

FIRST REGULAR SESSION

# SENATE BILL NO. 196

90TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR DePASCO,

Pre-filed December 30, 1998, and 1,000 copies ordered printed.

S0669.011

TERRY L. SPIELER, Secretary.

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## AN ACT

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

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

Section A. Sections 86.450 and 86.457, RSMo Supp. 1998, are repealed and two new sections enacted in lieu thereof, to be known as sections 86.450 and 86.457, to read as follows: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 final compensation for so long as the permanent disability shall continue, during which time such

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

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 retirement, and at least once in every three-year period thereafter, the retirement board may, and upon the member's application shall, require any disability beneficiary who has not yet attained the age of sixty years, to undergo a medical examination at a place designated by the medical board or some member thereof. If any disability beneficiary who has not attained the age of sixty years refuses to submit to a medical examination his disability pension may be discontinued until his withdrawal of such refusal, and if his 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 subsection 4 of this section, the former disability beneficiary is restored to active service, he shall again become a member, and he shall contribute thereafter at the same rate as other members. Upon his subsequent retirement, he shall be credited with all his service as a member, including any years in which such disability beneficiary received a disability pension under this section.

6. If upon cessation of a disability pension under subsection 4 of this section, the former disability beneficiary is not restored to active service, such 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 nonduty disability pension may be discontinued until his withdrawal of such refusal, and if his 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.

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