

FIRST REGULAR SESSION

# SENATE BILL NO. 152

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Read 1st time January 20, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

0567S.011

## AN ACT

To repeal sections 86.252, 86.255, 86.256, 86.294, and 86.354, RSMo, and to enact in lieu thereof six new sections relating to the police retirement system of St. Louis.

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

Section A. Sections 86.252, 86.255, 86.256, 86.294, and 86.354, RSMo, are  
2 repealed and six new sections enacted in lieu thereof, to be known as sections  
3 86.252, 86.255, 86.256, 86.294, 86.295, and 86.354, to read as follows:

86.252. 1. Notwithstanding any provision of sections 86.200 to 86.366 to  
2 the contrary, the entire interest of a member shall be distributed or begin to be  
3 distributed no later than the member's required beginning date. The general  
4 required beginning date of a member's benefit is April first of the calendar year  
5 following the calendar year in which the member attains age seventy and one-half  
6 years or, if later, in which the member terminates employment as a police officer  
7 and actually retires.

8 2. All distributions required pursuant to this section prior to January 1,  
9 2003, shall be determined and made in accordance with the income tax  
10 regulations under Section 401(a)(9) of the Internal Revenue Code in effect prior  
11 to January 1, 2003, including the minimum distribution incidental benefit  
12 requirement of Section 1.401(a)(9)-2 of the income tax regulations. As of the first  
13 distribution year, distributions, if not made in a single sum, may only be made  
14 over one of the following periods, or a combination thereof:

- 15 (1) The life of the member;  
16 (2) The life of the member and a designated beneficiary;  
17 (3) A period certain not extending beyond the life expectancy of the  
18 member; 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 (4) A period certain not extending beyond the joint and last survivor  
20 expectancy of the member and a designated beneficiary.

21 3. (1) This subsection shall apply for purposes of determining required  
22 minimum distributions for calendar years beginning on and after January 1,  
23 2003, and shall take precedence over any inconsistent provisions of section 86.200  
24 to 86.366. All distributions required under this subsection shall be determined  
25 and made in accordance with the United States Treasury regulations under  
26 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.

27 (2) (a) The member's entire interest shall be distributed or begin to be  
28 distributed to the member no later than the member's required beginning date.

29 (b) If the member dies before distributions begin, the member's entire  
30 interest shall be distributed or begin to be distributed no later than as follows:

31 a. If the member's surviving spouse is the member's sole designated  
32 beneficiary, distributions to the surviving spouse shall begin by December  
33 thirty-first of the calendar year immediately following the calendar year in which  
34 the member died, or by December thirty-first of the calendar year in which the  
35 member would have attained age seventy and one-half years, if later;

36 b. If the member's surviving spouse is not the member's sole designated  
37 beneficiary, distributions to the designated beneficiary shall begin by December  
38 thirty-first of the calendar year immediately following the calendar year in which  
39 the member died;

40 c. If there is no designated beneficiary as of September thirtieth of the  
41 calendar year following the calendar year of the member's death, the member's  
42 entire interest shall be distributed by December thirty-first of the calendar year  
43 containing the fifth anniversary of the member's death;

44 d. If the member's surviving spouse is the member's sole designated  
45 beneficiary and the surviving spouse dies after the member but before  
46 distribution to the surviving spouse begins, this paragraph, except for  
47 subparagraph a. of this paragraph, shall apply as if the surviving spouse were the  
48 member. For purposes of this paragraph and subdivision (5) of this subsection,  
49 distributions shall be considered to begin on the member's required beginning  
50 date, or if subparagraph d. of this paragraph applies, the date distributions are  
51 required to begin to the surviving spouse under subparagraph a. of this  
52 paragraph. If annuity payments irrevocably commence to the member before the  
53 member's required beginning date, or to the member's surviving spouse before the  
54 date of distributions are required to begin to the surviving spouse under

55 subparagraph a. of this paragraph, the date of distributions shall be considered  
56 to begin the date distributions actually commence.

57 (c) Unless the member's interest is distributed in the form of an annuity  
58 purchased from an insurance company or in a single sum on or before the  
59 required beginning date, as of the first distribution calendar year distributions  
60 shall be made in accordance with subdivisions (3), (4), and (5) of this subsection.  
61 If the member's interest is distributed in the form of an annuity purchased from  
62 an insurance company, distributions shall be made in accordance with the  
63 requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as  
64 amended, and the United States Treasury regulations.

65 (3) (a) If the member's interest is paid in the form of annuity  
66 distributions under sections 86.200 to 86.366, payments under the annuity shall  
67 satisfy the following requirements:

68 a. The annuity distributions shall be paid in periodic payments made at  
69 intervals not longer than one year;

70 b. The distribution period shall be over a life or lives, or over a period  
71 certain not longer than the period described in subdivision (4) or (5) of this  
72 subsection;

73 c. Once payments have begun over a period certain, the period certain  
74 shall not be changed even if the period certain is shorter than the maximum  
75 permitted;

76 d. Payments shall either be nonincreasing or increase only as [follows:

77 (i) By an annual percentage increase that does not exceed the annual  
78 percentage increase in a cost-of-living index that is based on prices of all items  
79 and issued by the federal Bureau of Labor Statistics;

80 (ii) To the extent of the reduction in the amount of the member's  
81 payments to provide for a surviving benefit upon death, but only if the beneficiary  
82 whose life was being used to determine the distribution period described in  
83 subdivision (4) of this subsection dies or is no longer the member's beneficiary  
84 under a qualified domestic relations order with the meaning of Section 414(p) of  
85 the Internal Revenue Code of 1986, as amended;

86 (iii) To provide cash refunds of employee contributions upon the member's  
87 death; or

88 (iv) To pay increased benefits that result from a revision of sections  
89 86.200 to 86.366] **permitted under Q&A-14 of Section 1.401(a)(9)-6 of the**  
90 **United States Treasury regulations.**

91 (b) The amount distributed on or before the member's required beginning  
92 date, or if the member dies before distribution begins, the date distributions are  
93 required to begin under subparagraph a. or b. of paragraph (b) of subdivision (2)  
94 of this subsection, shall be the payment that is required for one payment  
95 interval. The second payment need not be made until the end of the next  
96 payment interval even if the payment interval ends in the next calendar  
97 year. "Payment intervals" means the periods for which payments are received,  
98 such as bimonthly, monthly, semiannually, or annually. All of the member's  
99 benefit accruals as of the last day of the first distribution calendar year shall be  
100 included in the calculation of the amount of the annuity payments for payment  
101 intervals ending on or after the member's required beginning date.

102 (c) Any additional benefits accruing to the member in a calendar year  
103 after the first distribution calendar year shall be distributed beginning with the  
104 first payment interval ending in the calendar year immediately following the  
105 calendar year in which such amount accrues.

106 (4) (a) If the member's interest is being distributed in the form of a joint  
107 and survivor annuity for the joint lives of the member and a nonspouse  
108 beneficiary, annuity payments to be made on or after the member's required  
109 beginning date to the designated beneficiary after the member's death shall not  
110 at any time exceed the applicable percentage of the annuity payment for such  
111 period that would have been payable to the member using the table set forth in  
112 Q&A-2 of Section 1.401(a)(9)-6T of the United States Treasury regulations.

113 (b) The period certain for an annuity distribution commencing during the  
114 member's lifetime shall not exceed the applicable distribution period for the  
115 member under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the  
116 United States Treasury regulations for the calendar year that contains the  
117 annuity starting date. If the annuity starting date precedes the year in which the  
118 member reaches age seventy, the applicable distribution period for the member  
119 shall be the distribution period for age seventy under the Uniform Lifetime Table  
120 set forth in Section 1.401(a)(9)-9 of the United States Treasury regulations plus  
121 the excess of seventy over the age of the member as of the member's birthday in  
122 the year that contained the annuity starting date.

123 (5) (a) If the member dies before the date distribution of his or her  
124 interest begins and there is a designated beneficiary, the member's entire interest  
125 shall be distributed, beginning no later than the time described in subparagraph  
126 a. or b. of paragraph (b) of subdivision (2) of this subsection, over the life of the

127 designated beneficiary or over a period certain not exceeding:

128           a. Unless the annuity starting date is before the first distribution  
129 calendar year, the life expectancy of the designated beneficiary determined using  
130 the beneficiary's age as of the beneficiary's birthday in the calendar year  
131 immediately following the calendar year of the member's death; or

132           b. If the annuity starting date is before the first distribution calendar  
133 year, the life expectancy of the designated beneficiary determined using the  
134 beneficiary's age as of the beneficiary's birthday in the calendar year that  
135 contains the annuity starting date.

136           (b) If the member dies before the date distributions begin and there is no  
137 designated beneficiary as of September thirtieth of the calendar year following  
138 the calendar year of the member's death, distribution of the member's entire  
139 interest shall be completed by December thirty-first of the calendar year  
140 containing the fifth anniversary of the member's death.

141           (c) If the member dies before the date distribution of his or her interest  
142 begins, the member's surviving spouse is the member's sole designated  
143 beneficiary, and the surviving spouse dies before distributions to the surviving  
144 spouse begin, this subdivision shall apply as if the surviving spouse were the  
145 member; except that, the time by which distributions shall begin shall be  
146 determined without regard to subparagraph a. of paragraph (b) of subdivision (2)  
147 of this subsection.

148           (6) As used in this subsection, the following terms mean:

149           (a) "Designated beneficiary", the surviving spouse or the individual who  
150 is designated as the beneficiary under subdivision (4) of section 86.200 or any  
151 individual who is entitled to receive death benefits under section 86.283 or 86.287  
152 and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue  
153 Code of 1986, as amended, and Section 1.401(a)(9)-1, Q&A-4 of the United States  
154 Treasury regulations;

155           (b) "Distribution calendar year", a calendar year for which a minimum  
156 distribution is required. For distributions beginning before the member's death,  
157 the first distribution calendar year is the calendar year immediately preceding  
158 the calendar year which contains the member's required beginning date. For  
159 distributions beginning after the member's death, the first distribution calendar  
160 year is the calendar year in which distributions are required to begin under  
161 paragraph (b) of subdivision (2) of this subsection;

162           (c) "Life expectancy", life expectancy as computed by use of the Single Life

163 Table in Section 1.401(a)(9)-9 of the United States Treasury regulations;

164 (d) "Required beginning date", April first of the calendar year following  
 165 the calendar year in which the member attains age seventy and one-half years or,  
 166 if later, in which the member terminates employment as a police officer and  
 167 actually retires.

168 (7) Notwithstanding any provision in this subsection to the contrary:

169 (a) A distribution for calendar years 2003, 2004, and 2005 shall not fail  
 170 to satisfy Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,  
 171 merely because the payments do not satisfy Section 1.401(a)(9)-1, Q&A-1 to  
 172 Q&A-16 of the United States Treasury regulations, provided the payments satisfy  
 173 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended; and

174 (b) [In the case of an annuity distribution option provided under the terms  
 175 of sections 86.200 to 86.366 shall not fail to satisfy Section 401(a)(9) of the  
 176 Internal Revenue Code of 1986, as amended, merely because the annuity  
 177 payments do not satisfy the requirements of Section 1.401(a)(9)-1, Q&A- 1 to  
 178 Q&A-15 of the United States Treasury regulations, provided the distribution  
 179 option satisfies Section 401(a)(9) of the Internal Revenue Code of 1986, as  
 180 amended, based on a reasonable and good faith interpretation of the provisions  
 181 of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.]

182 **Pursuant to Section 1.401(a)(9)-1, Q&A-2(d) of the United States**  
 183 **Treasury regulations, the plan shall be treated as having complied with**  
 184 **Section 401(a)(9) of the Internal Revenue Code for all years to which**  
 185 **Section 401(a)(9) of the Internal Revenue Code applies to the plan if the**  
 186 **plan complies with a reasonable and good faith interpretation of**  
 187 **Section 401(a)(9) of the Internal Revenue Code.**

86.255. 1. Notwithstanding any other provision of the plan established  
 2 in sections 86.200 to 86.366, if an eligible rollover distribution becomes payable  
 3 to a distributee, the distributee may elect, at the time and in the manner  
 4 prescribed by the board of trustees, to have any of the eligible rollover  
 5 distribution paid directly to an eligible retirement plan specified by the  
 6 distributee in a direct rollover.

7 2. For purposes of this section, the following terms mean:

8 (1) "Direct rollover", a payment by the board of trustees from the fund to  
 9 the eligible retirement plan specified by the distributee;

10 (2) "Distributee", a member, a surviving spouse [or], a spouse, **or former**  
 11 **spouse who is the alternate payee under a qualified domestic relations**

12 **order, as defined in Section 414(p) of the Internal Revenue Code, or,**  
13 **effective for distributions made on or after January 1, 2010, a non-**  
14 **spouse beneficiary;**

15 (3) "Eligible retirement plan", an individual retirement account described  
16 in Section 408(a) of the Internal Revenue Code, an individual retirement annuity  
17 described in Section 408(b) of the Internal Revenue Code, or a qualified trust  
18 described in Section 401(a) of the Internal Revenue Code that accepts the  
19 distributee's eligible rollover distribution or, effective for eligible rollover  
20 distributions made on or after January 1, 2002, an annuity contract described in  
21 Section 403(b) of the Internal Revenue Code or an eligible plan under Section  
22 457(b) of the Internal Revenue Code which is maintained by a state, political  
23 subdivision of a state, or any agency or instrumentality of a state or political  
24 subdivision of a state and which agrees to separately account for amounts  
25 transferred into such plan from this plan, and shall include, for eligible rollover  
26 distributions made on or after January 1, 2002, a distribution to a surviving  
27 spouse or to a spouse or former spouse who is the alternate payee under a  
28 qualified domestic relations order, as defined in Section 414(p) of the Internal  
29 Revenue Code. **Effective for distributions made on or after January 1,**  
30 **2008, an eligible retirement plan shall also include a Roth IRA as**  
31 **described in Section 408 of the Internal Revenue Code, provided that**  
32 **for distributions made on or after January 1, 2010 to a non-spouse**  
33 **beneficiary, an eligible retirement plan shall include only an individual**  
34 **retirement account described in Section 408(a) of the Internal Revenue**  
35 **Code, an individual retirement annuity described in Section 408(b) of**  
36 **the Internal Revenue Code, or a Roth IRA described in Section 408A of**  
37 **the Internal Revenue Code that is an inherited individual retirement**  
38 **account or annuity under Section 408 of the Internal Revenue Code;**

39 (4) "Eligible rollover distribution", any distribution of all or any portion  
40 of a member's benefit, other than:

41 (a) A distribution that is one of a series of substantially equal periodic  
42 payments, made not less frequently than annually, for the life or life expectancy  
43 of the distributee or for the joint lives or joint life expectancies of the distributee  
44 and the distributee's designated beneficiary, or for a specified period of ten years  
45 or more;

46 (b) The portion of a distribution that is required under Section 401(a)(9)  
47 of the Internal Revenue Code; or

48 (c) Effective for distributions made on or after January 1, 2002, a portion  
49 of a distribution shall not fail to be an eligible rollover distribution merely  
50 because the portion consists of after-tax employee contributions which are not  
51 includable in gross income. However, **for distributions made before January**  
52 **1, 2007**, such portion may be transferred only to an individual retirement account  
53 or annuity described in Section 408(a) or (b) of the Internal Revenue Code, or to  
54 a qualified defined contribution plan described in Section 401(a) or 403(a) of the  
55 Internal Revenue Code that agrees to separately account for amounts so  
56 transferred, including to separately account for the portion of such distribution  
57 which is includable in gross income and the portion that is not so includable; **for**  
58 **distributions made on or after January 1, 2007**, such portion may also  
59 **be transferred to an annuity contract described in Section 403(b) of the**  
60 **Internal Revenue Code or to a qualified defined benefit plan described**  
61 **in Section 401(a) of the Internal Revenue Code that agrees to separately**  
62 **account for amounts so transferred, including to separately account for**  
63 **the portion of such distribution which is includable in gross income**  
64 **and the portion that is not so includable; and for distributions made on**  
65 **or after January 1, 2008**, such portion may also be transferred to a Roth  
66 **IRA described in Section 408A of the Internal Revenue Code.**

67 3. The board of trustees shall, at least thirty days, but not more than  
68 ninety days, before making an eligible rollover distribution, provide a written  
69 explanation to the distributee in accordance with the requirements of Section  
70 402(f) of the Internal Revenue Code.

71 4. If the eligible rollover distribution is not subject to Sections 401(a) and  
72 417 of the Internal Revenue Code, such eligible rollover distribution may be made  
73 less than thirty days after the distributee has received the notice described in  
74 subsection 3 of this section, provided that:

75 (1) The board of trustees clearly informs the distributee of the  
76 distributee's right to consider whether to elect a direct rollover, and if applicable,  
77 a particular distribution option, for at least thirty days after the distributee  
78 receives the notice; and

79 (2) The distributee, after receiving the notice, affirmatively elects a  
80 distribution.

81 5. Notwithstanding any provision of sections 86.200 to 86.366 to the  
82 contrary, in no event shall the trustees pay an eligible rollover distribution in the  
83 amount of five thousand dollars or less to a member or retired member who has

84 not attained age sixty-two unless such member or retired member consents in  
85 writing either to receive such distribution in cash or to have such distribution  
86 directly rolled over in accordance with the provisions of this section.

86.256. 1. In no event shall a member's annual benefit paid under the  
2 plan established pursuant to sections 86.200 to 86.366 exceed the amount  
3 specified in Section 415(b)(1)(A) of the Internal Revenue Code, as adjusted for any  
4 applicable increases in the cost of living, as in effect on the last day of the plan  
5 year, including any increases after the member's termination of employment.

6 2. Effective for limitation years beginning after December 31, 2001, in no  
7 event shall the annual additions to the plan established pursuant to sections  
8 86.200 to 86.366, on behalf of the member, including the member's own  
9 mandatory contributions, exceed the [lesser of:

10 (1) One hundred percent of the member's compensation, as defined for  
11 purposes of Section 415(c)(3) of the Internal Revenue Code, for the limitation  
12 year; or

13 (2) Forty thousand dollars, as adjusted for increases in the cost of living  
14 under Section 415(d) of the Internal Revenue Code.

15 3. Effective for limitation years beginning prior to January 1, 2000, in no  
16 event shall the combined plan limitation of Section 415(e) of the Internal Revenue  
17 Code be exceeded; provided that, if necessary to avoid exceeding such limitation,  
18 the member's annual benefit under the plan established pursuant to sections  
19 86.200 to 86.366 shall be reduced to the extent necessary to satisfy such  
20 limitations.

21 **4.] amount specified in Section 415(c) of the Internal Revenue**  
22 **Code, as adjusted for any applicable increases in the cost of living**  
23 **pursuant to Section 415(d) of the Internal Revenue Code, as in effect on**  
24 **the last day of the plan year.**

25 **3.** For purposes of this section, Section 415 of the Internal Revenue Code,  
26 including the special rules under Section 415(b) applicable to governmental plans  
27 and qualified participants employed by a police or fire department, is  
28 incorporated in this section by reference.

86.294. 1. Notwithstanding any other provision of the plan established  
2 in sections 86.200 to 86.366, and subject to the provisions of subsections 2[, 3,]  
3 and [4] 3 of this section, effective January 1, 2002, the plan shall accept a  
4 member's rollover contribution or direct rollover of an eligible rollover  
5 distribution made on or after January 1, 2002, from a qualified plan described in

6 Section 401(a) or 403(a) of the Internal Revenue Code, or an annuity contract  
7 described in Section 403(b) of the Internal Revenue Code, or an eligible plan  
8 under Section 457(b) of the Internal Revenue Code which is maintained by a  
9 state, political subdivision of a state, or any agency or instrumentality of a state  
10 or political subdivision of a state, **and that would otherwise be includable**  
11 **in gross income.** The plan will also accept a member's rollover contribution of  
12 the portion of a distribution from an individual retirement account or annuity  
13 described in Section 408(a) or (b) of the Internal Revenue Code that is eligible to  
14 be rolled over and would otherwise be includable in gross income. **The plan**  
15 **shall accept a member's direct rollover of an eligible rollover**  
16 **distribution made on or after October 1, 2011, from a qualified plan**  
17 **described in Section 401(a) or 403(a) of the Internal Revenue Code or**  
18 **an annuity contract described in 403(b) of the Internal Revenue Code**  
19 **that includes after-tax employee contributions, other than Roth**  
20 **contributions described in Section 402A of the Internal Revenue Code,**  
21 **that are not includable in gross income and shall separately account for**  
22 **such after-tax amounts.**

23       2. **Except to the extent specifically permitted under procedures**  
24 **established by the board of trustees,** the amount of such rollover  
25 contribution or direct rollover of an eligible rollover distribution shall not exceed  
26 the amount required to repay the member's accumulated contributions plus the  
27 applicable members' interest thereon from the date of withdrawal to the date of  
28 repayment in order to receive credit for such prior service in accordance with  
29 section 86.210, to the extent that Section 415 of the Internal Revenue Code does  
30 not apply to such repayment by reason of subsection (k)(3) thereof, or to purchase  
31 permissive service credit, as defined in Section 415(n)(3)(A) of the Internal  
32 Revenue Code, for the member under the plan in accordance with the provisions  
33 of section 105.691.

34       3. Acceptance of any rollover contribution or direct rollover of **an** eligible  
35 rollover distribution under this section shall be subject to the approval of the  
36 board of trustees and shall be made in accordance with procedures established by  
37 the board of trustees.

38       [4. In no event shall the plan accept any rollover contribution or direct  
39 rollover distribution to the extent that such contribution or distribution consists  
40 of after-tax employee contributions which are not includable in gross income.]

**86.295. Notwithstanding any provision of sections 86.200 to 86.366**

2 to the contrary, if a member dies on or after January 1, 2007, while  
3 performing qualified military service, as defined in Section 414(u)(5) of  
4 the Internal Revenue Code, the member's surviving spouse or other  
5 dependents shall be entitled to any benefits, other than benefit  
6 increases relating to the period of qualified military service, and the  
7 rights and features associated with those benefits which would have  
8 been provided under sections 86.280 and 86.290 if the member had  
9 returned to service as a police officer and died while in active service.

86.354. A member's benefit shall be one hundred percent vested and  
2 nonforfeitable upon the **first of the following to occur:**

3 (1) **The** member's attainment of [normal retirement age of the earlier of]  
4 age fifty-five [or], **the normal retirement age;**

5 (2) **The member's** completion of twenty years of creditable service  
6 **regardless of age;** or[, if earlier, and to the extent funded, upon]

7 (3) The termination of the plan established pursuant to sections 86.200  
8 to 86.366, **to the extent the plan is funded.**

9 Forfeitures of any nature under such plan shall not be used to increase the  
10 benefits of any member, but shall be used to reduce the city's contributions  
11 pursuant to section 86.243.

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