 86.1150, 86.1160, 86.1170, 86.1180, 86.1190, 86.1200, 86.1210, 86.1220, 86.1230, 86.1240, 86.1250, 86.1260, 86.1270, 86.1280, 86.1310, 86.1320, 86.1330, 86.1350, 86.1360, 86.1370, 86.1380, 86.1390, 86.1400, 86.1410, 86.1420, 86.1430, 86.1440, 86.1450, 86.1460, 86.1470, 86.1480, 86.1490, 86.1500, 86.1510, 86.1520, 86.1530, 86.1540, 86.1550, 86.1560, 86.1570, 86.1580, 86.1590, 86.1600, 86.1610, 86.1620, 86.1630, and 86.1640, to read as follows:

**86.900.** The following words and phrases as used in sections 86.900 to 86.1280 shall have the following meanings unless a different meaning is plainly required by the context:

(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 86.900 to 86.1280;

(2) "Beneficiary", any person entitled, either currently or conditionally, to receive pension or other benefits provided in sections 86.900 to 86.1280;

(3) "Board of police commissioners", the board composed of police commissioners 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, or any city that has made an election under section 86.910 to continue a police retirement system maintained under sections 86.900 to 86.1280;

(5) "Compensation", the basic wage or salary paid a member for any period on the basis of the member's rank and position, excluding bonuses, overtime pay, expense allowances, and other extraordinary compensation; except that, notwithstanding such provision, compensation for any year for any member shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of the Internal Revenue Code as applicable to such year;

(6) "Consultant", unless otherwise specifically defined, a person retained by the retirement system as a special consultant on the problems of retirement, aging and related matters who, 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 needed by the board;

(7) "Creditable service", service qualifying as a determinant of a member's pension or other benefit under sections 86.900 to 86.1280 by meeting the requirements specified in said sections or section 105.691, RSMo;

(8) "Final compensation", the average annual compensation of a member

during the member's service if less than two years, or the twenty-four months of service for which the member received the highest salary whether consecutive or otherwise. In computing the average annual compensation of a member, no compensation for service after the thirtieth full year of membership service 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;

(9) "Fiscal year", for the retirement system, the fiscal year of the cities;

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

(11) "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;

(12) "Member", a member of the police retirement system as described in section 86.1090;

(13) "Pension", annual payments for life, payable monthly, beginning with the date of retirement or other applicable commencement date and ending with death;

(14) "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.900 to 86.1280 and by the members of the police retirement system;

(15) "Police officer", 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 who holds a rank or position for which an annual salary range is provided in section 84.480 or 84.510, RSMo; in case of dispute as to whether any person is a police officer qualified for membership in the retirement system, the decision of the board of police commissioners shall be final;

(16) "Retirement board" or "board", the board provided in section 86.920 to administer the retirement system;

(17) "Retirement system", the police retirement system of the cities as defined in section 86.910;

(18) "Surviving spouse", when determining whether a person is entitled to benefits under sections 86.900 to 86.1280 by reason of surviving a member, shall include only:

(a) A person who was married to a member at the time of the member's death in the line of duty or from an occupational disease arising out of and in the course of the member's employment and who had not, after the member's death and prior to August 28, 2000, remarried;

(b) With respect to a member who retired or died prior to August 28, 1997, a spouse who survives such member, whose marriage to such member occurred at least two years before the member's retirement or at least two years before the member's death while in service, and who had not remarried anyone other than the member prior to August 28, 2000;

(c) With respect to a member who retired or died while in service after August 28, 1997, and before August 28, 2000, a spouse who survives such member, was married to such member at the time of such member's retirement or of such member's death while in service, and had not, after the member's death and prior to August 28, 2000, remarried; and

(d) With respect to a member who retires or dies in service after August 28, 2000, a spouse who survives a member and was married to such member at the time of such member's retirement or death while in service.

86.910. In all cities that now have or may hereafter attain a population of more than three hundred thousand and less than seven hundred thousand inhabitants according to the last preceding federal decennial census, there are hereby created and established retirement or pension systems for the purpose of providing retirement allowances for police officers of such cities. Any city which has established a police retirement system under the provisions of sections 86.370 to 86.497 or sections 86.900 to 86.1280 may elect to continue its police retirement system under the provisions of sections 86.900 to 86.1280 even though the city may cease to have the population described in this section, and any city so electing to continue its established police retirement system shall be excused from creating or maintaining any other police retirement system under any other provisions of the Missouri statutes. Each system shall be under the management of a retirement board to be known as the "Police Retirement System of (name of city)", and by such name all of its business shall be transacted, and all of its cash and other property held. The retirement systems so created shall begin operation on the effective date of sections 86.370 to 86.497.

86.920. The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of sections 86.900 to 86.1280 are hereby vested in a retirement board of nine persons.

86.930. 1. The retirement board shall be constituted as follows:

(1) Two members, one of whom shall be of the political party casting the highest number of votes statewide for governor in the election next preceding such member's selection and the other of whom shall be of the political party casting the next highest number of votes statewide for governor at the election next preceding such member's selection, shall be selected by the board of police

commissioners of such cities to serve one- and two-year terms respectively. All such subsequent members shall serve for terms of two years each or to fill an unexpired term;

(2) Two members, one of whom shall be of the political party casting the highest number of votes statewide for governor in the election next preceding such member's selection and the other of whom shall be of the political party casting the next highest number of votes statewide for governor at the election next preceding such member's selection, shall be selected by the city council of such city, one of whom may be the director of finance of such city to act as ex officio member, and the other to serve for a term of two years; and

(3) Five members shall be elected for three-year terms respectively or to fill an unexpired term in annual elections in which each member of the police retirement system, each person receiving benefits as a surviving spouse of a member of the police retirement system, and, if such city has established a civilian employees' retirement system of the police department of such city pursuant to the provisions of sections 86.1310 to 86.1640, each member of such civilian employees' retirement system and each person receiving benefits as a surviving spouse of a member of such civilian employees' retirement system shall be entitled to one vote.

2. Commencing with the first annual election for members of the retirement board in 2004, the five elected members of the board shall be designated and elected as follows:

(1) If a city has established a civilian employees' retirement system of the police department of such city under the provisions of sections 86.1310 to 86.1640, the elected members of the retirement board of such city shall consist of three restricted members and two open members:

(a) One restricted member shall be a member of the police retirement system who has retired from active service with the police department as of the date of such member's election to the board;

(b) One restricted member shall be a member of the police retirement system who, as of the date of such member's election to the board, is in active service as a police officer and has not attained the rank of sergeant or higher; and

(c) One restricted member shall be a member of the civilian employees' retirement system of the police department of such city.

There shall be no required qualifications for open members. At the annual election in 2004 and each third year thereafter, one open member shall be elected to a three-year term. At the annual election in 2005 and each third year thereafter, one open member shall be elected to a three-year term. At the annual election in 2006 and each third year thereafter, the three restricted members shall be elected to a

three-year term. Such elections shall be conducted simultaneously but as elections for three separate offices, in which only persons qualified for a respective office may be a candidate for such office;

(2) If a city has not established a civilian employees' retirement system of the police department of such city under the provisions of sections 86.1310 to 86.1640, the elected members of the retirement board of such city shall consist of two restricted members and three open members. All provisions of subdivision (1) of this subsection shall apply, except that the restricted membership provided for a member of a civilian employees' retirement system shall be an open membership;

(3) In every election in which more than one position is to be filled, either for a three-year term or for the unexpired portion of the term of a position which has become vacant, every candidate in such election must declare the position to which such candidate desires to be elected; and no person may be a candidate for more than one such position in any given election;

(4) Any person elected to a restricted position on the retirement board who at the time of such election meets the qualifications for such position shall be deemed to continue to meet such qualifications throughout the term to which such person was elected, regardless of any change in the rank, classification or other employment status of such person.

3. If a vacancy occurs in the office of a member of the retirement board the vacancy shall be filled for the unexpired term in the same manner as the vacated office was previously filled.

4. Each member of the retirement board shall, within ten days after appointment or election, take an oath of office that such member will diligently and honestly administer the affairs of the board, and will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the police retirement system. Such oath shall be signed by the member and filed with the clerk of such city.

86.940. 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 to pass a motion by the retirement board at any meeting of the board.

86.950. 1. Subject to the limitations of sections 86.900 to 86.1280, the retirement board shall from time to time establish policies for the administration of its assets, for the transaction of its business and for the conduct of nominations and elections of the elected members of the retirement board.

2. The retirement board shall elect from its membership a chairman, a vice chairman, and a treasurer, and shall by majority vote of its members appoint a secretary, who may be, but need not be, one of its members. The offices of

secretary and of treasurer shall not be held by the same person. The retirement board may employ such actuarial, legal, and other services as may be necessary to transact the business of the retirement system. The compensation of all persons employed by the retirement board and all other expenses of the board necessary for the operation of the retirement system shall be paid in such manner as the retirement board shall determine; provided that the compensation of such persons as may be employed by the retirement board shall not be greater than the compensation paid for comparable abilities by the governments of the cities in which the retirement board is located.

86.951. The retirement board shall be deemed to be a state agency within the meaning of chapter 536, RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 86.900 to 86.1280 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

86.960. 1. The retirement board shall keep in convenient form such data as is necessary for administration of the retirement system. The retirement board shall keep a record of all its proceedings which shall be open to public inspection.

2. The retirement board shall publish annually a statement reporting the operations of the retirement system for the year, including income and disbursements during the year and the financial condition of the retirement system at the end of the year, including actuarial valuation and valuations of its assets and liabilities as of April thirtieth of each year. Such statement shall be consistent with results reviewed and approved by independent certified public accountants selected by the board. One copy of the annual report shall be delivered to each member of the retirement board and each member of the board of police commissioners, and one copy shall be filed with the city clerk. Copies of the report shall be made conveniently available to each member of the retirement system.

3. The retirement board shall cause an actuarial study and calculation to be made annually based upon the experiences of the retirement system by an independent firm of pension actuaries.

4. The retirement board shall appoint a medical board of not more than three physicians, each of whom shall serve at the pleasure of the retirement board,

to arrange for and conduct medical examinations as requested by the retirement board.

5. The retirement board shall adopt a common seal.

86.970. The members of the retirement board shall be compensated in full for all services rendered under the provisions of sections 86.900 to 86.1280 at the rate of ten dollars per business session actually attended but no member shall be so compensated in an amount exceeding one hundred fifty dollars in any fiscal year regardless of the amount of services rendered or the number of business sessions actually attended. The members of the board shall be reimbursed from the funds of the police retirement system for all necessary expenses which they may incur on such board, in addition to their compensation for services.

86.980. Each member of the retirement board who is in active service with the police department of a city as either a police officer, as defined in section 86.900, or as an employee, as defined in section 86.1310, shall be granted authorized leave with pay by such police department to attend any and all educational seminars and like functions that have been authorized by the retirement board, including travel time to and from such functions, not to exceed ten days in any calendar year. Leave granted under this section shall not reduce vacation or other authorized leave time to which such member may be entitled without reference to this section.

86.990. The retirement board shall before January tenth of each year certify to the chief financial officer of such city the amount to be paid by the city under the retirement pension system for the succeeding fiscal year, as otherwise provided by sections 86.900 to 86.1280.

86.1000. 1. The city shall contribute to the pension fund quarter-annually or at such lesser intervals as may be agreed upon by the city and the retirement board. Such contribution shall be in addition to and separate from the appropriations made by the city for the operation of the police department. For each fiscal year of the operation of the pension system, the city's contribution to the pension fund shall be a percentage of the compensation paid to members of the pension system from which a member's deduction has been made under section 86.1010. The city's contribution shall be such percentage as shall be agreed upon by the board of police commissioners and the city, but in no event shall such contribution be less than twelve percent.

2. On or before the tenth day of January of each year the retirement board shall certify to the board of police commissioners the amount of money that will likely be required to comply with the provisions of this section during the next succeeding fiscal year including administration expenses. The amounts so



certified shall be included by the board of police commissioners in their annual budget estimate, and shall be appropriated by the cities and transferred to the pension fund during the ensuing fiscal year.

86.1010. The board of police commissioners shall cause to be deducted from the compensation of each member until retirement a percentage of such member's compensation, which shall not be less than six percent, as determined by the retirement board, as such member's contribution to the pension fund. The sum so deducted shall be paid by the board of police commissioners promptly after each payroll to the retirement board to be credited to the member's account. Every member shall be deemed to consent to the deductions made and provided for herein. The board of police commissioners shall certify to the retirement board on every payroll the amount deducted, and such amounts shall be paid into the pension fund and shall be credited to the individual pension account of the member from whose compensation such deduction was made.

86.1020. 1. The retirement board shall act as trustee of the funds created by or collected under the provisions of sections 86.900 to 86.1280. 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 as an 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 86.900 to 86.1280. 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 400.8-117, 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 retirement board may contract with a bank or trust company to act as the custodian of bonds and securities acquired by the board, in which case the retirement board may authorize 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. The income from investments shall be credited 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.

4. Before assuming the duties of the office, the secretary and treasurer shall each be bonded for an amount determined by the retirement board at the cost of the retirement system, conditioned upon the faithful performance of the duties as such officer, and to account for all moneys, securities, and property which may come into their respective hands or under their respective control by virtue of such office, with a corporate surety duly licensed to transact business in this state. Such bonds shall be subject to the approval of the presiding judge of the circuit court of the county in which such cities are located.

86.1030. All benefits and all necessary administrative expenses of the retirement system shall be paid from the funds of the retirement system.

86.1040. 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 86.900 to 86.1280 and the moneys in the various funds created under sections 86.900 to 86.1280 shall not be subject to execution, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as specifically provided in sections 86.900 to 86.1280, 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 86.900 to 86.1280. The moneys in the various funds created under sections 86.900 to 86.1280 are hereby exempt from any tax of the state of Missouri or of any municipality or political subdivision thereof. 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 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.

86.1050. Nothing contained in sections 86.900 to 86.1280 shall in any way limit the criminal liability of any person subject to prosecution under any law which is now or may hereafter be in force. Should any change or error in records result in any member or beneficiary receiving from the pension system more or less than such person would have been entitled to receive had the records been correct, the retirement board shall correct such error and, as far as practicable, shall adjust the payments in such a manner that the benefit to which said member or beneficiary was correctly entitled shall be paid.

86.1060. 1. The retirement board may sue and be sued in its own name. Such suits shall constitute suits by or against the members of the retirement board in their representative capacities and not as individuals.

2. Service of process on the retirement board shall be sufficient if ten copies of the pleading or other document to be served shall be served upon the secretary of the retirement board at the principal office of the retirement system during business hours.

86.1070. 1. In any hearing conducted by the retirement board, the board's findings on all issues of fact shall be final and conclusive upon all parties concerned when such findings are supported by competent and substantial evidence.

2. Any ruling of the retirement board on a question of law and whether the same is supported by substantial evidence shall, at the option of the plaintiff, be reviewed upon application of any party by the circuit court of Cole County, or in the county of the residence of the plaintiff or one of the plaintiffs, or in the county

in which the principal office of the retirement system is located.

86.1080. 1. The retirement board may purchase with retirement system assets from one or more insurers licensed to do business in this state one or more insurance policies that provide for reimbursement of the retirement system and any trustee, member of the retirement board, officer, or employee of the retirement system for liability imposed or damages because of an alleged act, error, or omission committed in the trustee's, board member's, officer's, or employee's capacity as a fiduciary, officer, or employee of the retirement system and for costs and expenses, including attorney fees, incurred as a trustee, board member, officer, or employee in defense of a claim for an alleged act, error, or omission, as long as the insurance policy does not provide for reimbursement of a trustee, board member, officer, or employee for liability imposed or expenses incurred because of the trustee's, board member's, officer's, or employee's personal dishonesty, fraud, lack of good faith, or intentional failure to act prudently.

2. If the insurance coverage described in subsection 1 of this section is insufficient or is not in effect, the retirement board may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that the person is or was a member of the retirement board, or is or was serving at the request of the retirement board in the capacity which caused the person's relationship to such action, suit, or proceeding, against expenses, including attorneys' fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit, or proceeding, if the person acted in good faith and without willful malfeasance, and, with respect to any criminal action or proceeding, had reasonable cause to believe the relevant conduct was lawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith, or, with respect to any criminal action or proceeding, that the person did not have reasonable cause to believe that the relevant conduct was lawful.

3. To the extent that a member of the retirement board has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in subsections 1 and 2 of this section, or in defense of any claim, issue, or matter therein, the person shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred in connection with the action, suit, or proceeding that are not covered by the insurance described in subsection 1 of this section.

4. Any indemnification under this section, unless ordered by a court, shall be made by the retirement board only as authorized in each specific case upon a determination that indemnification of any person potentially entitled to indemnification hereunder is proper in the circumstances because the person has met the applicable standard of conduct set forth in this section. The determination shall be made by the retirement board by a majority vote of a quorum consisting of members of the retirement board who are not parties to the action, suit, or proceeding, or if such a quorum is not obtainable, or even if obtainable and a quorum of disinterested members of the retirement board so directs, by independent legal counsel in a written opinion. Such legal counsel may but need not be counsel to the retirement system.

5. Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the retirement board in advance of the final disposition of the action, suit, or proceeding as authorized by the retirement board in the specific case upon receipt of an undertaking by or on behalf of the person potentially entitled to indemnification hereunder to repay such amount unless it shall ultimately be determined that the person is entitled to be indemnified by the retirement board as authorized in this section.

86.1090. 1. All persons who enter or reenter the service of the such cities as police officers for compensation after the date this police retirement system becomes effective, shall become members thereof as a condition of their employment.

2. Members of the police retirement system shall receive no retirement or pension allowance from any other retirement or pension system supported wholly or in part by such cities or the state of Missouri, nor shall they be required to make contributions under any other retirement or pension system of such cities or the state.

3. Nothing in sections 86.900 to 86.1280 shall be construed to prevent the inauguration of the federal Social Security laws for police officers, nor to prevent the contribution to such Social Security administration or fund established by the federal government, nor by it the pensioning of such police officers. In the event that federal Social Security benefits are made available to police officers covered by sections 86.900 to 86.1280, then any benefits payable to any member or the dependents of such member under sections 86.900 to 86.1280 shall be in addition to the amount of such Social Security benefits, and any contributions required by a member under this section shall be in addition to the amount of such member's contribution under such Social Security system.

86.1100. 1. The retirement board shall fix and determine by proper rules

and regulations how much service in any year is equivalent to one year of service. In no case shall more than one year of service be creditable for all service rendered in one calendar year. The retirement board shall not allow credit as service for any period of more than thirty consecutive days during which the member was absent without compensation, except as provided in subsection 3 of section 86.1140.

2. Creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by such member since such member last became a member.

3. Creditable service also includes any prior service credit to which a member may be entitled by virtue of an authorized purchase of such credit or as otherwise provided in sections 86.900 to 86.1280.

4. Creditable service shall not include any time a member was suspended from service without compensation. No contribution is required from either the member under section 86.1010 or from the city under section 86.1000 for such time.

5. Any member who has completed thirty years of creditable service may continue in service by permission of the board of police commissioners. Contributions shall not be required of, and no service shall be credited to, any member for more than thirty years of service.

86.1110. 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. Any member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial value of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system. Payment in full

of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse, or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is retired by the board of police commissioners for reason of disability as provided in sections 86.900 to 86.1280.

86.1120. Members who terminate membership with five years or more of creditable service and later return to membership may be given credit toward retirement for prior creditable service, subject to the condition that such member deposit in the pension fund a sum equal to the accumulated contributions which had been paid to such member upon the prior termination. Such repayment of withdrawn contributions shall be accompanied by an additional payment of interest equal to the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions had been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes.

86.1130. Each person who becomes a member of the police retirement system under the provisions of sections 86.900 to 86.1280 shall remain a member until the earliest to occur of the following events:

- (1) The termination of service of such person and the payment to such person of all benefits due such person under the provisions of sections 86.900 to 86.1280; or
- (2) The death of such person.

86.1140. 1. Should any member be granted leave of absence by the board of police commissioners, such member shall not, because of such absence, cease to be a member.

2. If a member is on leave of absence by authority of the board of police commissioners for thirty consecutive days or less, such member shall receive creditable service for such time.

3. If a member is on leave of absence for more than thirty consecutive days without compensation, such member shall not receive service credits for such time unless such member shall, within one year after returning from such absence, pay into the retirement system an amount equal to the member's contribution percentage at the time such absence began times an assumed salary figure for the period of such absence, computed by assuming that such member received a salary during such absence at the rate of the base annual salary the member was receiving immediately prior to such absence.

86.1150. 1. Any member may retire when such member has completed twenty-five or more years of creditable service and, except as otherwise provided in section 86.1100, shall retire when such member has completed thirty years of creditable service. Upon such retirement such member shall receive a base pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service. Such pension shall not exceed seventy-five percent of the member's final compensation.

2. Every member not having thirty years of service must retire at sixty years of age except that on recommendation of the chief of police, the board of police commissioners may permit such member who is sixty years of age or over to remain in service until such member reaches the age of sixty-five years. Such member shall continue to make contributions and receive credit for service until reaching sixty-five years of age, until retirement, or until completion of thirty years of creditable service, whichever occurs first. If such member shall reach sixty-five years of age or shall retire prior to completion of twenty-five years of service, the base pension of such member shall be calculated under subsection 3 of this section.

3. Except as provided in section 86.1100 or in subsection 2 of this section, any member in service who shall have attained sixty years of age and at that time



shall have completed at least ten but less than thirty years of creditable service shall retire and shall receive a base pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation as defined in section 86.900 multiplied by the number of years of such member's total creditable service.

4. Subject to the provisions of subsection 5 of this section, whenever the service of a member is terminated for any reason prior to death or retirement and the member has fifteen or more years of creditable service, the member may elect not to withdraw such member's accumulated contributions and shall become entitled to a base pension beginning at the age of fifty-five, if then living, equal to:

(1) For a member whose service so terminates prior to August 28, 2001, two percent of such member's final compensation multiplied by the number of years of such member's creditable service; or

(2) For a member whose service so terminates on or after August 28, 2001, two and one-half percent of such member's final compensation multiplied by the number of years of such member's creditable service.

5. Notwithstanding any other provisions of sections 86.900 to 86.1280, any member who is convicted of a felony prior to separation from active service shall not be entitled to any benefit from this retirement system except the return of such member's accumulated contributions.

86.1160. Whenever a member's service is terminated for any reason prior to death or retirement and such member has less than fifteen years of creditable service, or a member's service is terminated after conviction of a felony, or a member's service is terminated for any reason and such member requests the withdrawal of all such member's accumulated contributions to the retirement system, such member shall be paid the amount of such member's accumulated contributions in one lump sum, without interest, and such payment shall be in lieu of any and all other benefits to which such member or any beneficiary or survivor thereof might otherwise be or become entitled under sections 86.900 to 86.1280.

86.1170. Any member who retires after August 28, 2000, who is entitled to a pension benefit under the provisions of sections 86.900 to 86.1280 and who either has at least twenty-five years of creditable service or is retired as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, shall receive a pension benefit which, without including any supplemental retirement benefits paid such member by the retirement system,

shall be not less than six hundred dollars monthly. Any member who retired on or before August 28, 2000, who is entitled to a pension benefit under the provisions of sections 86.900 to 86.1280 and who either had at least twenty-five years of creditable service or was retired as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, shall upon application to the retirement board be appointed by the retirement board as a consultant and shall, beginning the later of August 28, 2000, or the time of such appointment under this section or a previously applicable statute, be compensated in an amount which, without including any supplemental retirement benefits provided by this system, shall be not less than six hundred dollars monthly. A pension benefit under this section shall be paid in lieu of such member's base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under 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.

86.1180. 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 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 on or after August 28, 2001, a member shall receive a base pension equal to 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 86.1190 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 under subsection 4 of this section, the former disability beneficiary is restored to active service, such member shall contribute to this retirement system thereafter at the same rate as other members. Upon subsequent retirement, such member shall be credited with all his or her creditable service, including any years in which such member received a disability pension under this section.

6. If upon cessation of a disability pension under subsection 4 of this section, the former disability beneficiary is not restored to active service, such member shall be entitled to the retirement benefit to which such member would have been entitled if such member had terminated service at the time of such cessation of the disability pension. For the purpose of such retirement benefits, such former disability beneficiary will be credited with all his or her creditable service, including any years in which such member received a disability pension under this section.

86.1190. 1. Any periodic payment, excluding payments for medical treatment, which may be paid or payable by cities under 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 cities under the provisions of sections 86.900 to 86.1280 on account of the same disability or death; except that, amounts payable under subsection 1 of section 86.1250 and section 86.1260 shall not be offset or reduced by any amount paid or payable under any workers' compensation or similar law. However, in no event shall the amount paid from funds under the provisions of sections 86.900 to 86.1280 be less than the amount which represents the member's percentage, as defined in this section, of total benefits payable under sections 86.900 to 86.1280, other than under subsection 1 of section 86.1250 and section 86.1260 and 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 under 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 cities under the provisions of sections 86.900 to 86.1280 on account of the same disability or death; except that, amounts payable under subsection 1 of section 86.1250 and section 86.1260 shall not be offset or reduced by any amounts paid or payable under any workers' compensation or similar law. The amount by which each periodic payment made under the provisions of sections 86.900 to 86.1280 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. However, in no event shall the amount paid from funds under the provisions of sections 86.900 to 86.1280 be less than the amount which represents the member's percentage, as defined in this section, of total benefits payable under sections 86.900 to 86.1280, other than under subsection 1 of section 86.1250 and section 86.1260 and before any offset for workers' compensation benefits.

3. 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 under section 86.1010 during the pay period immediately preceding such member's death or disability which created entitlement to benefits and the denominator is the sum of the percentages of a member's compensation contributed by a working member under section 86.1010 and the city under section 86.1000 to the retirement pension system during such pay period. Such percentage shall identify the portion of any benefits due under the provisions of sections 86.900 to 86.1280 which is deemed to have been provided by the member's own contributions.

86.1200. 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 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 on or after August 28, 2001, a member shall receive a base pension equal to two and one-half percent of final compensation multiplied by the number of years of 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. 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 in the report, then such beneficiary's nonduty disability pension shall cease.

86.1210. 1. Any member entitled to commence a pension under section 86.1150 with twenty-six years or more of creditable service may elect an optional distribution under the partial lump sum option plan provided in this section if the member:

(1) Notifies the retirement system in writing of the member's retirement date at least ninety days in advance thereof and requests an explanation of the member's rights under this section; and

(2) Notifies the retirement system of the member's election hereunder at least thirty days in advance of the member's retirement date.

Following receipt of an initial notice of a member's retirement date and request for an explanation under this section, the retirement system shall, at least sixty days in advance of such retirement date, provide the member a written explanation of the member's rights under this section and an estimate of the amount by which the member's regular monthly base pension would be reduced in the event of the member's election of any of the options available to the member under this section.

2. (1) A member entitled to make an election under this section may elect to receive a lump sum distribution with the member's initial monthly pension payment under section 86.1150, subject to all the terms of this section. The member may elect the amount of the member's lump sum distribution from one, but not more than one, of the following options for which the member qualifies:

(a) A member having twenty-six or more years of creditable service may elect a lump sum amount equal to twelve times the initial monthly base pension the member would receive if no election were made under this section;

(b) A member having twenty-seven or more years of creditable service may elect a lump sum amount equal to twenty-four times the initial monthly base pension the member would receive if no election were made under this section; or

(c) A member having twenty-eight or more years of creditable service may elect a lump sum amount equal to thirty-six times the initial monthly base pension the member would receive if no election were made under this section.

(2) When a member makes an election to receive a lump sum distribution under this section, the base pension which the member would have received in the absence of the election shall be reduced on an actuarially equivalent basis to reflect the payment of the lump sum distribution, and the reduced base pension shall be the member's base pension thereafter for all purposes relating to base pension amounts under sections 86.900 to 86.1280.

3. An election under this section to receive a lump sum distribution and reduced monthly base pension shall be void if the member dies before retirement, and in such case amounts due a surviving spouse or other beneficiary of the member shall be determined without regard to such election.

86.1220. 1. Provided that the retirement system shall remain actuarially sound, each of the following persons may receive each year, in addition to such person's base pension, a cost-of-living adjustment in an amount not to exceed three percent of such person's base pension during any one year:

(1) Every member who is retired and receiving a base pension from the retirement system;

(2) Every surviving spouse who is receiving a base pension from the retirement system; and

(3) Every child who, under subsection 2 of section 86.1250, is receiving the benefit, or a portion thereof, which would be payable to a surviving spouse of the member who was such child's parent.

2. Upon the death of a member who has been retired and receiving a pension and who dies after September 28, 1987, the surviving spouse of such member entitled to receive a base pension under section 86.1240 or children of

such member entitled to receive a base pension under subsection 2 of section 86.1250 shall receive an immediate 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 under this section, except that the adjustment provided by this subsection shall not be made to a base pension calculated under either subdivision (1) or subdivision (2)(b) of subsection 2 of section 86.1240, either for a surviving spouse or for a child or children entitled to a base pension measured by the pension to which a qualified surviving spouse would be entitled, wherein such base pension is determined by a percentage of the amount being received by the deceased member at death.

3. For purposes of this section, the term "base pension" shall mean:

(1) For a member, the pension computed under the provisions of the law as of the date of retirement without regard to cost-of-living adjustments, as adjusted, if applicable, for any election made under section 86.1210, but in all events not including any supplemental benefit under section 86.1230;

(2) For a surviving spouse, the base pension calculated for such spouse in accordance with the provisions of section 86.1240, including any compensation as a consultant to which such surviving spouse is entitled under said section in lieu of a pension thereunder, but not including any supplemental benefit under section 86.1230; and

(3) For a member's surviving child who is entitled to receive part or all of the pension which would be received by the surviving spouse, if living, the base pension calculated for such surviving spouse in accordance with the provisions of section 86.1240, including any compensation as a consultant to which such spouse would be entitled under said section, if living, divided by the number of surviving children entitled to share in such pension under subsection 2 of section 86.1250.

4. The cost-of-living adjustment 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. 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 applicable children of a member who has died during the year prior to such adjustments.

5. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment is granted. If at any time the retirement system ceases to be actuarially sound, 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 system would remain actuarially sound.

6. If any benefit under subsection 1 of section 86.1250 on August 27, 2005, would be reduced by application of this section, such benefit shall continue thereafter without reduction, but any benefit so continued shall terminate at the time prescribed in subsection 1 of section 86.1250.

86.1230. 1. Any member who retires subsequent to August 28, 1991, with entitlement to a pension under sections 86.900 to 86.1280, shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually. 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 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 shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under



this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually. 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 most recent annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated contributions to the trust fund.

3. In determining and granting the 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. The retirement board shall not be required to prorate the initial adjustment to any supplemental retirement benefit or any supplemental compensation under this section for any member.

4. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse entitled to a benefit under sections 86.900 to 86.1280 who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement; provided, 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 under subsection 2 of this section, and provided further, that no benefits shall be payable under 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 after the member's death and prior to August 28, 2000. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280. 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 under this section prior to such member's death. In all events, the term "member" 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 if living.

5. The determination of whether the retirement 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 system ceases to be actuarially sound, supplemental retirement benefit payments under subsection 1 of this section and supplemental compensation payments as a consultant under subsection 2 of this section shall continue as adjusted by increases or decreases 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 system would remain actuarially sound.

86.1240. 1. Upon receipt of the proper proofs of death of a member in service for any reason whatsoever, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection 6 of this section, a base pension equal to forty percent of the final compensation of such member, subject to adjustments, if any, as provided in section 86.1220.

2. (1) Upon receipt of the proper proofs of death of a member who was retired or terminated service after August 28, 1999, and died after commencement of benefits to such member from this retirement system, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection 6 of this section, 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 86.1220. The pension provided by this subdivision shall terminate upon remarriage by the surviving spouse prior to August 28, 2000.

(2) (a) Upon receipt of the proper proof of death of a member who retired or terminated service on or before August 28, 1999, and who died after August 28, 1999, and after commencement of benefits to such member from this retirement system, such member's surviving spouse, if any, shall be entitled to a base pension equal to forty percent of the final compensation of such member.

(b) Such a surviving spouse shall, upon application to the retirement board, be appointed by the retirement board as a consultant and be compensated in an amount equal to the benefits such spouse would receive under subdivision (1) of this subsection if the member had retired or terminated service after August 28, 1999.

(c) The benefits provided by this subdivision shall terminate upon remarriage by the surviving spouse prior to August 28, 2000.

3. In the case of any member who, prior to August 28, 2000, died in service

or retired, the surviving spouse who would qualify for benefits under subsection 1 or 2 of this section but for remarriage, and who has not remarried prior to August 28, 2000, but remarries thereafter, shall upon application be appointed by the retirement board as a consultant. For services as such consultant, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received under sections 86.900 to 86.1280 in the absence of such remarriage.

4. For purposes of this section, commencement of benefits shall begin, for any benefit, at such time as all requirements of sections 86.900 to 86.1280 have been met entitling the member to a payment of such benefit at the next following payment date with the amount thereof established, regardless of whether the member has received the initial payment of such benefit.

5. 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 under section 86.1180, the surviving spouse's benefit provided under this section, 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 died, retired or terminated 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 under section 86.1180, the surviving spouse shall upon application to the retirement board be appointed by the retirement board as a consultant. For services as such consultant, the surviving spouse shall, beginning the later of August 28, 2000, or the time the appointment is made under 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 under this subsection shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection 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.

6. Any beneficiary of benefits under sections 86.900 to 86.1280 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.

86.1250. 1. (1) Upon the death of a member in service or after retirement and commencement of benefits, such member's child or children under the age of eighteen years at the time of the member's death shall be paid fifty dollars per month each 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 under this section 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.

(2) 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. 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.

(3) Notwithstanding any other law to the contrary, amounts payable under subdivisions (1) or (2) of this subsection shall not be subject to offset or reduction by amounts paid or payable under any workers' compensation or similar law.

2. Upon or after the death of a member in service or after retirement and commencement of benefits, if there is no surviving spouse or if a surviving spouse dies, the total amount, including any amounts receivable as consulting compensation, but not including any supplemental benefits under section 86.1230, 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 of such member under the age of eighteen years and the incapacitated children in equal shares. As each such child attains the age of eighteen years or has such incapacity removed, such total amount shall then be divided among the remaining such

children, until there is no remaining child of such member under the age of eighteen years or incapacitated, at which time all benefits for children of such member under this subsection shall cease.

3. Upon the death of a member in service or after retirement and commencement of benefits, a funeral benefit of one thousand dollars shall be paid to the person or entity who provided or paid for the funeral services for such member.

4. 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, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

5. For purposes of this section, commencement of benefits shall begin, for any benefit, at such time as all requirements of sections 86.900 to 86.1280 have been met entitling the member to a payment of such benefit at the next following payment date with the amount established, regardless of whether the member has received the initial payment of such benefit.

86.1260. 1. Upon the receipt of the proper proof that the death of a member in service was the natural and proximate result of an event occurring within the performance of duty or of an occupational disease arising out of and in the course of such member's employment, there shall be paid to the surviving spouse, or if there be no surviving spouse, then to the child or children of such member under the age of twenty-one years and those, if any, over the age of twenty-one years if mentally or physically incapacitated from wage earning, in equal shares or divided between or among them as the retirement board in its sole discretion shall direct, the sum of fifty thousand dollars.

2. If a member dies in such manner that a surviving spouse or child would be entitled to benefits under this section but there is no surviving spouse or child eligible to receive payments under this section, no payments under this section shall be paid.

3. Notwithstanding any other law to the contrary, amounts payable under this section shall not be subject to offset or reduction by amounts paid or payable under any workers' compensation or similar law.

86.1270. 1. A retirement plan under sections 86.900 to 86.1280 is a qualified plan under the provisions of applicable federal law. The benefits and conditions of a retirement plan under sections 86.900 to 86.1280 shall always be adjusted to

ensure that the tax-exempt status is maintained.

2. The retirement board shall administer the retirement system in a manner as to retain at all times qualified status under Section 401(a) of the Internal Revenue Code.

3. The retirement board shall hold in trust the assets of the retirement system for the exclusive benefit of the members and their beneficiaries and for defraying reasonable administrative expenses of the system. No part of such assets shall, at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries, be used for or diverted to any purpose other than such exclusive benefit or to any purpose inconsistent with sections 86.900 to 86.1280.

4. A member's benefit shall be one hundred percent vested and nonforfeitable upon the member's attainment of normal retirement age, which shall be the earlier of:

(1) Completion of twenty-five years of service;

(2) Age sixty if the member has completed at least ten years of creditable service;

(3) Age seventy without regard to years of service; or

(4) To the extent funded, upon the termination of the system established under sections 86.900 to 86.1280 or any partial termination which affects the members or any complete discontinuance of contributions by the city to the system.

Amounts representing forfeited nonvested benefits of terminated members shall not be used to increase benefits payable from the system but may be used to reduce contributions for future plan years.

5. Distribution of benefits shall begin not later than April first of the year following the later of the calendar year during which the member becomes seventy and one-half years of age or the calendar year in which the member retires, and shall otherwise conform to Section 401(a)(9) of the Internal Revenue Code.

6. A member or beneficiary of a member shall not accrue a service retirement annuity, disability retirement annuity, death benefit, whether death occurs in the line of duty or otherwise, or any other benefit under sections 86.900 to 86.1280 in excess of the benefit limits applicable to the fund under Section 415 of the Internal Revenue Code. The retirement board shall reduce the amount of any benefit that exceeds those limits by the amount of the excess. If the total benefits under the retirement system and the benefits and contributions to which any member is entitled under any other qualified plan or plans maintained by the board of police commissioners that employs the member would otherwise exceed the applicable limits under Section 415 of the Internal Revenue Code, the benefits

the member would otherwise receive from the retirement system shall be reduced to the extent necessary to enable the benefits to comply with Section 415 of the Internal Revenue Code.

7. The total salary taken into account for any purpose for any member of the retirement system shall not exceed two hundred thousand dollars per year, subject to periodic adjustments in accordance with guidelines provided by the United States Secretary of the Treasury, and shall not exceed such other limits as may be applicable at any given time under Section 401(a)(17) of the Internal Revenue Code.

8. If the amount of any benefit is to be determined on the basis of actuarial assumptions that are not otherwise specifically set forth for that purpose in sections 86.900 to 86.1280, the actuarial assumptions to be used are those earnings and mortality assumptions being used on the date of the determination by the retirement system's actuary and approved by the retirement board. The actuarial assumptions being used at any particular time shall be attached as an addendum to a copy of the retirement system's statute that is maintained by the retirement board and shall be treated for all purposes as a part of sections 86.900 to 86.1280. The actuarial assumptions may be changed by the retirement system's actuary annually if approved by the retirement board, but a change in actuarial assumptions shall not result in any decrease in benefits accrued as of the effective date of the change.

9. Any member or beneficiary who is entitled to receive any distribution that is an eligible rollover distribution, as defined by Section 402(c)(4) of the Internal Revenue Code, is entitled to have that distribution transferred directly to another eligible retirement plan of the member's or beneficiary's choice upon providing direction to the secretary of this retirement system regarding the transfer in accordance with procedures established by the retirement board.

10. For all distributions made after December 31, 2001:

(1) For the purposes of subsection 9 of this section, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by the state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the retirement system. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code; and

(2) For purposes of subsection 9 of this section, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includable in gross income and the portion of such distribution that is not so includable.

86.1280. If a city and the police department of such city adopt any program of incentives to authorize or encourage early retirements, whether for employees not yet eligible for regular retirement or for employees who are eligible but have not yet chosen to retire or for both, the retirement board shall be authorized to administer and pay such incentives for retirees who accept such incentives and are members of the retirement system under sections 86.900 to 86.1280, in addition to such other benefits as such members or their beneficiaries are entitled to receive under sections 86.900 to 86.1280, provided such city shall so request and shall agree to increase the city's contribution under section 86.1000 sufficiently to provide the full actuarial cost of any such incentives in addition to the contribution required of such city necessary, in conjunction with members' contributions under section 86.1010, to provide all other benefits provided under sections 86.900 to 86.1280.

86.1310. The following words and phrases as used in sections 86.1310 to 86.1640 shall have the following meanings unless a different meaning is plainly required by the context:

(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 86.1310 to 86.1640, in all cases with interest thereon at a rate determined from time to time for such purpose by the retirement board;

(2) "Beneficiary", any person entitled, either currently or conditionally, to receive pension or other benefits provided in sections 86.1310 to 86.1640;

(3) "Board of police commissioners", the board composed of police commissioners 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, or any city that has made an election under section 86.1320 to continue a civilian employees' retirement system theretofore maintained under sections 86.1310 to 86.1640;

(5) "Compensation", the basic wage or salary paid a member for any period, excluding bonuses, overtime pay, expense allowances, and other extraordinary compensation; except that, notwithstanding such provision, compensation for any year for any member shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of the Internal Revenue Code as applicable to such year;

(6) "Consultant", unless otherwise specifically defined, means a person retained by the retirement system as a special consultant on the problems of retirement, aging and related matters who, 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 needed by the board;

(7) "Creditable service", service qualifying as a determinant of a member's pension or other benefit under sections 86.1310 to 86.1640 by meeting the requirements specified in such sections, or section 105.691, RSMo;

(8) "Employee", any regularly appointed civilian employee of the police department of the city as specified in sections 86.1310 to 86.1640 who is not eligible to receive a pension from the police retirement system of said city;

(9) "Final compensation", the average annual compensation of a member during the member's service if less than two years, or the twenty-four months of service for which the member received the highest salary whether consecutive or otherwise. 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) "Internal Revenue Code", the United States Internal Revenue Code of 1986, as amended;

(11) "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;

(12) "Member", a member of the civilian employees retirement system as described in section 86.1480;

(13) "Pension", annual payments for life, payable monthly, beginning with the date of retirement or other applicable commencement date and ending with death;

(14) "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.1310 to 86.1640 and by the members of the civilian

employees retirement system;

(15) "Retirement", termination of a member's status as an employee of the police department of the city at a time when the member or the member's beneficiary is immediately entitled to one or more benefits under sections 86.1310 to 86.1640;

(16) "Retirement board" or "board", the board provided in section 86.1330 to administer the retirement system;

(17) "Retirement system", the civilian employees' retirement system of the police department of the cities as defined in section 86.1320;

(18) "Surviving spouse", when determining whether a person is entitled to benefits under sections 86.1310 to 86.1640 by reason of surviving a member, shall include only:

(a) The person who was married to the member at the time of the member's death in service prior to August 28, 2001, and who had not remarried prior to August 28, 2001;

(b) The person who was married to the member at the time of the member's death in service on or after August 28, 2001;

(c) In the case of any member who both retired and died prior to August 28, 2001, the person who was married to the member at the time of the member's death and who had not remarried prior to August 28, 2001;

(d) In the case of any member who retired prior to August 28, 2001, and died on or after that date, the person who was married to the member at the time of the member's death; or

(e) In the case of any member who retired on or after August 28, 2001, the person who was married to the member at both the time of the member's retirement and the time of the member's death.

86.1320. In all cities that now have or may hereafter attain a population of more than three hundred thousand and less than seven hundred thousand inhabitants according to the last preceding federal decennial census, there are hereby created and established retirement or pension systems for the purpose of providing retirement allowances for civilian employees of police departments of such cities. Any city which has established a civilian employees' retirement system under the provisions of sections 86.600 to 86.790 or sections 86.1310 to 86.1640 may elect to continue its civilian employees' retirement system under the provisions of sections 86.1310 to 86.1640 even though the city may cease to have the population described in this section, and any city so electing to continue its established civilian employees' retirement system shall be excused from creating or maintaining any other civilian employees' retirement system under any other

provisions of the Missouri statutes. Each system shall be under the management of a retirement board to be known as the "Civilian Employees' Retirement System of the Police Department of (name of city)," and by such name all of its business shall be transacted, and all of its cash and other property held. The retirement systems so created shall begin operation on October 13, 1965, on which date contributions of employees shall be payable to the pension fund.

86.1330. 1. There shall be a retirement board whose members shall serve without compensation but shall be reimbursed from the pension fund for any necessary expenses which they may incur for service on the board. The board shall adopt policies for the administration of the affairs of the retirement system. The members of the retirement board for the civilian employees' retirement system herein enacted shall be the same as the members of the retirement board for police officers as provided in section 86.930 and upon election or appointment as provided in section 86.930, shall be vested with full authority to administer the retirement system provided in sections 86.1310 to 86.1640, and shall be vested with full authority to do all things necessary and required herein; but all funds received for the administration of the retirement system shall be kept separately and not commingled with funds included in retirement systems provided in sections 86.900 to 86.1280. The members of the retirement system provided in sections 86.1310 to 86.1640 and a surviving spouse receiving benefits from the retirement system shall be entitled to vote in the election of elected members of the retirement board as provided in section 86.930.

2. Each member of the retirement board shall, within ten days after appointment or election, take an oath of office that such member will diligently and honestly administer the affairs of such board, and will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the civilian employees' retirement system. Such oath shall be signed by the member and filed with the clerk of such city.

86.1350. 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 to pass a motion by the retirement board at any meeting of the board.

86.1360. 1. Subject to the limitations of sections 86.1310 to 86.1640, the retirement board shall, from time to time, establish policies for the administration of its assets, for the transaction of its business and for the conduct of nominations and elections of the elected members of the retirement board. The retirement board shall be deemed to be a state agency within the meaning of chapter 536, RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become

effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

2. The retirement board shall elect from its membership a chairman, a vice chairman, and a treasurer and shall, by majority vote of its members, appoint a secretary, who may be, but need not be, one of its members. The offices of secretary and of treasurer shall not be held by the same person. It may employ such actuarial, legal, and other services as may be necessary to transact the business of the retirement system. The compensation of all persons employed by the retirement board and all other expenses of the board necessary for the operation of the retirement system shall be paid in such manner as the retirement board shall determine; provided, that the compensation of such persons as may be employed by the retirement board shall not be greater than the compensation paid for comparable abilities by the governments of the cities in which the retirement board is located.

86.1370. 1. The retirement board shall keep in convenient form such data as is necessary for administration of the retirement system. The retirement board shall keep a record of all its proceedings which shall be open to public inspection.

2. The retirement board shall publish annually a statement reporting the operations of the retirement system for the year, including income and disbursements during the year and the financial condition of the retirement system at the end of the year, including actuarial valuation and valuations of its assets and liabilities as of April thirtieth of each year. Such statement shall be consistent with results reviewed and approved by independent certified public accountants selected by the board. One copy of the annual report shall be delivered to each member of the retirement board and each member of the board of police commissioners, and one copy shall be filed with the city clerk. Copies of the report shall be made conveniently available to each member of the retirement system.

3. The retirement board shall cause an actuarial study and calculation to be made annually based upon the experiences of the retirement system by an independent firm of pension actuaries.

4. The retirement board shall appoint a medical board of not more than three physicians, each of whom shall serve at the pleasure of the retirement board,

to arrange for and conduct medical examinations as requested by the retirement board.

5. The retirement board shall adopt a common seal.

86.1380. The retirement board shall before January tenth of each year certify to the chief financial officer of such city the amount to be paid by the city to the retirement pension system for the succeeding fiscal year, as otherwise provided by sections 86.1310 to 86.1640.

86.1390. The cities specified in sections 86.1310 to 86.1640 shall contribute to the retirement pension system such an amount as may be necessary to pay the pensions as they accrue from year to year, and such additional amounts as may be necessary to maintain the system on a sound actuarial basis as determined by the retirement board and certified as provided in section 86.1380.

86.1400. The board of police commissioners shall cause to be deducted from the compensation of each member until retirement a percentage of such member's compensation, which shall not be less than five percent, as determined by the retirement board, as such member's contribution to the pension fund. The sum so deducted shall be paid by the board of police commissioners promptly after each payroll to the retirement board to be credited to the member's account. Every member shall be deemed to consent to the deductions made and provided for herein. The board of police commissioners shall certify to the retirement board on each payroll the amount deducted, and such amounts shall be paid into the pension fund and shall be credited to the individual pension account of the member from whose compensation such deduction was made.

86.1410. 1. The retirement board shall act as trustee of the funds created by or collected under the provisions of sections 86.1310 to 86.1640. 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 as an 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 86.1310 to 86.1640. 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 400.8-117, 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 retirement board may contract with a bank or trust company to act as the custodian of bonds and securities acquired by the board, in which case the retirement board may authorize 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. The income from investments shall be credited 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.

4. Before assuming the duties of office, the secretary and treasurer shall each be bonded for an amount determined by the retirement board at the cost of the retirement system, conditioned upon the faithful performance of the duties as

such officer, and to account for all moneys, securities, and property which may come into their respective hands or under their respective control by virtue of such office, with a corporate surety duly licensed to transact business in this state. Such bonds shall be subject to the approval of the presiding judge of the circuit court of the county in which such cities are located.

86.1420. All benefits and all necessary administrative expenses of the retirement system shall be paid from the funds of the retirement system.

86.1430. 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 86.1310 to 86.1640 and the moneys in the various funds created under sections 86.1310 to 86.1640 shall not be subject to execution, garnishment, attachment, or any other process whatsoever and shall be unassignable except as specifically provided in sections 86.1310 to 86.1640, 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 86.1310 to 86.1640. The moneys in the various funds created under sections 86.1310 to 86.1640 are hereby exempt from any tax of the state of Missouri or of any municipality or political subdivision thereof. 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 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.

86.1440. Nothing contained in sections 86.1310 to 86.1640 shall in any way limit the criminal liability of any person subject to prosecution under any law which is now or may hereafter be in force. Should any change or error in records result in any member or beneficiary receiving from the pension system more or less than such person would have been entitled to receive had the records been correct, the retirement board shall correct such error and, as far as practicable, shall adjust the payments in such a manner that the benefit to which said member or beneficiary was correctly entitled shall be paid.

86.1450. 1. The retirement board may sue and be sued in its own name. Such suits shall constitute suits by or against the members of the retirement board in their representative capacities and not as individuals.

2. Service of process on the retirement board shall be sufficient if ten copies of the pleading or other document to be served shall be served upon the secretary of the retirement board at the principal office of the retirement system during

business hours.

86.1460. 1. In any hearing conducted by the retirement board, the board's findings on all issues of fact shall be final and conclusive upon all parties concerned, when such findings are supported by competent and substantial evidence.

2. Any ruling of the retirement board on a question of law and whether the same is supported by substantial evidence shall, at the option of the plaintiff, be reviewed upon application of any party by the circuit court of Cole County, or in the county of the residence of the plaintiff or one of the plaintiffs, or in the county in which the principal office of the retirement system is located.

86.1470. 1. The retirement board may purchase with retirement system assets from one or more insurers licensed to do business in this state one or more insurance policies that provide for reimbursement of the retirement system and any trustee, member of the retirement board, officer, or employee of the retirement system for liability imposed or damages because of an alleged act, error, or omission committed in the trustee's, board member's, officer's, or employee's capacity as a fiduciary, officer, or employee of the retirement system and for costs and expenses, including attorney fees, incurred as a trustee, board member, officer, or employee in defense of a claim for an alleged act, error, or omission, as long as the insurance policy does not provide for reimbursement of a trustee, board member, officer, or employee for liability imposed or expenses incurred because of the trustee's, board member's, officer's, or employee's personal dishonesty, fraud, lack of good faith, or intentional failure to act prudently.

2. If the insurance coverage described in subsection 1 of this section is insufficient or is not in effect, the retirement board may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that the person is or was a member of the retirement board, or is or was serving at the request of the retirement board in the capacity which caused the person's relationship to such action, suit, or proceeding, against expenses, including attorneys' fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit, or proceeding, if the person acted in good faith and without willful malfeasance, and, with respect to any criminal action or proceeding, had reasonable cause to believe the relevant conduct was lawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith, or, with respect to any criminal action



or proceeding, that the person did not have reasonable cause to believe that the relevant conduct was lawful.

3. To the extent that a member of the retirement board has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in subsections 1 and 2 of this section, or in defense of any claim, issue, or matter therein, the person shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred in connection with the action, suit, or proceeding that are not covered by the insurance described in subsection 1 of this section.

4. Any indemnification under this section, unless ordered by a court, shall be made by the retirement board only as authorized in each specific case upon a determination that indemnification of any person potentially entitled to indemnification hereunder is proper in the circumstances because the person has met the applicable standard of conduct set forth in this section. The determination shall be made by the retirement board by a majority vote of a quorum consisting of members of the retirement board who are not parties to the action, suit, or proceeding, or if such a quorum is not obtainable, or even if obtainable and a quorum of disinterested members of the retirement board so directs, by independent legal counsel in a written opinion. Such legal counsel may but need not be counsel to the retirement system.

5. Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the retirement board in advance of the final disposition of the action, suit, or proceeding as authorized by the retirement board in the specific case upon receipt of an undertaking by or on behalf of the person potentially entitled to indemnification hereunder to repay such amount unless it shall ultimately be determined that the person is entitled to be indemnified by the retirement board as authorized in this section.

86.1480. 1. Every person who becomes an employee, as defined in subdivision (8) of section 86.1310, after August 28, 2001, shall become a member of the retirement system defined in sections 86.1310 to 86.1640 as a condition of such employment.

2. Every person who was a member of the retirement system on or before August 28, 2001, shall remain a member.

3. Every person who was an employee, as defined in subdivision (8) of section 86.1310, on August 28, 2001, but was not a member, shall become a member as a condition of employment upon the completion of six months continuous employment.

86.1490. 1. Creditable service at retirement on which the retirement

allowance of a member is based consists of the membership service rendered by such member for which such member received compensation since such member last became a member.

2. Creditable service also includes any prior service credit to which a member may be entitled by virtue of an authorized purchase of such credit or as otherwise provided in sections 86.1310 to 86.1640.

3. Creditable service shall not include any time a member was suspended from service without compensation. No contribution is required from either the member under section 86.1400 or from the city under section 86.1390 for such time.

86.1500. 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. Any member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial value of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system. Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be

allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is determined by the retirement board to be totally and permanently disabled as provided in section 86.1560.

86.1510. Members who terminate membership with three years or more of creditable service and later return to membership may be given credit toward retirement for prior creditable service, subject to the condition that such member deposit in the pension fund a sum equal to the accumulated contributions which had been paid to such member upon the prior termination. Such repayment of withdrawn contributions shall be accompanied by an additional payment of interest equal to the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions had been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes.

86.1520. Each person who becomes a member of the civilian employees' retirement system under the provisions of sections 86.1310 to 86.1640 shall remain a member until the earliest to occur of the following events:

- (1) The termination of service of such person and the payment to such person of all benefits due such person under the provisions of sections 86.1310 to 86.1640; or
- (2) The death of such person.

86.1530. The normal retirement date of a member shall be the later of the date such member attains the age of sixty-five years, or the tenth anniversary of such member's employment.

86.1540. 1. (1) Upon retirement on or after a member's normal retirement date, such member shall receive a base pension in the amount of two percent of such member's final compensation times the number of years, including fractions thereof, of such member's creditable service.

(2) Such member may elect to receive a different base pension under an election permitted under this section or section 86.1580.

**2. Members may elect early retirement as follows:**

**(1) Beginning at age fifty-five, if the member has completed at least ten years of creditable service or at any later age after the member has completed at least ten years of creditable service. Unless subdivision (3) of this subsection shall be applicable, the benefit as computed under subsection 1 of this section shall be reduced by one-half of one percent for each month the effective date is prior to the first day of the month following that in which such member will attain age sixty;**

**(2) Beginning at age sixty, if the member has completed at least five but not more than ten years of creditable service or at any later age after the member has completed at least five years of creditable service. Unless subdivision (3) of this subsection shall be applicable, the benefit as computed under subsection 1 of this section shall be reduced by one-half of one percent for each month the effective date is prior to the first day of the month following that in which such member will attain age sixty-five; or**

**(3) At any time after the member's total of age and years of creditable service equals or exceeds eighty, in which event the benefit shall be as computed under subsection 1 of this section without any reduction.**

**If an election for early retirement results in a reduced benefit under subdivision (1) or (2) of this subsection, such reduced benefit shall become the member's base pension, subject to all other adjustments described in this section.**

**3. (1) A member who is married at the time of retirement may by a written election, with the written consent of such member's spouse, elect an optional benefit calculated as follows: Such optional benefit shall be a monthly pension in the initial amount which shall be actuarially equivalent to the actuarial value of the pension described in subdivision (1) of subsection 1 of this section for such member at the date of retirement (including the value of survivorship rights of a surviving spouse, where applicable, under section 86.1610), upon the basis that the initial annuity for the member's spouse, if such spouse survives the member, shall be the same as the amount being paid the member on such annuity at the member's death, and, subject to cost-of-living adjustments thereafter declared on the spouse's base pension under section 86.1590, shall be paid to such surviving spouse for the lifetime of such spouse without regard to remarriage. If a member who makes an election of an optional benefit under this subsection has also elected an early retirement under either subdivision (1) or (2) of subsection 2 of this section, any reduction in benefit required for such early retirement election shall be calculated before calculating the initial amount of the optional benefit under this subsection.**

**(2) If a member who makes the election permitted by this subsection also makes an election permitted under section 86.1580, such optional benefit shall be**

reduced as provided in subdivision (3) of subsection 2 of section 86.1580.

(3) If a member makes the election permitted by this subsection, the amount calculated for such optional benefit under either subdivision (1) or (2) of this subsection shall be the base pension for such member and for such member's spouse for all purposes of sections 86.1310 to 86.1640.

(4) An election for an optional benefit under this subsection shall be void if the member dies within thirty days after filing such election with the retirement system or if the member dies before the due date of the first payment of such member's pension.

4. Subject to the provisions of subsection 7 of this section, whenever the service of a member is terminated after August 28, 1999, for any reason prior to death or retirement and the member has five or more years of creditable service, the member may elect not to withdraw such member's accumulated contributions and shall become entitled to receive a pension upon such member's normal retirement date under subdivision (1) of subsection 1 of this section 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 under subsection 2 of this section if such member had remained a civilian employee of such police department, except that in calculating any qualification under subsection 2 of this section, 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 under subsection 2 of this section 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 under the subdivision of subsection 2 of this section upon which such member relies in electing the commencement of such member's pension and subject to any other adjustments that such member may elect under this section. The amount of the initial pension calculated after all applicable adjustments shall be the base pension for such member, and for such member's spouse if such member shall elect the optional benefit permitted under subsection 3 of this section, for all purposes of sections 86.1310 to 86.1640.

5. A member whose service was terminated on or before August 28, 1999, after five or more years of creditable service, and who permitted such member's accumulated contributions to remain in the pension fund, shall upon application to the retirement board be appointed as a consultant. For services as such consultant, such member shall, beginning the later of August 28, 1999, or the time of such appointment under 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 under any of the provisions of subsection 4 of this section 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 base pension.

6. All payments of any pension shall be paid on the first day of each month for that month. The first payment shall be paid on the first day of the first month in which the member's benefit can be determined and processed for payment, and shall include benefits from the date of retirement to the date of such first payment. The final payment due a retired member shall be the payment due on the first day of the month in which such member's death occurs.

7. Notwithstanding any other provisions of sections 86.1310 to 86.1640, any member who is convicted of a felony prior to separation from active service shall not be entitled to any benefit from this retirement system except the return of such member's accumulated contributions.

86.1550. Whenever a member's service is terminated for any reason prior to death or retirement and such member has less than five years of creditable service, or a member's service is terminated after conviction of a felony, or a member's service is terminated for any reason and such member requests the withdrawal of all such member's accumulated contributions to the retirement system, such member shall be paid the amount of such member's accumulated contributions in one lump sum and such payment shall be in lieu of any and all other benefits to which such member or any beneficiary or survivor thereof might otherwise be or become entitled under sections 86.1310 to 86.1640.

86.1560. 1. A member who becomes totally and permanently disabled, as defined in this section, shall be entitled to retire and to receive a base pension determined in accordance with the terms of this section. Members who are eligible and totally and permanently disabled shall receive a disability pension computed as follows:

(1) Duty disability, fifty percent of final compensation as of the date of disability;

(2) Nonduty disability, thirty percent of final compensation as of the date of disability, provided that a nonduty disability pension shall not be available to any member with less than ten years creditable service;

(3) In no event shall the disability pension be less than the amount to which the member would be entitled as a pension if the member retired on the same date with equivalent age and creditable service.

2. The final payment due a member receiving a disability pension shall be the payment due on the first day of the month in which such member's death occurs. Such member's surviving spouse, if any, shall be entitled to such benefits as may be provided under section 86.1610.

3. For purposes of sections 86.1310 to 86.1640, the following terms shall mean:

(1) "Duty disability", total and permanent disability directly due to and caused by actual performance of employment with the police department;

(2) "Nonduty disability", total and permanent disability arising from any other cause than duty disability;

(3) "Total and permanent disability", a state or condition which presumably prevents for the rest of a member's life the member's engaging in any occupation or performing any work for remuneration or profit. Such disability, whether duty or nonduty, must not have been caused by the member's own negligence or willful self-infliction.

4. The retirement board in its sole judgment shall determine whether the status of total and permanent disability exists. Its determination shall be binding and conclusive. The retirement board shall rely upon the findings of a medical board of three physicians, and shall procure the written recommendation of at least one member thereof in each case considered by the retirement board. The medical board shall be appointed by the retirement board and expense for such examinations as are required shall be paid from funds of the retirement system.

5. From time to time, the retirement board shall have the right to require proof of continuing disability which may include further examination by the medical board. Should the retirement board determine that disability no longer exists, it shall terminate the disability pension. A member who immediately returns to work with the police department shall again earn creditable service beginning on the first day of such return. Creditable service prior to disability retirement shall be reinstated. A member who does not return to work with the police department shall be deemed to have terminated employment at the time disability retirement commenced; but in calculating any benefits due upon such presumption, the retirement system shall receive credit for all amounts paid such member during the period of disability, except that such member shall not be obligated in any event to repay to the retirement system any amounts properly paid during such period of disability.

86.1570. 1. Any periodic payment, excluding payments for medical treatment, which may be paid or payable by cities under 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 cities under the provisions of sections 86.1310 to 86.1640 on account of the same disability or death. However, in no event shall the amount paid from funds under the provisions of sections 86.1310 to 86.1640 be less than the amount which represents the member's percentage, as defined in this section, of total benefits payable under sections 86.1310 to 86.1640, before any offset for workers' compensation benefits.

2. Any lump sum amount, excluding payments for medical treatments, which may be paid or payable by cities under 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 cities under the provisions of sections 86.1310 to 86.1640 on account of the same disability or death. The amounts by which each periodic payment made under the provisions of sections 86.1310 to 86.1640 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. However, in no event shall the amount paid from funds under the provisions of sections 86.1310 to 86.1640 be less than the amount which represents the member's percentage, as defined in this section, of total benefits payable under sections 86.1310 to 86.1640, before any offset for workers' compensation benefits.

3. 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 under section 86.1400 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 under section 86.1400 and the city under section 86.1390 to the retirement pension system during such pay period. Such percentage shall identify the portion of any benefits due under the provisions of sections 86.1310 to 86.1640 which is deemed to have been provided by the member's own contributions.

86.1580. 1. Any member in active service entitled to commence a pension under section 86.1540 may elect an optional distribution under the partial lump sum option plan provided in this section if the member:



(1) Notifies the retirement system in writing of the member's retirement date at least ninety days in advance thereof and requests an explanation of the member's rights under this section; and

(2) Notifies the retirement system of the member's election hereunder at least thirty days in advance of the retirement date.

Following receipt of an initial notice of a member's retirement date and request for an explanation, the retirement system shall, at least sixty days in advance of such retirement date, provide the member a written explanation of such member's rights under this section and an estimate of the amount by which the member's regular monthly base pension would be reduced in the event of the member's election of any of the options available to the member under this section.

2. (1) A member entitled to make an election under this section may elect to receive a lump sum distribution with the member's initial monthly pension payment under section 86.1540, subject to all the terms of this section. The member may elect the amount of the member's lump sum distribution from one, but not more than one, of the following options for which the member qualifies:

(a) A member having one or more years of creditable service after the member's eligible retirement date may elect a lump sum amount equal to twelve times the initial monthly base pension the member would receive if no election were made under this section;

(b) A member having two or more years of creditable service after the member's eligible retirement date may elect a lump sum amount equal to twenty-four times the initial monthly base pension the member would receive if no election were made under this section; or

(c) A member having three or more years of creditable service after the member's eligible retirement date may elect a lump sum amount equal to thirty-six times the initial monthly base pension the member would receive if no election were made under this section.

For purposes of this section, "eligible retirement date" for a member shall mean the earliest date on which the member could elect to retire and be entitled to receive a pension under section 86.1540.

(2) When a member makes an election to receive a lump sum distribution under this section, the base pension that the member would have received in the absence of an election shall be reduced on an actuarially equivalent basis to reflect the payment of the lump sum distribution, and the reduced base pension shall be the member's base pension thereafter for all purposes relating to base pension amounts under sections 86.1310 to 86.1640, unless the member has also elected an optional benefit permitted under subsection 3 of section 86.1540.

(3) If a member electing a lump sum distribution under this section has elected the optional benefit permitted under subsection 3 of section 86.1540, the calculation of the member's pension shall be made in the following order:

(a) The amount of the member's normal pension under subdivision (1) of subsection 1 of section 86.1540 shall be reduced if applicable by any reductions required under subsection 2 of section 86.1540;

(b) The amount of the pension as determined under paragraph (a) of this subdivision shall be reduced to the actuarially equivalent amount to produce the optional form of benefit described in subdivision (1) of subsection 3 of section 86.1540;

(c) The amount of reduced pension as determined under paragraph (b) of this subdivision shall be further reduced as required to produce an actuarially equivalent benefit in the form of the lump sum distribution option elected under this section and a remaining monthly annuity which shall be paid on the basis that the initial annuity for the member's spouse, if such spouse survives the member, shall be the same as the amount being paid the member on this annuity at the member's death, and, subject to cost-of-living adjustments thereafter declared on the spouse's base pension under section 86.1590, shall be paid to such surviving spouse for the lifetime of such spouse without regard to remarriage.

3. An election under this section to receive a lump sum distribution and reduced monthly base pension shall be void if the member dies before retirement, in which case amounts due a surviving spouse or other beneficiary of the member shall be determined without regard to such election.

86.1590. 1. Provided that the retirement system shall remain actuarially sound, each of the following persons may receive each year, in addition to such person's base pension, a cost-of-living adjustment in an amount not to exceed three percent of such person's base pension during any one year:

(1) Every member who is retired and receiving a base pension from this retirement system; and

(2) Every surviving spouse who is receiving a base pension from this retirement system.

2. Upon the death of a member who has been retired and receiving a pension, and who dies after August 28, 2001, the surviving spouse of such member entitled to receive a base pension under section 86.1610 shall receive an immediate percentage cost-of-living adjustment to his or her base pension equal to the total percentage cost-of-living adjustments received during such member's lifetime under this section, but such adjustment shall not be deemed to change the base pension amount to which subsequent cost-of-living adjustments may be made.

3. For purposes of this section, the term "base pension" shall mean:

(1) For a member, the pension computed under the provisions of the law as of the date of retirement without regard to cost-of-living adjustments, as adjusted if applicable, for any optional elections made under sections 86.1540 and 86.1580, but in all events not including any supplemental benefit under section 86.1600;

(2) For a surviving spouse whose pension is prescribed by section 86.1610, the base pension calculated for such spouse in accordance with the provisions of section 86.1610, including any compensation as a consultant to which such surviving spouse is entitled under said section in lieu of a pension, but not including any supplemental benefit under section 86.1600;

(3) For a surviving spouse entitled to the continuation of an optional benefit elected under subsection 3 of section 86.1540, the base pension determined in accordance with subdivision (3) of subsection 3 of section 86.1540.

4. The cost-of-living adjustment 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. 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 of a member who has died during the year prior to such adjustments.

5. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment is granted. If at any time the retirement system ceases to be actuarially sound, 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 system would remain actuarially sound.

86.1600. 1. Any member who retires subsequent to August 28, 1997, with entitlement to a pension under sections 86.1310 to 86.1640, shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit

to which such member may be entitled under sections 86.1310 to 86.1640, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually. 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 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, 1997, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.1310 to 86.1640, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.1310 to 86.1640, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually. 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 most recent annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated contributions to the trust fund.

3. In determining and granting the 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. The retirement board shall not be required to prorate the initial adjustment to any supplemental retirement benefit or any supplemental compensation under this section for any member.

4. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse who is entitled to a benefit under sections 86.1310

to 86.1640, who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.1310 to 86.1640. 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 under this section prior to such member's death.

5. The determination of whether the retirement 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 system ceases to be actuarially sound, supplemental retirement benefit payments under subsection 1 of this section and supplemental compensation payments as a consultant under subsection 2 of this section shall continue as adjusted by increases or decreases 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 system would remain actuarially sound.

86.1610. 1. Upon receipt of the proper proofs of death of a member in service for any reason whatsoever, the following amounts shall be payable subject to subsection 4 of this section, and if a pension shall be elected, the initial amount thereof shall be the base pension for such surviving spouse:

(1) If the member has less than five years of creditable service, the member's surviving spouse shall be paid, in one lump sum, the amount of the member's accumulated contributions. If there is no surviving spouse, the member's accumulated contributions shall be paid to the member's designated beneficiary, or if none, to the executor or administrator of the member's estate, and such payment shall be full and final settlement for all amounts due from the retirement system with respect to such member except as provided in subsection 1 of section 86.1620;

(2) If the member has at least five but fewer than twenty years of creditable service, the member's surviving spouse may elect the lump sum settlement in subdivision (1) of this subsection or a pension. Such pension shall be fifty percent of the member's accrued pension at date of death as computed in subdivision (1) of subsection 1 of section 86.1540, commencing on the later of the day after the member's death, or the date which would have been the member's earliest possible

retirement date permitted under subsection 2 of section 86.1540;

(3) If the member has at least twenty years of creditable service, the member's surviving spouse may elect any one of:

(a) The lump sum settlement in subdivision (1) of this subsection;

(b) The pension as computed in subdivision (2) of this subsection; or

(c) A pension in the monthly amount 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 first payment of the retirement pension shall be deemed to be a death prior to retirement;

(5) For the surviving spouse of a member who died in service after August 28, 2001, benefits payable under subsection 1 of this section shall continue for the lifetime of such surviving spouse without regard to remarriage.

2. Upon death of a member after retirement who has not elected the optional annuity permitted under subsection 3 of section 86.1540, the surviving spouse shall receive a base pension payable for life, equaling fifty percent of the member's base pension, as of the member's retirement date, subject to the following:

(1) No surviving spouse of a member who retires after August 28, 2001, shall be entitled to receive any benefits under sections 86.1310 to 86.1640 unless such spouse was married to the member at the time of the member's retirement; and

(2) 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 under sections 86.1310 to 86.1640 for the life of such surviving spouse without regard to remarriage.

3. In the case of any member who, prior to August 28, 2001, died in service or retired, the surviving spouse who would qualify for benefits under subsection 1 or 2 of this section but for remarriage, and has not remarried prior to August 28, 2001, but remarries thereafter, shall upon application be appointed by the retirement board as a consultant. For services as such consultant, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received under sections 86.1310 to 86.1640 in the absence of such remarriage.

4. Any beneficiary of benefits under sections 86.1310 to 86.1640 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 benefit under subsection 3 of section 86.1540 shall be entitled to every optional benefit for which such surviving spouse has so contracted.

5. The final payment due any surviving beneficiary shall be the payment due on the first day of the month in which such beneficiary dies or otherwise ceases to be entitled to benefits under this section.

6. If there is 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.

86.1620. 1. (1) Upon the death after August 28, 2003, of a member in service, or upon the death of a member who was in service on or after August 28, 2003, and who dies after having been retired and pensioned, there shall be paid, in addition to all other benefits, a funeral benefit of one thousand dollars to the person or entity who provided or paid for the funeral services for such member.

(2) Any member who was retired on or before August 28, 2003, and is receiving retirement benefits from the retirement system, upon application to the retirement board, shall be appointed by the retirement board as a consultant for the remainder of such member's life. Upon the death of such member, there shall be paid, in addition to all other benefits, a funeral benefit of one thousand dollars to the person or entity who provided or paid for the funeral services for such member.

2. If no benefits are otherwise payable to a surviving spouse 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 of such member, shall be paid in one lump sum to the member's named beneficiary or, if none, to the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

86.1630. 1. A retirement plan under sections 86.1310 to 86.1640 is a qualified plan under the provisions of applicable federal law. The benefits and conditions of a retirement plan under sections 86.1310 to 86.1640 shall always be adjusted to ensure that the tax-exempt status is maintained.

2. The retirement board shall administer this retirement system in such manner as to retain at all times qualified status under Section 401(a) of the Internal Revenue Code.

3. The retirement board shall hold in trust the assets of the retirement system for the exclusive benefit of the members and their beneficiaries and for defraying reasonable administrative expenses of the system. No part of such assets shall, at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries, be used for or diverted to any purpose other than such

exclusive benefit or to any purpose inconsistent with sections 86.1310 to 86.1640.

4. A member's benefit shall be one hundred percent vested and nonforfeitable upon the member's attainment of normal retirement age, which shall be the earlier of:

(1) The attaining of the age of sixty-five or the member's tenth anniversary of employment, whichever is later;

(2) When the total sum of age and years of service equals or exceeds eighty;  
or

(3) To the extent funded, upon the termination of the system established under sections 86.1310 to 86.1640 or any partial termination which affects the member or any complete discontinuance of contributions by the city to the system. Amounts representing forfeited nonvested benefits of terminated members shall not be used to increase benefits payable from the system but may be used to reduce contributions for future plan years.

5. Distribution of benefits shall begin not later than April first of the year following the later of the calendar year during which the member becomes seventy and one-half years of age or the calendar year in which the member retires, and shall otherwise conform to Section 401(a)(9) of the Internal Revenue Code.

6. A member or beneficiary of a member shall not accrue a service retirement annuity, disability retirement annuity, death benefit, whether death occurs in the line of duty or otherwise, or any other benefit under sections 86.1310 to 86.1640 in excess of the benefit limits applicable to the fund under Section 415 of the Internal Revenue Code. The retirement board shall reduce the amount of any benefit that exceeds the limits of this section by the amount of the excess. If the total benefits under the retirement system and the benefits and contributions to which any member is entitled under any other qualified plan or plans maintained by the board of police commissioners that employs the member would otherwise exceed the applicable limits under Section 415 of the Internal Revenue Code, the benefits the member would otherwise receive from the retirement system are reduced to the extent necessary to enable the benefits to comply with Section 415 of the Internal Revenue Code.

7. The total salary taken into account for any purpose for any member of the retirement system shall not exceed two hundred thousand dollars per year, subject to periodic adjustments in accordance with guidelines provided by the United States Secretary of the Treasury and may not exceed such other limits as may be applicable at any given time under Section 401(a)(17) of the Internal Revenue Code.

8. If the amount of any benefit is determined on the basis of actuarial



assumptions that are not specifically set forth for that purpose in sections 86.1310 to 86.1640, the actuarial assumptions to be used are those earnings and mortality assumptions used on the date of the determination by the retirement system's actuary and approved by the retirement board. The actuarial assumptions used at any particular time shall be attached as an addendum to a copy of the retirement system's statute maintained by the retirement board and shall be treated for all purposes as part of sections 86.1310 to 86.1640. The actuarial assumptions may be changed by the retirement system's actuary annually if approved by the retirement board, but a change in actuarial assumptions shall not result in any decrease in benefits accrued as of the effective date of the change.

9. Any member or beneficiary who is entitled to receive any distribution that is an eligible rollover distribution, as defined by Section 402(c)(4) of the Internal Revenue Code, is entitled to have that distribution transferred directly to another eligible retirement plan of the member's or beneficiary's choice upon providing direction to the secretary of the retirement system regarding the transfer in accordance with procedures established by the retirement board.

10. For all distributions made after December 31, 2001:

(1) For the purposes of subsection 9 of this section, an eligible retirement plan shall also mean an annuity described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the retirement system. The definition for eligible retirement plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code; and

(2) For the purposes of subsection 9 of this section, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includable in gross income and the portion of such distribution that is not so includable.

86.1640. If a city and the police department of such city adopt any program

**of incentives to authorize or encourage early retirements, whether for employees not yet eligible for regular retirement or for employees who are eligible but have not yet chosen to retire or for both, the retirement board shall be authorized to administer and pay such incentives for retirees who accept such incentives and are members of the retirement system under sections 86.1310 to 86.1640, in addition to such other benefits as such members or their beneficiaries are entitled to receive under sections 86.1310 to 86.1640, provided such city shall so request and shall agree to increase said city's contribution under section 86.1390 sufficiently to provide the full actuarial cost of any such incentives in addition to the contribution required of such city necessary, in conjunction with members' contributions under section 86.1400, to provide all other benefits provided under sections 86.1310 to 86.1640.**

[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; except that, notwithstanding the foregoing, compensation for any year for any member shall not exceed the amount permitted to be taken into account under and pursuant to Section 401(a)(17) of the Internal Revenue Code as applicable to such year;

(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) "Internal Revenue Code", the United States Internal Revenue Code of 1986, as amended;

(10) "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;

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

(12) "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;

(13) "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;

(14) "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;

(15) "Police officer", 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;

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

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

[86.373. In all cities that now have or may hereafter attain a population of more than three hundred thousand and less than seven hundred thousand inhabitants according to the last preceding federal decennial census, there are hereby created and established retirement or pension systems for the purpose of providing retirement allowances for policemen of such cities. Any city which has established a police retirement system under the provisions of sections 86.370 to 86.497 may elect to continue its police retirement system under the provisions of sections 86.370 to 86.497 even though the city may cease to have the population described in this section, and any city so electing to continue its established police retirement system shall be excused from creating or maintaining any other police retirement system under any other provisions of the Missouri statutes. Each system shall be under the management of a retirement board hereinafter described and shall be known as the "Police Retirement System of (name of city)", and by such name all of its business shall be transacted, and all of its cash and other property held. The retirement systems so created shall begin operation as of the date

sections 86.370 to 86.497 become effective.]

[86.374. 1. A retirement plan under and pursuant to sections 86.370 to 86.497 is a qualified plan pursuant to the provisions of applicable federal law. The benefits and conditions of a retirement plan under and pursuant to sections 86.370 to 86.497 shall always be adjusted to ensure that the tax-exempt status is maintained.

2. The retirement board shall administer this retirement system in a manner as to retain at all times qualified status under and pursuant to Section 401(a) of the Internal Revenue Code.

3. The retirement board shall hold in trust the assets of this retirement system for the exclusive benefit of the members and their beneficiaries and for defraying reasonable administrative expenses of the system. No part of such assets shall, at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries, be used for or diverted to any purpose other than such exclusive benefit or to any purpose inconsistent with sections 86.370 to 86.497.

4. A member's benefit shall be one hundred percent vested and nonforfeitable upon the member's attainment of normal retirement age, which shall be the earlier of:

- (1) Completion of twenty-five years of service;
- (2) Age sixty if the member has completed at least ten years of creditable service;
- (3) Age seventy without regard to years of service; or
- (4) To the extent funded, upon the termination of the system established under and pursuant to sections 86.370 to 86.497 or any partial termination which affects the member or any complete discontinuance of contributions by the city to the system.

Amounts representing forfeited nonvested benefits of terminated members shall not be used to increase benefits payable from the system but may be used to reduce contributions for future plan years.

5. Distribution of benefits shall begin not later than April first of the year following the later of the calendar year during which the member becomes seventy and one-half years of age or the calendar year in which the member retires, and shall otherwise conform to Section 401(a)(9) of the Internal Revenue Code.

6. A member or beneficiary of a member shall not accrue a service retirement annuity, disability retirement annuity, death benefit, whether death occurs in the line of duty or otherwise, or any other benefit under and

pursuant to sections 86.370 to 86.497 in excess of the benefit limits applicable to the fund under and pursuant to Section 415 of the Internal Revenue Code. The retirement board shall reduce the amount of any benefit that exceeds those limits by the amount of the excess. If the total benefits under this retirement system and the benefits and contributions to which any member is entitled under any other qualified plan or plans maintained by the board of police commissioners that employs the member would otherwise exceed the applicable limits under and pursuant to Section 415 of the Internal Revenue Code, the benefits the member would otherwise receive from this retirement system shall be reduced to the extent necessary to enable the benefits to comply with Section 415 of the Internal Revenue Code.

7. The total salary taken into account for any purpose for any member of this retirement system shall not exceed two hundred thousand dollars per year, subject to periodic adjustments in accordance with guidelines provided by the United States Secretary of the Treasury, and shall not exceed such other limits as may be applicable at any given time under and pursuant to Section 401(a)(17) of the Internal Revenue Code.

8. If the amount of any benefit is to be determined on the basis of actuarial assumptions that are not otherwise specifically set forth for that purpose in sections 86.370 to 86.497, the actuarial assumptions to be used are those earnings and mortality assumptions being used on the date of the determination by the retirement system's actuary and approved by the retirement board. The actuarial assumptions being used at any particular time shall be attached as an addendum to a copy of the retirement system's statute that is maintained by the retirement board and shall be treated for all purposes as a part of sections 86.370 to 86.497. The actuarial assumptions may be changed by the retirement system's actuary annually if approved by the retirement board, but a change in actuarial assumptions shall not result in any decrease in benefits accrued as of the effective date of the change.

9. Any member or beneficiary who is entitled to receive any distribution that is an eligible rollover distribution, as defined by Section 402(c)(4) of the Internal Revenue Code, is entitled to have that distribution transferred directly to another eligible retirement plan of the member's or beneficiary's choice upon providing direction to the secretary of this retirement system regarding the transfer in accordance with procedures established by the retirement board.

10. For all distributions made after December 31, 2001:

(1) For the purposes of subsection 9 of this section, an eligible

retirement plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under and pursuant to Section 457(b) of the Internal Revenue Code which is maintained by the state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this retirement system. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code; and

(2) For purposes of subsection 9 of this section, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includable in gross income and the portion of such distribution that is not so includable.]

[86.377. All persons who enter or reenter the service of the said cities as policemen as defined in sections 86.370 to 86.497 for compensation after the date this police retirement system becomes effective shall become members thereof as a condition of their employment and shall receive no retirement or pension allowance from any other retirement or pension system supported wholly or in part by the said cities or the state of Missouri, nor shall they be required to make contributions under any other retirement or pension system of the said cities or the state. However, nothing in sections 86.370 to 86.497 shall be construed to prevent the inauguration of the federal Social Security laws for policemen as defined in sections 86.370 to 86.497, nor to prevent the contribution to such Social Security administration or fund established by the federal government, nor by it the pensioning of such policemen. In the event that federal or state Social Security benefits are made available to policemen covered by sections 86.370 to 86.497 then any benefits payable to any member, or the dependents of such member under sections 86.370 to 86.497, shall be in addition to the amount of such Social Security benefits, and any contributions required by a member hereunder shall be in addition to the amount of such member's contribution under such Social Security system.]

[86.380. 1. All policemen as defined in sections 86.370 to 86.497 in service on the date this police retirement system becomes operative shall become members as of that date unless prior thereto any such policeman shall have filed with the retirement board on a form prescribed by such board, a notice of his election not to become a member of the police retirement system, together with a duly executed waiver of all present and prospective benefits which would otherwise inure to him or his beneficiaries on account of his participation in such police retirement system.

2. Any policeman who left the service of the police department to enter military service in a national emergency subsequent to October 16, 1940, and who shall return to police service with such department within one year after his discharge from the military service, shall be given credit for any prior service he may have rendered.

3. Any policeman reentering police service after January 1, 1946, who had completed five years of prior creditable service may be given credit toward retirement for that service upon recommendation of the chief of police and approval of the board of police commissioners, subject, however, to the condition that such policeman deposit in the pension fund of the police retirement system a sum equal to the accumulated contributions which had been paid to him out of the pension fund upon or subsequent to the date that he left the police service and subject to subsection 2 referring to military service. Such repayment of withdrawn contributions shall be accompanied by an additional payment of interest in the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions had been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes.]

[86.383. Any policeman whose membership is contingent on his own election and who elects not to become a member may thereafter revoke such election and become a member, but no such policeman shall receive credit for prior police service unless he becomes a member within ninety days from the date the police retirement system becomes effective.]

[86.387. Should any member be absent by authority of the board of police commissioners in military service or should he be granted temporary leave of absence by the board of police commissioners after the passage of sections 86.370 to 86.497, he shall not, because of such absence, cease to be a



member. A member absent for military service shall be entitled to such credits as are permitted by section 86.430. If a member is on temporary leave of absence for one month or less, such member shall receive service credit for such time. If a member is on temporary leave of absence for more than one month without compensation, such member shall not receive service credits for such time unless such member shall, within one year of his return from such absence, pay into the retirement system fund an amount equal to the member's contribution percentage at the time such absence began times an assumed salary figure for the period of such absence, computed by assuming that such member received a salary during his absence at the rate of the base annual salary the member was receiving immediately prior to his absence.]

[86.390. 1. Each person who becomes a member of this police retirement system pursuant to the provisions of sections 86.370 to 86.497 shall remain a member until the earliest to occur of the following events:

(1) The termination of service of such person and the payment to such person of all benefits due such person pursuant to the provisions of sections 86.370 to 86.497, unless such termination of service with the police department shall be for the purpose of entering military service in a national emergency;

(2) The termination of service with the police department to enter military service in a national emergency and the failure of such person to return to police service with such department within one year after his discharge from the military service, unless there shall remain benefits due such person pursuant to the provisions of sections 86.370 to 86.497, in which event such person's membership shall terminate pursuant to this subdivision when there shall no longer remain any such benefits due such person; and

(3) The death of such person.

2. If the surviving spouse of a member is entitled to a pension benefit hereunder, such surviving spouse shall be a member of the retirement system for so long as such surviving spouse shall remain entitled to such benefit. Any beneficiary or survivor of a deceased member shall not be a member of this police retirement system if such beneficiary or survivor is not a surviving spouse entitled to benefits pursuant to the provisions of sections 86.370 to 86.497, irrespective of whether there may remain benefits due such beneficiary or survivor from this system.]

[86.393. 1. The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of sections 86.370 to 86.497 are hereby vested in a retirement board of nine persons.

2. The board shall be constituted as follows:

(1) Two members, one of whom shall be of the political party casting the highest number of votes statewide for governor in the election next preceding such member's selection and the other of whom shall be of the political party casting the next highest number of votes statewide for governor at the election next preceding such member's selection, to be selected by the board of police commissioners of such cities to serve one- and two-year terms respectively. All such subsequent members shall serve for terms of two years each or to fill an unexpired term.

(2) Two members, one of whom shall be of the political party casting the highest number of votes statewide for governor in the election next preceding such member's selection and the other of whom shall be of the political party casting the next highest number of votes statewide for governor at the election next preceding such member's selection to be selected by the city council of said city, one of whom may be the director of finance of such city to act as ex officio member, and the other to serve for a term of two years.

(3) Five members shall be elected for three-year terms respectively or to fill an unexpired term, in annual elections in which each member of the police retirement system and, if such city has established a civilian employees' retirement system of the police department of such city pursuant to the provisions of sections 86.600 to 86.790, each member of such civilian employees' retirement system shall be entitled to one vote.

3. Commencing with the first annual election for members of the retirement board in 2004, the five elected members of the board shall be designated and elected as follows:

(1) If a city has established a civilian employees' retirement system of the police department of such city pursuant to the provisions of sections 86.600 to 86.790, the elected members of the retirement board of such city shall consist of three restricted members and two open members:

(a) One restricted member shall be a member of the police retirement system who has retired from active service with the police department as of the date of such member's election to the board;

(b) One restricted member shall be a member of the police retirement system who, as of the date of such member's election to the board, is in active service as a police officer and has not attained the rank of sergeant or higher;

(c) One restricted member shall be a member of the civilian employees' retirement system of the police department of such city.

There shall be no required qualifications for open members. At the annual

election in 2004 and each third year thereafter, one open member shall be elected to a three-year term. At the annual election in 2005 and each third year thereafter, one open member shall be elected to a three-year term. At the annual election in 2006 and each third year thereafter, the three restricted members shall be elected to a three-year term. Such elections shall be conducted simultaneously but as elections for three separate offices, in which only persons qualified for a respective office may be a candidate for such office;

(2) If a city has not established a civilian employees' retirement system of the police department of such city pursuant to the provisions of sections 86.600 to 86.790, the elected members of the retirement board of such city shall consist of two restricted members and three open members. All provisions of subdivision (1) of this subsection shall apply, except that the restricted membership provided for a member of a civilian employees' retirement system shall be an open membership;

(3) In every election in which more than one position is to be filled, either for a three-year term or for the unexpired portion of the term of a position which has become vacant, every candidate in such election must declare the position to which such candidate desires to be elected; and no person may be a candidate for more than one such position in any given election;

(4) Any person elected to a restricted position on the retirement board who at the time of such election meets the qualifications for such position shall be deemed to continue to meet such qualifications throughout the term to which such person was elected, regardless of any change in the rank, classification or other employment status of such person.

4. If a vacancy occurs in the office of a member of the retirement board the vacancy shall be filled for the unexpired term in the same manner as the vacated office was previously filled.]

[86.394. Each member of the retirement board who is in active service with the police department of a city as either a police officer, as defined in section 86.370, or as an employee, as defined in section 86.600, shall be granted authorized leave with pay by such police department to attend any and all educational seminars and like functions that have been authorized by the retirement board, including travel time to and from such functions, not to exceed ten days in any calendar year. Leave granted under this section shall not reduce vacation or other authorized leave time to which such member may be entitled without reference to this section.]

[86.397. The members of the retirement board shall be compensated in

full for all services rendered pursuant to the provisions of sections 86.370 to 86.497 at the rate of ten dollars per business session actually attended but no member shall be so compensated in an amount exceeding one hundred and fifty dollars in any fiscal year regardless of the amount of services rendered or the number of business sessions actually attended. They shall be reimbursed from the funds of the police retirement system for all necessary expenses which they may incur on said board, in addition to their compensation for services.]

[86.398. 1. The retirement board may purchase with retirement system assets from one or more insurers licensed to do business in this state one or more insurance policies that provide for reimbursement of this retirement system and any trustee, member of the retirement board, officer, or employee of the retirement system for liability imposed or damages because of an alleged act, error, or omission committed in the trustee's, board member's, officer's, or employee's capacity as a fiduciary, officer, or employee of the retirement system and for costs and expenses, including attorney fees, incurred as a trustee, board member, officer, or employee in defense of a claim for an alleged act, error, or omission, as long as the insurance policy does not provide for reimbursement of a trustee, board member, officer, or employee for liability imposed or expenses incurred because of the trustee's, board member's, officer's, or employee's personal dishonesty, fraud, lack of good faith, or intentional failure to act prudently.

2. If the insurance coverage described in subsection 1 of this section is insufficient or is not in effect, the retirement board may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that the person is or was a member of the retirement board, or is or was serving at the request of the retirement board in the capacity which caused the person's relationship to such action, suit or proceeding, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding, if the person acted in good faith and without willful malfeasance, and, with respect to any criminal action or proceeding, had reasonable cause to believe the relevant conduct was lawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith, or, with respect to any criminal action or proceeding, that the person did not have reasonable cause to believe that the relevant conduct

was lawful.

3. To the extent that a member of the retirement board has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections 1 and 2 of this section, or in defense of any claim, issue or matter therein, the person shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred in connection with the action, suit or proceeding that are not covered by the insurance described in subsection 1 of this section.

4. Any indemnification under this section, unless ordered by a court, shall be made by the retirement board only as authorized in each specific case upon a determination that indemnification of any person potentially entitled to indemnification hereunder is proper in the circumstances because the person has met the applicable standard of conduct set forth in this section. The determination shall be made by the retirement board by a majority vote of a quorum consisting of members of the retirement board who are not parties to the action, suit or proceeding, or if such a quorum is not obtainable, or even if obtainable a quorum of disinterested members of the retirement board so directs, by independent legal counsel in a written opinion. Such legal counsel may but need not be counsel to the retirement system.

5. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the retirement board in advance of the final disposition of the action, suit or proceeding as authorized by the retirement board in the specific case upon receipt of an undertaking by or on behalf of the person potentially entitled to indemnification hereunder to repay such amount unless it shall ultimately be determined that the person is entitled to be indemnified by the retirement board as authorized in this section.]

[86.400. Each member of the retirement board shall, within ten days after his appointment or election, take an oath of office, that, so far as it devolves upon him, he will diligently and honestly administer the affairs of the said board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the police retirement system. Such oath shall be subscribed to by the member and filed with the clerk of such city.]

[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 to pass a motion by the retirement board at any meeting of the board.]

[86.407. 1. Subject to the limitations of sections 86.370 to 86.497 the

retirement board shall, from time to time, establish rules and regulations for the administration of its assets, for the transaction of its business and for the conduct of nominations and elections of the elected members of the retirement board. The retirement board shall be deemed to be a state agency within the meaning of chapter 536, RSMo.

2. The retirement board shall elect from its membership a chairman, a vice chairman and a treasurer and shall, by majority vote of its members, appoint a secretary, who may be, but need not be, one of its members. It may employ such actuarial, legal and other services as may be necessary to transact the business of the retirement system. The compensation of all persons employed by the retirement board and all other expenses of the board necessary for the operation of the retirement system shall be paid in such manner as the retirement board shall determine; provided, that the compensation of such persons as may be employed by the retirement board shall not be greater than the compensation paid for comparable abilities by the governments of the cities in which said retirement board is located.]

[86.410. 1. The retirement board shall keep in convenient form such data as is necessary for 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.

2. The retirement board shall cause an actuarial study and calculation to be made in 1959 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.]

[86.413. The retirement board shall before January tenth of each year certify to the chief financial officer of said city, the amount to be paid by the city under the retirement pension system for the succeeding fiscal year, as otherwise provided by sections 86.370 to 86.497.]

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

[86.420. 1. The retirement board's findings on all issues of fact shall be final and conclusive upon all parties concerned, when such findings are supported by competent and substantial evidence.

2. Rulings of the retirement board on questions of law and whether the same is supported by competent and substantial evidence may be reviewed, upon application of any party, by the circuit court of the county in which such cities are located.]

[86.423. 1. Under such rules and regulations as the retirement board shall adopt, each member who was a policeman, as defined in sections 86.370 to 86.497, on and prior to the date the police retirement system becomes operative and who becomes a member within ninety days from such date shall file a detailed statement of all prior service for which he claims credit.

2. The retirement board 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 rendered in one calendar year, nor shall the retirement board allow credit as service for any period of more than one month's duration during which the member was absent without pay, except for absence in the military service during a national emergency.

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

[86.427. Upon verification of the statements of service, the retirement board shall issue prior service certificates, certifying to each member the length of prior service with which he is credited, and the final compensation of such member computed as of June 15, 1946. So long as the holder of the certificate continues to be a member, the prior service certificate shall be final and conclusive for retirement purpose as to such service. Any member, within one year from the date of issuance or modification of the certificate, may request the retirement board to modify or correct his prior service certificate. When any policeman ceases to be a member his prior service certificate shall become void. Should he again become a policeman, he shall enter the retirement system as a member entitled to prior service credit only as provided in section 86.380.]

[86.430. 1. Creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by him since he last became a member and also, if he has a prior service

certificate which is in full force and effect, the amount of the prior service certified on his prior service certificate.

2. Creditable service also includes all services rendered by a member as defined in subdivision (14) of section 86.370 even though he is assigned to the performance of duties for the police department of the cities other than for law enforcement.

3. Creditable service shall not include any time a member was suspended from service without pay. No contribution is required from either the member under section 86.470 or from the city under section 86.477 for such time.

4. Any active member on August 28, 1995, who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect, prior to retirement but in no case later than August 28, 1997, to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial value of the additional benefits attributable to the creditable service so purchased, as of the date the member elects to make the purchase. The retirement system shall determine the value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases and all related factors used in performing the most recent regular actuarial valuation of the retirement system. Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date



occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment payment plan at the time of death or disability, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is retired by the board of police commissioners for reason of disability as provided in sections 86.370 to 86.497.

5. Any individual who becomes a member of the retirement system subsequent to August 28, 1995, and who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect, prior to retirement but in no case later than two years after the effective date of his membership in the retirement system, to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial value of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases and all related factors used in performing the most recent regular actuarial valuation of the retirement system. Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided

that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is retired by the board of police commissioners for reason of disability as provided in sections 86.370 to 86.497.]

[86.433. Any member may retire when such member has completed twenty-five or more years of creditable service and, except as otherwise provided in this section, shall retire when such member has completed thirty years of creditable service. Upon such retirement such member shall receive a pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.370, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation, as defined in section 86.370, multiplied by the number of years of such member's total creditable service. Such pension shall be not less than seven thousand two hundred dollars annually and in any event shall not exceed 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 such member attains the age of sixty-five years. Contributions shall not be required of, and no service shall be credited to, any member for more than thirty years of service.]

[86.434. 1. Any member entitled to commence a pension under and pursuant to section 86.433 with twenty-six years or more of creditable service may elect an optional distribution under the partial lump sum option plan provided in this section if the member:

(1) Notifies the retirement system in writing of the member's retirement date at least ninety days in advance of the member's retirement date and requests an explanation of the member's rights under and pursuant to this section; and

(2) Notifies the retirement system of the member's election hereunder

at least thirty days in advance of the member's retirement date.

Following receipt of an initial notice of a member's retirement date and request for an explanation hereunder, the retirement system shall, at least sixty days in advance of such retirement date, provide the member a written explanation of the member's rights under and pursuant to this section and an estimate of the amount by which the member's regular monthly base pension would be reduced in the event of the member's election of any of the options available to the member under and pursuant to this section.

2. (1) A member entitled to make an election under and pursuant to this section may elect to receive a lump sum distribution with the member's initial monthly pension payment under and pursuant to section 86.433, subject to all the terms of this section. The member may elect the amount of the member's lump sum distribution from one, but not more than one, of the following options for which the member qualifies:

(a) A member having twenty-six or more years of creditable service may elect a lump sum amount equal to twelve times the initial monthly base pension the member would receive if no election were made under and pursuant to this section;

(b) A member having twenty-seven or more years of creditable service may elect a lump sum amount equal to twenty-four times the initial monthly base pension the member would receive if no election were made under and pursuant to this section; or

(c) A member having twenty-eight or more years of creditable service may elect a lump sum amount equal to thirty-six times the initial monthly base pension the member would receive if no election were made under and pursuant to this section.

(2) When a member makes an election to receive a lump sum distribution under and pursuant to this section, the base pension which the member would have received in the absence of the election shall be reduced on an actuarially equivalent basis to reflect the payment of the lump sum distribution, and the reduced base pension shall be the member's base pension thereafter for all purposes relating to base pension amounts under and pursuant to sections 86.370 to 86.497.

3. An election under and pursuant to this section to receive a lump sum distribution and reduce monthly base pension shall be void if the member dies before retirement, and amounts due a surviving spouse or other beneficiary of the member shall be determined without regard to such election.]

[86.437. Except as provided in section 86.443, any member in service

who shall have attained sixty years of age and at that time shall have completed at least ten but less than thirty years of creditable service shall retire and shall receive an annual pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.370, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation as defined in section 86.370 multiplied by the number of years of such member's total creditable service.]

[86.440. Any member who retires after August 28, 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 injury or illness occurring in the line of duty or course of employment pursuant to section 86.450, shall receive a pension benefit which, without including any supplemental retirement benefits paid such member by this retirement system, shall be not less than six hundred dollars monthly. Any member who retires on or before August 28, 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 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, 2000, or the time of such appointment under this section, be compensated in an amount which without including any supplemental retirement benefits provided by this system, 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 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 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.

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 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 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 the 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 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 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 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 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.]

[86.443. Every member not having thirty years of service must retire at sixty years of age except that on recommendation of the chief of police, the board of police commissioners may permit such member who is sixty years of age, or over, to remain in service until such member reaches the age of sixty-five years and no longer. Such member shall continue to make contributions and receive credit for service until he is sixty-five years of age, until his retirement, or until he has completed thirty years of creditable service, whichever occurs first.]

[86.445. If a city and the police department of such city adopt any program of incentives to authorize or encourage early retirements, whether for employees not yet eligible for regular retirement or for employees who are eligible but have not yet chosen to retire or for both, the retirement board shall be authorized to administer and pay such incentives for retirees who accept such incentives and are members of this retirement system under and pursuant to sections 86.370 to 86.497, in addition to such other benefits as such members or their beneficiaries are entitled to receive under and pursuant to sections 86.370 to 86.497 provided such city shall so request and shall agree to increase the city's contribution under and pursuant to section 86.477 sufficiently to provide the full actuarial cost of any such incentives in addition to the contribution required of such city necessary, in conjunction with members' contributions under and pursuant to section 86.470, to provide all other benefits provided under and pursuant to sections 86.370 to 86.497.]

[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 86.370 to 86.497 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 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.]

[86.453. 1. Upon the receipt of the proper proofs that the death of a member in service was the natural and proximate result of an event occurring within the performance of duty or of an occupational disease arising out of and in the course of his employment, there shall be paid to his surviving spouse, or if there be no surviving spouse, then to his child or children under the age of twenty-one years or over the age of twenty-one years if mentally or physically incapacitated from wage earning, in equal shares or divided between or among them, as the retirement board in its sole discretion shall direct, the sum of fifty thousand dollars.

2. If the member dies in such a manner that a surviving spouse or child would be entitled to benefits under this section but there is no surviving spouse or child eligible to receive payments under this section, no payments under this section shall be paid.

3. Notwithstanding anything to the contrary in this chapter or any other chapter of the Missouri revised statutes, amounts payable under this section shall not be subject to offset or reduction by amounts paid or payable under any workers' compensation or similar law.]

[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.]

[86.460. 1. Any periodic payment, excluding payments for medical treatment, which may be paid or payable by the cities under 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 under the provisions of sections 86.370 to 86.497 on account of the same disability or death; except that, amounts payable under section 86.453 shall not be offset or reduced by any amount paid or payable under any workers' compensation or similar law. However, in no event shall the amount paid from funds under the provisions of sections 86.370 to 86.497 be less than the amount which represents the member's percentage, as defined in this section, of total benefits payable under sections 86.370 to 86.497, other than under section 86.453 and 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 under 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 under the provisions of sections 86.370 to 86.497 on account of the same disability or death; except that, amounts payable under section 86.453 shall not be offset or reduced by any amounts paid or payable under any workers' compensation or similar

law. The amount by which each periodic payment made under the provisions of sections 86.370 to 86.497 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. However, in no event shall the amount paid from funds under the provisions of sections 86.370 to 86.497 be less than the amount which represents the member's percentage, as defined in this section, of total benefits payable under sections 86.370 to 86.497, other than under section 86.453 and 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 under section 86.470 during the pay period immediately preceding such member's death or disability which created entitlement to benefits and the denominator is the sum of the percentages of a member's compensation contributed by a working member under section 86.470 and the city under section 86.477 to the retirement pension system during such pay period. Such percentage shall identify the portion of any benefits due under the provisions of sections 86.370 to 86.497 which is deemed to have been provided by the member's own contributions.]

[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.]

[86.467. Whenever the service of a member is terminated for any reason, such member may choose to withdraw all of such member's accumulated contributions to the fund, in which case such member shall be paid on demand the amount of his accumulated contributions in one lump sum, and such payment shall be in lieu of any and all other benefits to which he might otherwise become entitled under sections 86.370 to 86.497.]

[86.470. The board of police commissioners shall deduct or cause to be deducted from the compensation of each member until retirement a percentage of his compensation, which shall not be less than six percent, as determined by the retirement board, as his contribution to the pension fund. The sum so deducted shall be paid by the board of police commissioners monthly or semimonthly to the retirement board to be credited to the member's account.]

[86.473. The deductions provided for herein shall be made even though the minimum compensation provided by law for any such member shall be reduced thereby. Every member shall be deemed to consent to the deductions made and provided for herein, and shall receipt for his full salary or compensation, and payment of salary or compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered during the period covered by such payment except as to benefits provided by sections 86.370 to 86.497. The board of police commissioners shall certify to the retirement board on each and every payroll the amount deducted, and such amounts shall be paid into the pension fund and shall be credited to the individual pension account of the member from whose compensation said deduction was made.]

[86.477. The city shall contribute to the pension fund quarter-annually or at such lesser intervals as may be agreed upon by the city and the retirement board. Such contribution shall be in addition to and separate from the appropriations made by the city for the operation of the police

department. For each fiscal year of the operation of the pension system, the city's contribution to the pension fund shall be a percentage of the compensation paid to members of the pension system from which a member's deduction has been made under section 86.473. The city's contribution shall be such percentage as shall be agreed upon by the board of police commissioners and the city but in no event shall such contribution be less than twelve percent.]

[86.480. On or before the tenth day of January of each year the retirement board shall certify to the board of police commissioners the amount of money that will probably be required to comply with the provisions of section 86.477 during the next succeeding fiscal year including administration expenses. The amounts so certified shall be included by the board of police commissioners in their annual budget estimate, and shall be appropriated by the said cities and transferred to the pension fund during the ensuing fiscal year.]

[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 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 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.]

[86.487. The secretary and treasurer shall each, before assuming the duties of his office, give a good and sufficient surety bond for an amount determined by the retirement board, but not more than twenty-five percent more than the maximum amount on hand during the previous calendar year nor less than twenty thousand dollars, conditioned upon the faithful performance of his duties as such officer, and to account for all moneys, securities, and property which may come into his hands or under his control

by virtue of such office, with two or more solvent sureties thereon with a net worth in excess of the amount of such bond who shall each execute an affidavit to be attached to such bond giving the net worth of such surety over and above all liabilities and statutory exemptions, or with a corporate surety duly licensed to transact business in this state, and in the event a corporate surety bond is given the premium therefor shall be paid out of the funds of the retirement pension system. Such bonds shall be subject to the approval of the presiding judge of the circuit court of the county in which such cities are located. The offices of secretary and of treasurer shall not be held by the same person.]

[86.490. The payment of all benefits provided by sections 86.370 to 86.497 in excess of the amount of the members' contributions and the payment of all expenses necessary for the administration and operation of the police retirement system shall be and are hereby made obligations of said funds created hereunder and not of said city.]

[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.]

[86.497. Nothing contained in sections 86.370 to 86.497 shall in any way limit the criminal liability of any person subject to prosecution under any law which is now or may hereafter be in force. Should any change or error in records result in any member or beneficiary receiving from the pension system more or less than he would have been entitled to receive had the records been

correct, the retirement board shall correct such error and, as far as practicable, shall adjust the payments in such a manner that the benefit to which said member or beneficiary was correctly entitled shall be paid.]

[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; except that, notwithstanding the foregoing, compensation for any year for any member shall not exceed the amount permitted to be taken into account under and pursuant to Section 401(a)(17) of the Internal Revenue Code as applicable to such year;

(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) "Internal Revenue Code", the United States Internal Revenue Code of 1986, as amended;

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

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

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

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

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

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

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

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

[86.610. In all cities that now have or may hereafter attain a population of more than three hundred thousand and less than seven hundred thousand inhabitants according to the last preceding federal decennial census, there are hereby created and established retirement or pension systems for the purpose of providing retirement allowances for civilian employees of police departments of the cities. Any city which has established a civilian employees' retirement system under the provisions of sections 86.600 to 86.790 may elect to continue its civilian employees' retirement system under the provisions of sections 86.600 to 86.790 even though the city may no longer meet the requirements stated in sections 86.600 to 86.790. Each system shall be under the management of a retirement board hereinafter described and shall be known as the "Civilian Employees' Retirement System of the Police Department of (name of city)", and by this name all of its business shall be

transacted, and all of its cash and other property held. The retirement systems so created shall begin operation on October 13, 1965, on which date contributions of employees shall be payable to the pension fund.]

[86.611. 1. A retirement plan under and pursuant to sections 86.600 to 86.790 is a qualified plan pursuant to the provisions of applicable federal law. The benefits and conditions of a retirement plan under and pursuant to sections 86.600 to 86.790 shall always be adjusted to ensure that the tax-exempt status is maintained.

2. The retirement board shall administer this retirement system in such manner as to retain at all times qualified status under and pursuant to Section 401(a) of the Internal Revenue Code.

3. The retirement board shall hold in trust the assets of this retirement system for the exclusive benefit of the members and their beneficiaries and for defraying reasonable administrative expenses of the system. No part of such assets shall, at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries, be used for or diverted to any purpose other than such exclusive benefit or to any purpose inconsistent with sections 86.600 to 86.790.

4. A member's benefit shall be one hundred percent vested and nonforfeitable upon the member's attainment of normal retirement age, which shall be the earlier of:

(1) The attaining of the age of sixty-five or the member's tenth anniversary of employment, whichever is later;

(2) When the total sum of age and years of service equals or exceeds eighty; or

(3) To the extent funded, upon the termination of the system established under and pursuant to sections 86.600 to 86.790 or any partial termination which affects the member or any complete discontinuance of contributions by the city to the system.

Amounts representing forfeited nonvested benefits of terminated members shall not be used to increase benefits payable from the system but may be used to reduce contributions for future plan years.

5. Distribution of benefits shall begin not later than April first of the year following the later of the calendar year during which the member becomes seventy and one-half years of age or the calendar year in which the member retires, and shall otherwise conform to Section 401(a)(9) of the Internal Revenue Code.

6. A member or beneficiary of a member shall not accrue a service

retirement annuity, disability retirement annuity, death benefit, whether death occurs in the line of duty or otherwise, or any other benefit under and pursuant to sections 86.600 to 86.790 in excess of the benefit limits applicable to the fund under and pursuant to Section 415 of the Internal Revenue Code. The retirement board shall reduce the amount of any benefit that exceeds the limits of this section by the amount of the excess. If the total benefits under this retirement system and the benefits and contributions to which any member is entitled under any other qualified plan or plans maintained by the board of police commissioners that employs the member would otherwise exceed the applicable limits under and pursuant to Section 415 of the Internal Revenue Code, the benefits the member would otherwise receive from this retirement system are reduced to the extent necessary to enable the benefits to comply with Section 415 of the Internal Revenue Code.

7. The total salary taken into account for any purpose for any member of this retirement system shall not exceed two hundred thousand dollars per year, subject to periodic adjustments in accordance with guidelines provided by the United States Secretary of the Treasury and may not exceed such other limits as may be applicable at any given time under and pursuant to Section 401(a)(17) of the Internal Revenue Code.

8. If the amount of any benefit is determined on the basis of actuarial assumptions that are not specifically set forth for that purpose in sections 86.600 to 86.790, the actuarial assumptions used are those earnings and mortality assumptions used on the date of the determination by the retirement system's actuary and approved by the retirement board. The actuarial assumptions used at any particular time shall be attached as an addendum to a copy of the retirement system's statute maintained by the retirement board and shall be treated for all purposes as part of sections 86.600 to 86.790. The actuarial assumptions may be changed by the retirement system's actuary annually if approved by the retirement board, but a change in actuarial assumptions shall not result in any decrease in benefits accrued as of the effective date of the change.

9. Any member or beneficiary who is entitled to receive any distribution that is an eligible rollover distribution, as defined by Section 402(c)(4) of the Internal Revenue Code, is entitled to have that distribution transferred directly to another eligible retirement plan of the member's or beneficiary's choice upon providing direction to the secretary of this retirement system regarding the transfer in accordance with procedures established by the retirement board.



10. For all distributions made after December 31, 2001:

(1) For the purposes of subsection 9 of this section, an eligible retirement plan shall also mean an annuity described in Section 403(b) of the Internal Revenue Code and an eligible plan under and pursuant to Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this retirement system. The definition for eligible retirement plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code; and

(2) For the purposes of subsection 9 of this section, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includable in gross income and the portion of such distribution that is not so includable.

[86.620. 1. Every person who becomes an employee, as defined in subdivision (7) of section 86.600, after August 28, 2001, shall become a member of the retirement system 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.]

[86.630. 1. The years of future creditable service of an employee member shall be the number of years and months of completed membership in the retirement system up to the time of retirement during which he has received compensation. The years and months of creditable service prior to October 13, 1965, shall be the continuous years and months of service from the latest date of employment. When an employee has been given a leave of absence prior to October 13, 1965, because of illness or disability and at the time he had reached the retirement age prescribed in sections 86.600 to 86.790, he shall be entitled to retire and the number of years served by him up to the time of the leave of absence are the years and months of creditable service. Whenever a member is given a leave of absence for military service and he returns to his employment within ninety days after his discharge from the service, he shall be entitled to creditable service for the years of his employment prior to the leave of absence.

2. Members who terminate membership and later return to membership may receive credit for prior service and membership service after they have been reemployed for at least two consecutive years and have repaid withdrawn contributions if an election to return to membership is made within three years of reemployment. Such repayment of withdrawn contributions shall be accompanied by additional payment of interest in the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions have been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes.

3. Creditable service shall not include any time a member was

suspended from service without pay. No contribution is required from either the member or from the city under section 86.760 for such time.

4. Any active member on August 28, 1995, who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect, prior to retirement but in no case later than August 28, 1997, to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial value of the additional benefits attributable to the creditable service so purchased, as of the date the member elects to make such purchase. The retirement system shall determine the value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases and all related factors used in performing the most recent regular actuarial valuation of the retirement system. Payment in full of the amount due from a member electing to purchase creditable service under this section shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election or as a result of any such partial payments shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment payment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is determined by the retirement board to be

totally and permanently disabled as provided in section 86.670.

5. Any individual who becomes a member of the retirement system subsequent to August 28, 1995, and who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect, prior to retirement but in no case later than two years after the effective date of his membership in the retirement system, to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial value of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make the purchase. The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases and all related factors used in performing the most recent regular actuarial valuation of the retirement system. Payment in full of the amount due from a member electing to purchase creditable service under this section shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed time period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this section and if the member is current in payments at the time of death or disability, under an approved installment plan, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments shall pay the entire balance of remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is determined

by the retirement board to be totally and permanently disabled as provided in section 86.670.]

[86.640. The normal retirement date of a member shall be the first day of the month which coincides with or next follows the later of the date he attains the age of sixty-five years, or his tenth anniversary of employment.]

[86.650. 1. Upon retirement on or after a member's normal retirement date, such member shall receive a normal pension in the amount of two percent of such member's final compensation times the number of years, including fractions thereof, of such member's creditable service.

2. A member who is married at the time of his retirement may by a written election, with the written consent of such member's spouse, elect an optional annuity, in lieu of a normal pension. Such optional annuity shall be a monthly pension in the initial amount which shall be actuarially equivalent to the actuarial value of the normal pension for such member at the date of retirement (including the value of survivorship rights of a surviving spouse, where applicable, pursuant to section 86.690), upon the basis that the annuity for the member's spouse if such spouse survives the member shall be the same amount as the annuity paid the member and shall be paid to such surviving spouse for the lifetime of such spouse without regard to remarriage. An election for an optional annuity shall be void if the member dies within thirty days after filing such election with the retirement system or if the member dies before the due date of the first payment of such member's pension.

3. All payments of a normal pension or of an optional annuity shall be paid on the first day of each month. The first payment shall be paid on the normal retirement date, if the member retires on such normal retirement date; or if such member retires upon any other date, the first payment shall be paid on the first day of the month coinciding with or next following the date provided herein for the commencement of such member's retirement benefits. The final payment due a retired member shall be the payment due on the first day of the month in which such member's death occurs, and the final payment due any surviving beneficiary shall be the payment due on the first day of the month in which such beneficiary dies or otherwise ceases to be entitled to benefits hereunder.]

[86.660. Members may elect early retirement:

(1) Beginning at age fifty-five if the member has completed at least ten years of creditable service, or at any later age after the member has completed at least ten years of creditable service. Unless subdivision (3) of this section shall be applicable, the benefit as computed under section 86.650 shall be

reduced by one-half of one percent for each month the effective date is prior to the first day of the month following that in which such member will attain age sixty;

(2) Beginning at age sixty if the member has completed at least five but not more than ten years of creditable service, or at any later age after the member has completed at least five years of creditable service. Unless subdivision (3) of this section shall be applicable, the benefit as computed under section 86.650 shall be reduced by one-half of one percent for each month the effective date is prior to the first day of the month following that in which such member will attain age sixty-five;

(3) At any time after the member's total of age and years of creditable service equals or exceeds eighty, in which event the benefit shall be as computed under section 86.650 without any reduction.]

[86.665. 1. Any member entitled to commence a pension under and pursuant to either section 86.650 or 86.660 may elect an optional distribution under the partial lump-sum option plan provided in this section if such member:

(1) Notifies the retirement system in writing of such member's retirement date at least ninety days in advance thereof and requests an explanation of such member's rights under and pursuant to this section; and

(2) Notifies the retirement system of the member's election hereunder at least thirty days in advance of the retirement date.

Following receipt of an initial notice of a member's retirement date and request for an explanation hereunder, the retirement system shall, at least sixty days in advance of such retirement date, provide such member a written explanation of such member's rights under and pursuant to this section and an estimate of the amount by which such member's regular monthly base pension would be reduced in the event of the member's election of any of the options available to such member under and pursuant to this section.

2. (1) A member entitled to make an election under and pursuant to this section may elect to receive a lump sum distribution with such member's initial monthly pension payment under and pursuant to section 86.650 or 86.660, subject to all the terms of this section. The member may elect the amount of the member's lump sum distribution from one, but not more than one, of the following options for which such member qualifies:

(a) A member having one or more years of creditable service after such member's eligible retirement date may elect a lump sum amount equal to twelve times the initial monthly base pension the member would receive if no

election were made under and pursuant to this section;

(b) A member having two or more years of creditable service after such member's eligible retirement date may elect a lump sum amount equal to twenty-four times the initial monthly base pension the member would receive if no election were made under and pursuant to this section; or

(c) A member having three or more years of creditable service after such member's eligible retirement date may elect a lump sum amount equal to thirty-six times the initial monthly base pension the member would receive if no election were made under and pursuant to this section.

For purposes of this section, "eligible retirement date" for a member shall mean the earliest date on which the member could elect to retire and be entitled to receive a pension under and pursuant to either section 86.650 or 86.660.

(2) When a member makes an election to receive a lump-sum distribution under and pursuant to this section, the base pension that the member would have received in the absence of an election shall be reduced on an actuarially equivalent basis to reflect the payment of the lump sum distribution, and the reduced base pension shall be the member's base pension thereafter for all purposes relating to base pension amounts under and pursuant to sections 86.600 to 86.790.

(3) If a member electing a lump sum distribution under and pursuant to this section has elected the optional annuity described in section 86.650, the calculation of such member's pension shall be made in the following order:

(a) The amount of the member's normal pension under and pursuant to section 86.650 shall be reduced if applicable by any reductions required under and pursuant to section 86.660;

(b) The amount of the normal pension as determined under and pursuant to paragraph (a) of this subdivision shall be reduced to the actuarially equivalent amount to produce the optional form of annuity described in subsection 2 of section 86.650;

(c) The amount of reduced pension as determined under and pursuant to paragraph (b) of this subdivision shall be further reduced as required to produce an actuarially equivalent benefit in the form of the lump-sum distribution option elected under and pursuant to this section and a remaining monthly annuity which shall be paid on the basis that the annuity for the member's spouse if such spouse survives the member shall be the same amount as the annuity paid the member and shall be paid to such surviving spouse for the lifetime of such spouse without regard to remarriage.



3. An election under and pursuant to this section to receive a lump sum distribution and reduced monthly base pension shall be void if the member dies before retirement, and amounts due a surviving spouse or other beneficiary of the member shall be determined without regard to such election.]

[86.670. A member who becomes totally and permanently disabled, as defined in this section, shall be entitled to retire on the first day of the month following termination of employment arising from such disability, provided as follows:

(1) Members who are eligible and totally and permanently disabled, as defined herein, shall receive a disability pension computed as follows:

(a) Duty disability: Fifty percent of final compensation at date of disability;

(b) Nonduty disability: Thirty percent of final compensation, but in no event less than the amount the member would be entitled to as a pension if he retired on the same date with equivalent age and creditable service;

(c) The annuity shall cease upon the first day of the month following death except that a surviving spouse shall be entitled to death benefits as computed in accordance with subsection 2 of section 86.690;

(2) (a) "Duty disability" shall mean total and permanent disability directly due to and caused by actual performance of employment with the police department;

(b) "Nonduty disability" shall mean total and permanent disability arising from any other cause than duty disability. Only members with ten years or more of creditable service shall be eligible;

(3) "Total and permanent disability" shall mean a state or condition which presumably prevents for the rest of a member's life his engaging in any occupation or performing any work for remuneration or profit. Such disability, whether duty or nonduty, must not have been contracted, suffered, or incurred while the employee was engaged in or as a result of having been engaged in a criminal act or enterprise, or resulting from habitual drunkenness or addiction to narcotics or from self-inflicted injury, or from disability incurred while in the service of the armed forces of the United States or any foreign country. No benefit shall be payable if the disability results from or is incurred while the member is engaged in self-employment or in any occupation or performing any work for remuneration or profit not in the service of the police department. The retirement board in its sole judgment shall determine whether the status of total and permanent disability exists. Its determination shall be binding and conclusive. The retirement board shall rely upon the

findings of a medical board of three physicians. The written opinion of any one shall be required. The medical board shall be appointed by the retirement board and expense for such examinations as required shall be paid from funds of this retirement system. From time to time, the retirement board shall have the right to require proof of continuing disability which may include further examination by the medical board;

(4) Should the retirement board determine that disability no longer exists, it shall terminate the disability pension. If the member immediately returns to work with the police department, he shall again earn creditable service beginning on the first day of the month following such return. Creditable service prior to disability retirement shall be reinstated. Should the member not return to work with the police department, he shall be deemed to have terminated employment by the police department at the time his disability retirement commenced; but in calculating any benefits due him upon such presumption, the retirement system shall receive credit for all amounts paid such member during his period of disability, except that such member shall not be obligated in any event to repay to the retirement system any amounts properly paid to him during such period of disability.]

[86.671. 1. Any periodic 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.]

[86.672. 1. Any member who retires after August 28, 1996, and who is entitled to a pension under sections 86.600 to 86.790, shall receive each month, in addition to such member's base pension and any other benefits provided in sections 86.600 to 86.790, a supplemental retirement health insurance benefit in the amount of fifty dollars per month. Any person who receives such a supplemental retirement health insurance benefit may also receive not more frequently than annually, in addition to a base pension as may be adjusted pursuant to section 86.675 and in addition to such supplemental retirement benefit, a cost-of-living adjustment to the supplemental retirement health insurance benefit in monthly adjustment increments to be determined by the retirement board.

2. Any member who retired after August 28, 1995, and on or before August 28, 1996, and who met the requirements of subsection 7 of this section on the date of such member's retirement, shall receive each month, in addition to such member's base pension and any other benefits provided in sections

86.600 to 86.790, a supplemental retirement health insurance benefit in the amount of fifty dollars per month payable until the member attains the age of sixty-five years. Any person who receives such a supplemental retirement health insurance benefit may also receive not more frequently than annually, in addition to a base pension as may be adjusted pursuant to section 86.675, and in addition to such supplemental retirement health insurance benefit, a cost-of-living adjustment to the supplemental retirement health insurance benefit in monthly adjustment increments to be determined by the retirement board.

3. Any member who retired after August 28, 1992, and on or before August 28, 1995, and who met the requirements of subsection 7 of this section on the date of such member's retirement, shall receive each month, in addition to the member's base pension and any other benefits provided in sections 86.600 to 86.790, a supplemental retirement health insurance benefit in the amount of fifty dollars per month payable until the member attains the age of sixty-five years. Any member who was retired after August 28, 1992, and on or before August 28, 1995, and who receives a supplemental retirement health insurance benefit, shall upon application to the retirement board, be made, constituted, appointed and employed by the retirement board as a special consultant on the problems of retirement, aging and other matters, until the member attains the age of sixty-five years, 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 be compensated monthly, in addition to a base pension as may be adjusted pursuant to section 86.675, and in addition to the supplemental retirement health insurance benefit set out in this subsection, by a cost-of-living adjustment to the supplemental retirement health insurance benefit payable in monthly adjustment increments to be determined by the retirement board.

4. Any member who retired on or before August 28, 1999, who at the time of such retirement was entitled to a pension under sections 86.600 to 86.790 and who either was not eligible for any supplemental retirement health insurance benefits or was eligible for and began receiving supplemental retirement health insurance benefits but ceased eligibility by attaining age sixty-five, shall upon application to the retirement board, be made, constituted, 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 member shall, beginning the later of August 28, 1996, or the time of such appointment under this subsection, be compensated monthly, in addition to a base pension as may be adjusted pursuant to section 86.675, by a supplemental retirement health insurance benefit in the amount of fifty dollars per month, for assistance in meeting hospitalization and medical care costs or other expenses, and by a cost-of-living adjustment to the supplemental retirement health insurance benefit, in monthly adjustment increments to be determined by the retirement board.

5. The determination of cost-of-living adjustments under this section 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 annual valuation to exceed the sum of the retirement system assets plus the present value of anticipated contributions to the retirement system. The determination of whether an adjustment will satisfy said actuarial standard shall be made at the time an increase is granted. If at any time the retirement system shall cease to satisfy such standard, all benefit 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 system would satisfy such standard at the time an adjustment is made. 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.

6. Any member's employment as a special consultant under subsection 3 or 4 of this section shall in no way affect such member's eligibility for retirement benefits under the provisions of sections 86.600 to 86.790, or in any way have the effect of reducing retirement benefits otherwise payable to such member.

7. Members entitled to the benefits provided in subsections 2 and 3 of this section are those members who:

- (1) Are under the age of sixty-five years; and
- (2) (a) Have at least twenty-five years of creditable service; or  
(b) Have a total of age and years of creditable service which equals or exceeds eighty; or  
(c) Meet the eligibility requirements for a duty disability pension under the provisions of section 86.670.

8. For purposes of this section, the term "member" shall include a surviving spouse who is entitled to a pension under sections 86.600 to 86.790. In determining which subsection or subsections are applicable in a given instance, the surviving spouse shall be deemed to have retired on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement. 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.]

[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 without regard to remarriage; and
- (2) 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.]

[86.676. If a city and the police department of such city adopt any program of incentives to authorize or encourage early retirements, whether for employees not yet eligible for regular retirement or for employees who are eligible but have not yet chosen to retire or for both, the retirement board shall be authorized to administer and pay such incentives for retirees who accept such incentives and are members of this retirement system under and pursuant to sections 86.600 to 86.790, in addition to such other benefits as such members or their beneficiaries are entitled to receive under and pursuant to sections 86.600 to 86.790, provided such city shall so request and shall agree to increase said city's contribution under and pursuant to section 86.760 sufficiently to provide the full actuarial cost of any such incentives in addition to the contribution required of such city necessary, in conjunction with members' contribution under and pursuant to section 86.760, to provide all other benefits provided under and pursuant to sections 86.600 to 86.790.]

[86.680. 1. Each person who becomes a member of this retirement system pursuant to the provisions of sections 86.600 to 86.790 shall remain a member until the earliest to occur of the following events:

- (1) The termination of employment of such person by the applicable

police department and the payment to him of all benefits due him pursuant to the provisions of sections 86.600 to 86.790, unless such termination of employment by the police department shall be for the purpose of entering military service in a national emergency;

(2) The termination of employment by the police department to enter military service in a national emergency and the failure of such person to return to employment by such department within one year after his discharge from the military service, unless there shall remain benefits due such person pursuant to the provisions of sections 86.600 to 86.790, in which event such person's membership shall terminate pursuant to this subdivision when there shall no longer remain any such benefits due such person; and

(3) The death of such person.

2. If the surviving spouse of a member is entitled to a pension benefit, such surviving spouse shall be a member of the retirement system for so long as such surviving spouse shall remain entitled to such benefit. Any beneficiary or survivor of a deceased member shall not be a member of this retirement system if such beneficiary or survivor is not a surviving spouse entitled to benefits pursuant to the provisions of sections 86.600 to 86.790, irrespective of whether there may remain benefits due such beneficiary or survivor from this system.]

[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) 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 who has not elected the optional annuity pursuant to section 86.650, the member's surviving spouse shall receive a pension payable for life, 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 qualifies 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, any other beneficiary of the member, and the funeral benefit under subsection 6 of this section 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.

6. (1) Upon receipt of the proper proof of death of a member in service after August 28, 2003, or the death of a member in service on or after August 28, 2003, who dies after having been retired and pensioned, there shall be paid in addition to all other benefits a funeral benefit of one thousand dollars.

(2) Any member who was retired on or before August 28, 2003, and is receiving retirement benefits from the retirement system, upon application to the retirement board, shall be appointed 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. Upon receipt of the proper proof of death of such member, there shall be paid in addition to all other benefits a funeral benefit of one thousand dollars.]

[86.700. There shall be a retirement board whose members shall serve without compensation but shall be reimbursed from the pension fund for any necessary expenses which they may incur for service on the board. The board shall adopt rules and regulations for the administration of the affairs of the retirement system. The members of the retirement board for civilian employees of the retirement systems herein enacted shall be the same as the

members of the retirement board for police officers as provided in section 86.393, and upon election or appointment as provided in section 86.393, shall be vested with full authority to administer the retirement system provided in sections 86.600 to 86.790, and shall be vested with full authority to do all things necessary and required herein; but all funds received for the administration of this retirement system shall be kept separately and not commingled with funds included in retirement systems provided in sections 86.370 to 86.497. The members of this retirement system provided in sections 86.600 to 86.790 shall be entitled to vote in the election of elected members of the retirement board as provided in section 86.393.]

[86.710. Each member of the retirement board shall, within ten days after his appointment or election, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the affairs of the board and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system for civilian employees of the police department. The oath shall be subscribed to by the member and filed with the clerk of the city.]

[86.720. The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of sections 86.600 to 86.790 are hereby vested in the retirement board. The retirement board shall, from time to time, establish rules and regulations for the administration of its assets and for the transaction of its business. The retirement board shall be deemed to be a state agency within the meaning of chapter 536, RSMo. The retirement board shall elect from its membership a chairman, a vice chairman, and a treasurer, and shall, by majority vote of its members, appoint a secretary, who may be but need not be one of its members. The retirement board may employ any actuarial, legal and other services as may be necessary to transact the business of the retirement system. The compensation of all persons employed by the retirement board and all other expenses of the board necessary for the operation of the retirement system shall be paid in the manner as the retirement board shall determine; except that the compensation of the persons as may be employed by the retirement board shall not be greater than the compensation paid for comparable abilities by the government of the city in which the retirement board is located.]

[86.730. 1. 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 to pass a 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.]

[86.740. The retirement board's findings on all issues of fact shall be final and conclusive upon all parties concerned, when the findings are supported by competent and substantial evidence. Rulings of the retirement board on questions of law and whether the ruling is supported by competent and substantial evidence may be reviewed, upon application of any party, by the circuit court of the county in which the cities are located.]

[86.745. 1. The retirement board may purchase with retirement system assets from one or more insurers licensed to do business in this state one or more insurance policies that provide for reimbursement of the retirement system and any trustee, member of the retirement board, officer, or employee of the retirement system for liability imposed or damages because of an alleged act, error, or omission committed in the trustee's, board member's, officer's, or employee's capacity as a fiduciary, officer, or employee of the retirement system and for costs and expenses, including attorney fees, incurred as a trustee, board member, officer, or employee in defense of a claim for an alleged act, error, or omission, as long as the insurance policy does not provide for

reimbursement of a trustee, board member, officer, or employee for liability imposed or expenses incurred because of the trustee's, board member's, officer's, or employee's personal dishonesty, fraud, lack of good faith, or intentional failure to act prudently.

2. If the insurance coverage described in subsection 1 of this section is insufficient or is not in effect, the retirement board may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that the person is or was a member of the retirement board, or is or was serving at the request of the retirement board in the capacity which caused the person's relationship to such action, suit or proceeding, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding, if the person acted in good faith and without willful malfeasance, and, with respect to any criminal action or proceeding, had reasonable cause to believe the relevant conduct was lawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith, or, with respect to any criminal action or proceeding, that the person did not have reasonable cause to believe that the relevant conduct was lawful.

3. To the extent that a member of the retirement board has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections 1 and 2 of this section, or in defense of any claim, issue or matter therein, the person shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred in connection with the action, suit or proceeding that are not covered by the insurance described in subsection 1 of this section.

4. Any indemnification under this section, unless ordered by a court, shall be made by the retirement board only as authorized in each specific case upon a determination that indemnification of any person potentially entitled to indemnification hereunder is proper in the circumstances because the person has met the applicable standard of conduct set forth in this section. The determination shall be made by the retirement board by a majority vote of a quorum consisting of members of the retirement board who are not parties to the action, suit or proceeding, or if such a quorum is not obtainable, or even if obtainable a quorum of disinterested members of the retirement board so

directs, by independent legal counsel (who may but need not be counsel to the retirement system) in a written opinion.

5. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the retirement board in advance of the final disposition of the action, suit or proceeding as authorized by the retirement board in the specific case upon receipt of an undertaking by or on behalf of the person potentially entitled to indemnification hereunder to repay such amount unless it shall ultimately be determined that the person is entitled to be indemnified by the retirement board as authorized in this section.]

[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 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 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.]

[86.760. 1. Beginning October 1, 1965, the police board of the cities specified in sections 86.600 to 86.790 shall cause to be deducted from the salary or wages of each member of the civilian employees' retirement system an amount of his base rate of monthly compensation as determined by the retirement board, which amount shall not be less than five percent of his base rate of monthly compensation until the member's retirement.

2. The cities specified in sections 86.600 to 86.790 shall contribute to the retirement pension system such an amount as may be necessary to pay the pensions as they accrue from year to year, and such additional amounts as may be necessary to maintain the system on a sound actuarial basis and as determined by the retirement board as certified in section 86.730.]

[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 moneys in the various funds created 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 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.]

[86.790. Any person who knowingly makes any false statement or falsifies or permits to be falsified any record in an attempt to defraud the retirement system forfeits all rights to which he may be entitled hereunder.]