

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 23
96TH GENERAL ASSEMBLY

Reported from the Committee on Progress and Development, February 24, 2011, with recommendation that the Senate Committee Substitute do pass.

0112S.09C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 84.010, 86.200, and 86.213, RSMo, and to enact in lieu thereof ten new sections relating to the St. Louis police force, with penalty provisions and a contingent effective date.

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

Section A. Sections 84.010, 86.200, and 86.213, RSMo, are repealed and
2 ten new sections enacted in lieu thereof, to be known as sections 84.010, 84.343,
3 84.344, 84.345, 84.346, 84.347, 84.348, 84.349, 86.200, and 86.213, to read as
4 follows:

84.010. 1. In all cities of this state that now have, or may hereafter
2 attain, a population of seven hundred thousand inhabitants or over, the common
3 council or municipal assembly, as the case may be, of such cities may pass
4 ordinances for preserving order, securing property and persons from violence,
5 danger or destruction, protecting public and private property, and for promoting
6 the interests and insuring the good government of the cities; but no ordinances
7 heretofore passed, or that may hereafter be passed, by the common council or
8 municipal assembly of the cities, shall, in any manner, conflict or interfere with
9 the powers or the exercise of the powers of the boards of police commissioners of
10 the cities as created by section 84.020, nor shall the cities or any officer or agent
11 of the corporation of the cities, or the mayor thereof, in any manner impede,
12 obstruct, hinder or interfere with the boards of police or any officer, or agent or
13 servant thereof or thereunder, except that in any case of emergency imminently
14 imperiling the lives, health or safety of the inhabitants of the city, the mayor may
15 call upon and direct the chief of police of the city to provide such number of

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

16 officers and patrolmen to meet the emergency as the mayor determines to be
17 necessary and the chief of police shall continue to act under the direction of the
18 mayor until the emergency has ceased, or until the board of police commissioners
19 takes charge of such matter.

20 **2. Notwithstanding any provision of subsection 1 of this section**
21 **or any other law to the contrary, any city not within a county may**
22 **establish, and thereafter maintain, a municipal police force under**
23 **sections 84.345 and 84.346.**

84.343. 1. For purposes of this section, the following terms shall
2 **mean:**

3 **(1) "Ammunition", any cartridge, shell, or projectile designed for**
4 **use in a firearm;**

5 **(2) "Licensed dealer", a person who is licensed under 18 U.S.C.**
6 **Section 923 to engage in the business of dealing in firearms;**

7 **(3) "Materially false information", any information that portrays**
8 **an illegal transaction as legal or a legal transaction as illegal;**

9 **(4) "Private seller", a person who sells or offers for sale any**
10 **firearm, as defined in section 571.010, or ammunition.**

11 **2. Any officer, employee, or representative of a municipal police**
12 **force established under subsection 2 of section 84.010 and section**
13 **84.835 who knowingly solicits, persuades, encourages or entices a**
14 **licensed dealer or private seller of firearms or ammunition to transfer**
15 **a firearm or ammunition under circumstances which the officer,**
16 **employee, or representative knows would violate the laws of this state**
17 **or the United States is guilty of a class D felony.**

18 **3. Any officer, employee, or representative of said police force**
19 **who provides to a licensed dealer or private seller of firearms or**
20 **ammunition what the officer, employee, or representative knows to be**
21 **materially false information with intent to deceive the dealer or seller**
22 **about the legality of a transfer of a firearm or ammunition is guilty of**
23 **a class D felony.**

24 **4. Any officer, employee, or representative of said police force**
25 **who willfully procures another to engage in conduct prohibited by this**
26 **section shall be held accountable as a principal.**

84.344. 1. No officer, employee, liaison, or registered
2 **representative of any municipal police force established under**
3 **subsection 2 of section 84.010 and section 84.345 shall testify or conduct**

4 any lobbying activities before the general assembly if such officer,
5 employee, liaison, or registered representative purports to represent
6 the official policy of the police force, or commits any act representing
7 himself or herself in any official manner, including, but not limited to,
8 wearing a uniform, stating specific rank and title in the police force, or
9 providing testimony on official letterhead. An officer, employee, or
10 liaison may, in his or her personal capacity, petition the general
11 assembly for the redress of grievances, and communicate opinions on
12 any subject whatsoever.

13 2. Any person may enforce this section by bringing an action for
14 monetary damages in the amount of ten thousand dollars in any court
15 of competent jurisdiction. If a court finds that there has been a
16 violation of this section, then it shall award attorney fees and costs to
17 the plaintiff. The state hereby abrogates and waives all types of
18 sovereign, official, and absolute immunity, and any other immunity
19 doctrine recognized by common law in an action brought pursuant to
20 this section.

84.345. Any city not within a county may establish a municipal
2 police force for the purposes of:

- 3 (1) Preserving the public peace, welfare, and order;
- 4 (2) Preventing crime and arresting suspected offenders;
- 5 (3) Enforcing the laws of the state and ordinances of the city;
- 6 (4) Exercising all powers available to a police force under
7 generally applicable state law; and
- 8 (5) Regulating and licensing all private watchmen, private
9 detectives, and private policemen serving or acting as such in said
10 cities.

11 No person shall act as a private watchman, private detective, or private
12 policeman in said cities without first having obtained a written license
13 from said police force.

84.346. 1. A city not within a county that establishes and
2 maintains a municipal police force under subsection 2 of section 84.010
3 and section 84.345 shall provide for the employment in the municipal
4 police force, immediately upon the effective date of the establishment
5 of the municipal police force, of all officers and employees of any police
6 force previously established under sections 84.010 to 84.340, at their
7 then current salaries, and for their entitlement to all accrued benefits,

8 including but not limited to, vacation time, sick leave, health insurance,
9 life insurance, and pensions. Any such city not within a county shall
10 recognize any regulation in effect on the effective date of the act
11 concerning residence of police officers adopted by the board of police
12 commissioners created under sections 84.020 and 84.030, and shall not
13 subsequently amend such regulation so as to make such residency
14 requirements more restrictive. Any retired officers shall also maintain
15 their accrued benefits, including but not limited to health and life
16 insurance.

17 2. A city not within a county that establishes and maintains a
18 municipal police force under subsection 2 of section 84.010 and section
19 84.345:

20 (1) Shall provide or contract for life insurance coverage and for
21 insurance benefits providing health, medical, and disability coverage
22 for officers and employees of the municipal police force;

23 (2) Shall provide or contract for insurance coverage providing
24 salary continuation coverage for officers and employees of the
25 municipal police force;

26 (3) Shall provide health, medical, and life insurance coverage for
27 retired officers and employees of the municipal police force and all
28 officers and employees of any police force previously established under
29 sections 84.010 to 84.340. Health, medical, and life insurance coverage
30 shall be made available for purchase to the spouses or dependents of
31 deceased retired officers and employees who receive pension benefits
32 pursuant to sections 86.200 to 86.364 at the rate that such dependent's
33 or spouse's coverage would cost under the appropriate plan if the
34 deceased were living;

35 (4) May pay an additional shift differential compensation to
36 members of the municipal police force for evening and night tour of
37 duty in an amount not to exceed ten percent of the officer's base hourly
38 rate.

84.347. The provisions of subsection 1 of section 84.010 and
2 sections 84.015, 84.020, 84.030, 84.040, 84.050, 84.060, 84.070, 84.080,
3 84.090, 84.095, 84.100, 84.110, 84.120, 84.130, 84.140, 84.150, 84.160, 84.170,
4 84.175, 84.180, 84.190, 84.200, 84.210, 84.220, 84.230, 84.240, 84.250, 84.260,
5 84.265, 84.330, and 84.340, and the terms of office of the commissioners
6 of the board of police under sections 84.020 and 84.030 shall expire

7 **January 1, 2013.**

84.348. Any police pension system created under chapter 86 for
2 the benefit of a police force established under sections 84.010 to 84.343
3 shall continue to be governed by chapter 86, and shall apply to any
4 police force established under sections 84.345 and 84.346. Nothing in
5 the provisions of subsection 2 of section 84.010, section 84.345, 84.346,
6 or 84.347 shall be construed to relieve a city not within a county of its
7 obligations to provide funding under sections including, but not limited
8 to, sections 86.183, 86.187, 86.344, and 86.350.

84.349. 1. No person shall solicit orally, by letter or otherwise
2 any assessment, contribution, or payment for any political purpose
3 whatsoever from any officer, agent, or employee of any municipal
4 police force established under subsection 2 of section 84.010 and section
5 84.345. No officer or employee of such municipal police force shall
6 permit any such solicitation in any building or room occupied for the
7 discharge of the official duties of the said police force. No officer or
8 employee in the service of said police force shall directly or indirectly
9 give, pay, lend, or contribute any of his or her salary, compensation,
10 money, or other valuable thing to any person on account of, or to be
11 applied to, the promotion of any political party, political club, or any
12 political purpose whatsoever.

2. No officer, agent, or employee of such police force shall
14 promote, remove, or reduce any other official or employee, promise, or
15 threaten to do so, for refusing to contribute to any political party,
16 purpose, or club, or for refusing to render any political service. Such
17 officer, agent, or employee shall not directly or indirectly attempt to
18 coerce, command, or advise any officer or employee to make such
19 political contribution or render political service and shall not use his
20 or her official authority or influence for the purpose of interfering with
21 any election, nomination for office, or result thereof. No officer or
22 employee of such police force shall be a member or official of any
23 committee of any political party, or board of aldermen, nor shall any
24 such officer or employee solicit any person to vote for or against any
25 candidate for public office, "poll precincts", or be connected with other
26 political work of similar character on behalf of any political
27 organization, party, or candidate. All such persons shall, however,
28 retain the right to vote as they may choose and to express their

29 **opinions on all political subjects and candidates.**

30 **3. No person, officer, or employee of such municipal police force**
31 **shall affix any sign, bumper sticker, or other device, which either**
32 **supports or opposes any ballot measure or political candidate, to any**
33 **property or vehicle under the control of the police force.**

34 **4. No question in any examination shall relate to political or**
35 **religious opinions or affiliations, and no appointment, transfer, layoff,**
36 **promotion, reduction, suspension, or removal shall be affected by such**
37 **opinions or affiliations.**

38 **5. No person shall make a false statement, certification, mark,**
39 **rating, or report with regard to any tests, certificate, or appointment**
40 **made under any provision of sections 84.010 to 84.350 or in any manner**
41 **commit, or attempt to commit, any fraud preventing the impartial**
42 **execution of this section or any provision thereof.**

43 **6. No person shall, directly or indirectly, give, render, pay, offer,**
44 **solicit, or accept any money, service, or other valuable consideration**
45 **for, or on account of, any appointment, proposed appointment,**
46 **promotion to, or any advancement in, a position in the service of the**
47 **municipal police force of such cities.**

48 **7. No person shall defeat, deceive, or obstruct any person in his**
49 **right to examination, eligibility, certification, appointment or**
50 **promotion under sections 84.010 to 84.350, or furnish to any person any**
51 **such secret information for the purpose of affecting the right or**
52 **prospects of any person with respect to employment in the municipal**
53 **police force of such cities.**

54 **8. Any officer or employee of the municipal police force of such**
55 **cities who shall be found to have violated any of the provisions of this**
56 **section shall be discharged forthwith from said service. It shall be the**
57 **duty of the chief of police to refer charges against any such offending**
58 **person at once. Any member of the board or of the common council of**
59 **such cities may bring suit to restrain payment of compensation to any**
60 **such offending officer or employee and, as an additional remedy, any**
61 **such member of the board or of the common council of such cities may**
62 **also apply to the circuit court for a writ of mandamus to compel the**
63 **dismissal of such offending officer or employee. Officers or employees**
64 **discharged by such mandamus shall have no right of review before any**
65 **board. Any person dismissed or convicted under this section shall, for**

66 a period of five years, be ineligible for appointment to any position in
67 the service of the municipal police force of such cities or the municipal
68 government of such cities. Any persons who shall willfully or through
69 culpable negligence, violate any of the provisions of this section may,
70 upon conviction thereof, be punished by a fine of not less than fifty
71 dollars and not exceeding five hundred dollars, or by imprisonment for
72 a time not exceeding six months, or by both such fine and
73 imprisonment.

86.200. The following words and phrases as used in sections 86.200 to
2 86.366, unless a different meaning is plainly required by the context, shall have
3 the following meanings:

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

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

10 (3) "Average final compensation":

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

16 (b) With respect to a member who is not participating in the DROP
17 pursuant to section 86.251 on October 1, 2001, who did not participate in the
18 DROP at any time before such date, and who earns any creditable service on or
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,] plus **any** additional
69 compensation for academic work [as provided in subsection 7 of section 84.160,
70 plus] **and** shift differential [as provided in subdivision (4) of subsection 8 of
71 section 84.160] **that may be provided by any official or board now or**
72 **hereafter authorized by law to employ and manage a permanent police**
73 **force in such cities.** Such amount shall include the member's deferrals to a
74 deferred compensation plan pursuant to Section 457 of the Internal Revenue Code
75 or to a cafeteria plan pursuant to Section 125 of the Internal Revenue Code or,
76 effective October 1, 2001, to a transportation fringe benefit program pursuant to
77 Section 132(f)(4) of the Internal Revenue Code. Earnable compensation shall not
78 include a member's additional compensation for overtime, standby time, court
79 time, nonuniform time or unused vacation time. Notwithstanding the foregoing,
80 the earnable compensation taken into account under the plan established
81 pursuant to sections 86.200 to 86.366 with respect to a member who is a
82 noneligible participant, as defined in this subdivision, for any plan year beginning
83 on or after October 1, 1996, shall not exceed the amount of compensation that
84 may be taken into account under Section 401(a)(17) of the Internal Revenue Code,
85 as adjusted for increases in the cost of living, for such plan year. For purposes
86 of this subdivision, a "noneligible participant" is an individual who first becomes
87 a member on or after the first day of the first plan year beginning after the
88 earlier of:

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

90 (b) December 31, 1995;

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

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

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

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

100 (14) "Membership service", service as a policeman rendered since last

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

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

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

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

113 (18) "Reserve officer", any member of the police reserve force of such
114 cities, armed or unarmed, who works less than full time, without compensation,
115 and who, by his or her assigned function or as implied by his or her uniform,
116 performs duties associated with those of a police officer and who currently
117 receives a service retirement as provided by sections 86.200 to 86.366;

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

122 (20) "Retirement system", the police retirement system of the cities as
123 defined in sections 86.200 to 86.366;

124 (21) "Surviving spouse", the surviving spouse of a member who was the
125 member's spouse at the time of the member's death.

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

5 (1) The president of the board of police commissioners of the city, ex
6 officio, **or any official or president of a board now or hereafter**
7 **authorized by law to employ and manage a permanent police force in**
8 **such cities or his or her designee.** If the president is absent from any
9 meeting of the board of trustees for any cause whatsoever, the president may be
10 represented by any member of the board of police commissioners who in such case
11 shall have full power to act as a member of the board of trustees;

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

17 (3) ~~[Three]~~ **Two** members to be appointed by the mayor of the city to
18 serve for a term of two years;

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

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

34 2. Any member elected chairman of the board of trustees may serve
35 without term limitations.

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

Section B. The provisions of this act shall become effective upon
2 notification by the Clerk of the Board of Aldermen of the city of St. Louis to the
3 General Assembly and the Revisor of Statutes that the charter of the city of St.
4 Louis has been amended to reduce the Board of Aldermen to fourteen members
5 with at least two from each ward.

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