

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 196
90TH GENERAL ASSEMBLY

Reported from the Committee on Urban Affairs, April 20, 1999, with recommendation that the House Committee Substitute for Senate Bill No. 196 Do Pass.

ANNE C. WALKER, Chief Clerk

L0669.02C

AN ACT

To repeal sections 86.450, 86.457 and 105.691, RSMo Supp. 1998, relating to certain retirement systems, and to enact in lieu thereof three new sections relating to the same subject.

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

Section A. Sections 86.450, 86.457 and 105.691, RSMo Supp. 1998, are repealed and three new sections enacted in lieu thereof, to be known as sections 86.450, 86.457 and 105.691, to read as follows:

86.450. 1. [If the board of police commissioners determines that] Any member [has become totally and] **who is permanently [incapacitated for duty] unable to perform the full and unrestricted duties of a police officer** as the natural [and], proximate **and exclusive** result of an accident occurring within the actual performance of duty at some definite time [or] **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 [incapacitated for further performance of duty as a policeman] **unable to perform the full and unrestricted duties of a police officer**, that the [incapacity] **inability** is permanent or likely to become permanent, and that the member should be retired[, such member shall be entitled to a disability benefit upon the terms and conditions provided in this section]. **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 sixty 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

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

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 [no longer totally and permanently incapacitated for duty] **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] **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 [under] **pursuant to** this section.

6. If upon cessation of a disability pension [under] **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.

86.457. 1. [If a] **Any member who** has completed ten or more years of creditable service and [if the board of police commissioners determines that such member] **who** has become permanently [incapacitated for duty] **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 [such] **the** member is mentally or physically [incapacitated for further performance of duty as a policeman] **unable to perform the full and unrestricted duties of a police officer**, that the incapacity is permanent or likely to become permanent[, and that [such] **the** member should be retired[, such member shall be entitled to a disability benefit upon the terms and conditions provided in this section]. **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 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 [no longer totally and permanently incapacitated for duty] **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.

105.691. 1. As used in this section, unless a different meaning is plainly required by the context, the following terms mean:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of an individual and credited to the person's individual account in the applicable plan, together with interest allowed thereon by the plan;

(2) "Creditable service", the service of an individual, whether rendered while a member of a plan or not, which is recognized by a plan in determining the individual's eligibility for and the amount of the individual's benefits under the plan;

(3) "Plan" or "retirement plan", any retirement system established by the state of Missouri or any political subdivision or instrumentality of the state for the purpose of providing plan benefits for elected or appointed public officials or employees of the state of Missouri or any political subdivision or instrumentality of the state;

(4) "Receiving plan", a plan which pursuant to this section is receiving funds from another plan or an individual to provide creditable service for that individual;

(5) "Transferring plan", a plan which pursuant to this section is transferring funds to another plan for the purpose of providing creditable service for an individual;

(6) "Vested", having the right to receive the payment of a benefit from the plan, whether at present or at a future time. **For the purpose of determining eligibility for transferring service credit, all plans shall be deemed to have five-year vesting.**

2. Any retirement plan as defined in this section may enter into cooperative agreements to transfer creditable service from one retirement plan to another when a member who has been employed in a position covered by one plan is employed in a position covered by another plan. If any two plans already have in place on August 28, 1992, a cooperative agreement for transferring service between those plans, the existing agreement may remain in force upon agreement of both plans.

3. Any individual who has not yet retired and has earned creditable service under the provisions of a retirement plan which has entered into a cooperative agreement as specified in subsection 2 of this section, and who is vested in any plan may elect in writing to transfer the individual's creditable service from one plan to another plan upon employment and vesting in a position covered by the receiving plan. Within sixty days of such election the plan from which the individual is transferring shall transfer on the individual's behalf to the receiving plan an amount equal to the employee's pension benefit obligation at the time of transfer using the same assumption used in performing the last regular actuarial valuation of the transferring plan; except that in no event shall the transferred amount be less than the employee's accumulated contributions on deposit with the transferring plan.

4. The receiving plan shall determine, using accepted actuarial methods, the value of transferred service in the receiving plan. The amount of creditable service which shall be

recognized in the receiving plan shall be determined by the actuarial value of the funds transferred, but in no event shall such creditable service exceed the actual number of years of creditable service from the transferring plan. If the actuarial value of the funds transferred to the receiving plan is less than that required to fund the liability created by the actual number of years of creditable service in the transferring plan, the employee may purchase additional creditable service in the receiving plan up to the actual number of years of creditable service in the transferring plan by paying the amount required by the receiving plan.

5. Any individual having earned creditable service under the provisions of any of the retirement plans identified in this section who is not vested in such plans and who becomes employed and vested in a position covered by another retirement plan identified in this section shall be permitted to purchase creditable service in the plan in which the individual is vested up to the actual number of years of creditable service the individual has in the other plans. The cost shall be determined using accepted actuarial methods by the receiving plan.

6. Payment in full of an amount due by an individual electing to transfer or purchase creditable service pursuant to this section shall be made over a period not to exceed two years, measured from the date of election, or prior to the effective date of retirement benefit payments to that individual by the receiving plan, whichever is earlier, and with interest compounded annually at the actuarially assumed interest rate of the plan receiving the payments. If payment in full is not made within this prescribed time period, any partial payments made by the individual because of the election shall be refunded, and no creditable service shall be allowable in the receiving plan as a result of the partial payments.

7. Any individual employed in nonfederal public employment in Missouri but not covered by a retirement plan who becomes employed and vested in a position covered by a retirement plan identified in this section shall be permitted to purchase creditable service in the plan up to the actual number of years of public service in an uncovered position. The cost and creditable service allowed shall be determined using accepted actuarial methods by the receiving plan.

8. When an individual elects to transfer creditable service from one plan to another plan, the individual thereby forfeits any claim to any benefit based on such service under the provisions of the retirement plan from which the creditable service is transferred.

9. In no event shall any individual receive credit or benefits for the same period of service or employment under more than one retirement plan as a consequence of transfer or purchase pursuant to the provisions of this section. Benefits paid on the basis of creditable service transferred or purchased pursuant to the provisions of this section shall be calculated using the formula applicable to the receiving plan.