

FIRST REGULAR SESSION

# SENATE BILL NO. 563

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SMITH.

Read 1st time February 26, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

2227S.011

## AN ACT

To repeal sections 86.200, 86.237, 86.257, 86.260, 86.263, and 86.270, RSMo, and to enact in lieu thereof six new sections relating to police retirement.

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

Section A. Sections 86.200, 86.237, 86.257, 86.260, 86.263, and 86.270, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 86.200, 86.237, 86.257, 86.260, 86.263, and 86.270, to read as follows:

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

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

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

(3) "Average final compensation":

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

(b) With respect to a member who is not participating in the DROP pursuant to section 86.251 on October 1, 2001, who did not participate in the DROP at any time before such date, and who earns any creditable service on or

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

19 after October 1, 2001, the average earnable compensation of the member during  
20 the member's last two years of creditable service as a policeman, or if the member  
21 has had less than two years of creditable service, then the average earnable  
22 compensation of the member's entire period of creditable service;

23 (c) With respect to a member who is participating in the DROP pursuant  
24 to section 86.251 on October 1, 2001, or whose participation in DROP ended  
25 before such date, who returns to active participation in the system pursuant to  
26 section 86.251, and who terminates employment as a police officer for reasons  
27 other than death or disability before earning at least two years of creditable  
28 service after such return, the portion of the member's benefit attributable to  
29 creditable service earned before DROP entry shall be determined using average  
30 final compensation as defined in paragraph (a) of this subdivision; and the  
31 portion of the member's benefit attributable to creditable service earned after  
32 return to active participation in the system shall be determined using average  
33 final compensation as defined in paragraph (b) of this subdivision;

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

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

49 (f) With respect to the surviving spouse or surviving dependent child of  
50 a member who earns any creditable service on or after October 1, 2001, the  
51 average earnable compensation of the member during the member's last two years  
52 of creditable service as a police officer or, if the member has had less than two  
53 years of creditable service, the average earnable compensation of the member's  
54 entire period of creditable service;

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

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

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

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

64 (8) "DROP", the deferred retirement option plan provided for in section  
65 86.251;

66 (9) "Earnable compensation", the annual salary which a member would  
67 earn during one year on the basis of the member's rank or position as specified  
68 in the applicable salary matrix in section 84.160, RSMo, plus additional  
69 compensation for academic work as provided in subsection 8 of section 84.160,  
70 RSMo, plus shift differential as provided in subdivision (4) of subsection 9 of  
71 section 84.160, RSMo. Such amount shall include the member's deferrals to a  
72 deferred compensation plan pursuant to Section 457 of the Internal Revenue Code  
73 or to a cafeteria plan pursuant to Section 125 of the Internal Revenue Code or,  
74 effective October 1, 2001, to a transportation fringe benefit program pursuant to  
75 Section 132(f)(4) of the Internal Revenue Code. Earnable compensation shall not  
76 include a member's additional compensation for overtime, standby time, court  
77 time, nonuniform time or unused vacation time. Notwithstanding the foregoing,  
78 the earnable compensation taken into account under the plan established  
79 pursuant to sections 86.200 to 86.366 with respect to a member who is a  
80 noneligible participant, as defined in this subdivision, for any plan year beginning  
81 on or after October 1, 1996, shall not exceed the amount of compensation that  
82 may be taken into account under Section 401(a)(17) of the Internal Revenue Code,  
83 as adjusted for increases in the cost of living, for such plan year. For purposes  
84 of this subdivision, a "noneligible participant" is an individual who first becomes  
85 a member on or after the first day of the first plan year beginning after the  
86 earlier of:

87 (a) The last day of the plan year that includes August 28, 1995; or

88 (b) December 31, 1995;

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

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

94 (12) ["Medical board", the board of physicians provided for in section  
95 86.237;

96 (13)] "Member", a member of the retirement system as defined by sections  
97 86.200 to 86.366;

98 [(14)] (13) "Members' interest", interest on accumulated contributions at  
99 such rate as may be set from time to time by the board of trustees;

100 [(15)] (14) "Membership service", service as a policeman rendered since  
101 last becoming a member, except in the case of a member who has served in the  
102 armed forces of the United States and has subsequently been reinstated as a  
103 policeman, in which case "membership service" means service as a policeman  
104 rendered since last becoming a member prior to entering such armed service;

105 [(16)] (15) "Plan year" or "limitation year", the twelve consecutive-month  
106 period beginning each October first and ending each September thirtieth;

107 [(17)] (16) "Policeman" or "police officer", any member of the police force  
108 of such cities who holds a rank in such police force for which the annual salary  
109 is listed in section 84.160, RSMo;

110 [(18)] (17) "Prior service", all service as a policeman rendered prior to the  
111 date the system becomes operative or prior to membership service which is  
112 creditable in accordance with the provisions of sections 86.200 to 86.366;

113 [(19)] (18) "Retirement allowance", annual payments for life as provided  
114 by sections 86.200 to 86.366 which shall be payable in equal monthly installments  
115 or any benefits in lieu thereof granted to a member upon termination of  
116 employment as a police officer and actual retirement;

117 [(20)] (19) "Retirement system", the police retirement system of the cities  
118 as defined in sections 86.200 to 86.366;

119 [(21)] (20) "Surviving spouse", the surviving spouse of a member who was  
120 the member's spouse at the time of the member's death.

86.237. 1. The board of trustees is authorized to use the city counselor  
2 of the specified cities as a legal advisor to the board of trustees and may also  
3 appoint an attorney-at-law or firm of attorneys-at-law to serve as the legal  
4 advisor and consultant to the board of trustees and to represent the system and  
5 the board of trustees in all legal proceedings.

6 2. The board of trustees shall designate a medical [board to be composed

7 of three physicians who shall] **director, who shall appoint physicians,**  
8 **including himself or herself if appropriate, as he or she deems**  
9 **necessary to** arrange for and pass upon all medical examinations required  
10 under the provisions of sections 86.200 to 86.366[.]. **Such physicians** shall  
11 investigate all essential statements [and certificates] **as to physical or mental**  
12 **conditions** made by or on behalf of a member in connection with an application  
13 for disability retirement and shall report in writing [to the board of trustees its]  
14 **their** conclusions and recommendations upon all the matters referred to [it]  
15 them. [In addition, the board of trustees may appoint a fourth physician to act  
16 as an administrator of the medical board who may, with the consent of the board  
17 of trustees, select the members of the medical board and coordinate any reports  
18 to the board of trustees.] **The medical director shall report in writing to**  
19 **the board of trustees conclusions and recommendations concerning all**  
20 **essential statements as to physical or mental conditions made by or on**  
21 **behalf of a member in connection with an application for disability**  
22 **retirement.**

86.257. 1. Upon the application of a member in service or of the board of  
2 police commissioners, any member who has [had ten] **completed five** or more  
3 years of creditable service [shall terminate employment as a police officer and]  
4 **and who has become permanently unable to perform the duties of a**  
5 **police officer as the result of an injury or illness not exclusively caused**  
6 **or induced by the actual performance of his or her official duties or by**  
7 **his or her own negligence,** shall be [actually] retired by the board of trustees[,  
8 not more than ninety days next following the date of filing such application on an  
9 ordinary disability retirement allowance; provided, that] **of the police**  
10 **retirement system upon certification by** the medical [board after a medical  
11 examination of such member shall certify that such] **director of the police**  
12 **retirement system and approval by the board of trustees of the police**  
13 **retirement system that the** member is mentally or physically [incapacitated  
14 for the further performance of duty, that such incapacity] **unable to perform**  
15 **the duties of a police officer, that the inability is permanent or likely to**  
16 [be] **become** permanent, and that [such] **the** member should be retired.

17 2. Once each year during the first five years following such  
18 member's retirement, and at least once in every three-year period  
19 thereafter, the board of trustees may, and upon the member's  
20 application shall, require any nonduty disability beneficiary who has

21 not yet attained sixty years of age, to undergo a medical examination  
22 at a place designated by the medical director or such physicians as the  
23 medical director appoints. If any nonduty disability beneficiary who  
24 has not attained sixty years of age refuses to submit to a medical  
25 examination, his or her nonduty disability pension may be discontinued  
26 until his or her withdrawal of such refusal, and if his or her refusal  
27 continues for one year, all rights in and to such pension may be  
28 revoked by the board of trustees.

29 3. If the medical director certifies to the board of trustees that  
30 a nonduty disability beneficiary is able to perform the duties of a police  
31 officer, and if the board of trustees concurs on the report, then such  
32 beneficiary's nonduty disability pension shall cease.

33 4. If upon cessation of a disability pension under subsection 3 of  
34 this section, the former disability beneficiary is restored to active  
35 service, he or she shall again become a member, and he or she shall  
36 contribute thereafter at the same rate as other members. Upon his or  
37 her subsequent retirement, he or she shall be credited with all of his or  
38 her active retirement, but not including any time during which the  
39 former disability beneficiary received a disability pension under this  
40 section.

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

12 2. Effective October 1, 1999, the [ordinary] **nonduty** disability retirement  
13 allowance will be increased by fifteen percent of the member's average final  
14 compensation for each unmarried dependent child of the disabled member who  
15 is under the age of eighteen, or who, regardless of age, is totally and permanently  
16 mentally or physically disabled and incapacitated from engaging in gainful

17 occupation sufficient to support himself or herself.

18           3. Any member receiving benefits pursuant to the provisions of this  
19 section immediately prior to October 1, 1999, shall upon application to the board  
20 of trustees be made, constituted, appointed and employed by the board of trustees  
21 as a special consultant on the problems of retirement, aging and other matters  
22 while the member is receiving such benefits, and upon request of the board of  
23 trustees shall give opinions in writing or orally in response to such requests as  
24 may be required. Beginning October 1, 1999, for such services as may be  
25 required, there shall be payable an additional monthly compensation of one  
26 hundred dollars or five percent of the member's average final compensation,  
27 whichever is greater, for each unmarried dependent child of the member.

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

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

          86.263. [Upon application by the member or the board of police  
2 commissioners] 1. Any member who [has become totally and permanently  
3 incapacitated for duty at some definite time and place] **is permanently unable**  
4 **to perform the duties of a police officer** as the natural [and], proximate,  
5 **and exclusive** result of an accident occurring [while in] **within** the actual  
6 performance of duty **at some definite time and place**, through no negligence  
7 on the member's part, [and if such accident occurred not more than five years  
8 prior to date of application unless the accident was reported and an examination  
9 made of the member by the medical staff of the board of police commissioners  
10 within five years of the date of the accident with subsequent examinations made

11 as requested,] shall, **upon application**, be retired **upon certification** by [the  
12 board of trustees provided that] the medical [board shall certify that  
13 such] **director of the police retirement system and approval by the**  
14 **board of trustees of the police retirement system that the** member is  
15 mentally or physically [incapacitated for further performance of duty, that such  
16 incapacity] **unable to perform the duties of a police officer and that the**  
17 **inability is permanent or reasonably likely to [be] become** permanent [and  
18 that such member should be retired; provided that if the accident occurred prior  
19 to the age and year set out in section 86.250, application for benefits must be  
20 made before such age and year except that the interval between date of accident  
21 and of application may be six months].

22       **2. No member shall be approved for retirement under the**  
23 **provisions of subsection 1 of this section unless the application was**  
24 **made and submitted to the board of trustees of the police retirement**  
25 **system no later than five years following the date of accident, provided,**  
26 **that if the accident was reported within five years of the date of the**  
27 **accident and an examination made of the member within thirty days of**  
28 **the date of accident by a health care provider whose services were**  
29 **provided through the board of police commissioners with subsequent**  
30 **examinations made as requested, then an application made more than**  
31 **five years following the date of the accident shall be considered timely.**

32       **3. Once each year during the first five years following a**  
33 **member's retirement, and at least once in every three-year period**  
34 **thereafter, the board of trustees may require any disability beneficiary**  
35 **who has not yet attained sixty years of age to undergo a medical**  
36 **examination or medical examinations at a place designated by the**  
37 **medical director or such physicians as the medical director appoints.**  
38 **If any disability beneficiary who has not attained sixty years of age**  
39 **refuses to submit to a medical examination, his or her disability**  
40 **pension may be discontinued until his or her withdrawal of such**  
41 **refusal, and if his or her refusal continues for one year, all rights in**  
42 **and to such pension may be revoked by the board of trustees.**

43       **4. If the medical director certifies to the board of trustees that**  
44 **a disability beneficiary is able to perform the duties of a police officer,**  
45 **and if the board of trustees concurs with the medical director's**  
46 **determination, then such beneficiary's disability pension shall cease.**

47       **5. If upon cessation of a disability pension under subsection 4 of**



48 this section, the former disability beneficiary is restored to active  
49 service, he or she shall again become a member, and he or she shall  
50 contribute thereafter at the same rate as other members. Upon his or  
51 her subsequent retirement, he or she shall be credited with all of his or  
52 her active service time as a member including the service time prior to  
53 receiving disability retirement, but not including any time during  
54 which the former disability beneficiary received a disability pension  
55 under this section.

56 6. If upon cessation of a disability pension under subsection 4 of  
57 this section, the former disability beneficiary is not restored to active  
58 service, such former disability beneficiary shall be entitled to the  
59 retirement benefit to which such former disability beneficiary would  
60 have been entitled if such former disability beneficiary had terminated  
61 service for any reason other than dishonesty, intemperate habits, or  
62 being convicted of a felony at the time of such cessation of such former  
63 disability beneficiary's disability pension. For purposes of such  
64 retirement benefits, such former disability beneficiary shall be credited  
65 with all of the former disability beneficiary's active service time as a  
66 member, but not including any time during which the former disability  
67 beneficiary received a disability beneficiary pension under this section.

86.270. 1. Any determination of whether a member is disabled  
2 under the provisions of section 86.257 or 86.263 shall consist of an  
3 investigation of the member's physical and mental condition by the  
4 medical director of the police retirement system and all physicians  
5 appointed by the medical director under the provisions of section  
6 86.237 and an investigation by the board of trustees of the police  
7 retirement system of any other matter relevant to determine whether  
8 the member satisfies the applicable requirements of section 86.257 or  
9 86.263. The board of trustees may authorize the use of staff of the  
10 police retirement system and other persons not employed by the police  
11 retirement system to assist in its investigation. The board of trustees  
12 of the police retirement system and the medical director of the police  
13 retirement system and any such physicians appointed by the medical  
14 director under the provisions of section 86.237 may communicate with  
15 each other as to matters relevant to determine whether the member  
16 satisfies the applicable requirements of section 86.257 or 86.263.

17 2. The board of trustees shall require each member who applies for

18 disability benefits **and any disability beneficiary to be reexamined under**  
19 **the provisions of section 86.257 or 86.263** to undergo [a] medical  
20 [examination] **examinations** at [a place] **places** designated by the medical  
21 [board] **director and any physicians appointed by the medical director**  
22 **under the provisions of section 86.237.** The examination shall be made by  
23 the medical [board] **director** or by [a physician or] **any** physicians [designated]  
24 **appointed** by [such board] **the medical director under the provisions of**  
25 **section 86.237.** [Once each year during the first five years following the  
26 retirement of a member on a disability retirement allowance and once in every  
27 three-year period after that, the board of trustees may require any disabled  
28 member to undergo a medical examination. Should any disabled member refuse  
29 to submit to such medical examination, such member's disability allowance may  
30 be discontinued until the withdrawal of such refusal and should the refusal  
31 continue for one year all rights in and to the member's disability allowance may  
32 be revoked by the board of trustees.]

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