

FIRST REGULAR SESSION

# HOUSE BILL NO. 1020

## 91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE O'TOOLE.

Read 1<sup>st</sup> time March 15, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2310L.011

### AN ACT

To repeal sections 87.050, 87.095, 87.120, 87.130, 87.135, 87.170, 87.185, 87.205, 87.215, 87.237, 87.240, 87.288, 87.310, 87.445, 87.450 and 87.470, RSMo 2000, and to enact in lieu thereof sixteen new sections relating to firefighter's retirement.

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

Section A. Sections 87.050, 87.095, 87.120, 87.130, 87.135, 87.170, 87.185, 87.205, 87.215, 87.237, 87.240, 87.288, 87.310, 87.445, 87.450 and 87.470, RSMo 2000, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 87.050, 87.095, 87.120, 87.130, 87.135, 87.170, 87.185, 87.205, 87.215, 87.237, 87.240, 87.288, 87.310, 87.445, 87.450 and 87.470, to read as follows:

87.050. 1. If any member shall be killed or die while in the performance of his **or her** duty or as the result of any injury received in the line of duty, or of any disease contracted by reason of his **or her** occupation, or shall die from any cause whatever while a member of said fire department, or shall die while receiving a disability or service pension, and shall leave a [widow] **surviving spouse** or child or children under the age of eighteen years surviving, said board of trustees shall order and direct the payment from the pension fund, monthly, to such [widow] **surviving spouse**, a sum equal to not less than twenty percent of the monthly compensation allowed a first class [fireman] **firefighter** of the fire department as salary at the date of the death of the member or seventy-five dollars, whichever is greater; and to or for the benefit of each child until [it] **the child** reaches the age of eighteen, a sum equal to not less than five percent of the monthly compensation allowed a first class [fireman] **firefighter** of the fire department as salary at the date of the death of the member; and to or for each unmarried child,

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

13 regardless of age, who is totally and permanently mentally or physically incapacitated from  
14 engaging in gainful employment sufficiently remunerative to support himself **or herself**, a sum  
15 equal to five percent of the monthly compensation allowed a first class [fireman] **firefighter** of  
16 the fire department as salary at the date of the death of the member; provided that no benefits  
17 shall be paid to or for any child over eighteen years of age who is totally and permanently  
18 mentally or physically disabled or incapacitated if such child is a patient or ward in a publicly  
19 supported institution. In the case of [widows] **surviving spouses**, payments shall be made only  
20 to those [widows] **surviving spouses** whose marriage to the member occurred prior to his **or her**  
21 retirement on disability or service pension, and shall be made only while said [widow] **surviving**  
22 **spouse** is unmarried and are to cease forever immediately upon remarriage. In the case of  
23 children no payments shall be made to or for any child born or adopted after the effective date  
24 of the member's retirement on disability or service pension, or the date of his **or her** death, and  
25 payments shall not be made for more than three eligible children and, if there are more than three  
26 eligible children, payments shall be made for the three youngest eligible children. If the member  
27 who dies is a member of a volunteer department, the amount to be paid monthly to his [widow]  
28 **or her surviving spouse** and children aforesaid shall be fixed by the board of trustees.

29       2. Any [widow] **surviving spouse** who is receiving survivors' pension benefits [under]  
30 **pursuant to** the provisions of this section as it existed at any time prior to August 13, 1982,  
31 upon application to the board of trustees, shall be employed by the board as a special consultant  
32 on the problems of retirement, aging, and other pension system matters for the remainder of **his**  
33 **or her** life and upon request of the board shall give opinions in writing or orally, as may be  
34 requested, and for such services shall be compensated monthly in an amount equal to the  
35 difference between the amount of the monthly pension benefit the [widow] **surviving spouse**  
36 is receiving for **himself or herself** and seventy-five dollars. This compensation shall be  
37 consolidated with the pension benefits the [widow] **surviving spouse** is receiving and shall be  
38 paid out of the same fund as are such benefits. Employment as a special consultant shall in no  
39 way affect any [widow's] **surviving spouse's** eligibility for survivors' pension benefits or in any  
40 way have the effect of reducing such benefits, other provisions of law to the contrary  
41 notwithstanding.

87.095. Whenever an active or retired [fireman] **firefighter** shall die, as aforesaid, the  
2 board of trustees shall appropriate from the fund a sum not exceeding one hundred and fifty  
3 dollars to the [widow] **surviving spouse** or family for funeral expenses. In cities not within a  
4 county the payment for funeral expenses shall be two thousand dollars, and shall be paid solely  
5 from moneys within the pension fund.

87.120. The following words and phrases as used in sections 87.120 to 87.370, unless  
2 a different meaning is plainly required by the context, have the following meanings:

3 (1) "Accumulated contributions", the sum of all amounts deducted from the  
4 compensation of a member and credited to his **or her** individual account in the members' savings  
5 fund together with interest thereon;

6 (2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of  
7 such mortality tables and interest rate as shall be adopted by the board of trustees;

8 (3) "Average final compensation", the average earnable compensation of the member  
9 during his **or her** last two years of service as a [fireman] **firefighter**, or if [he] **the firefighter**  
10 has less than two years of service, then the average earnable compensation of his **or her** entire  
11 period of service;

12 (4) "Beneficiary", any person in receipt of a retirement allowance or other benefit as  
13 provided by sections 87.120 to 87.370;

14 (5) "Benefit reserve", the present value of all payments to be made on account of any  
15 retirement allowance or benefit in lieu of a retirement allowance upon the basis of such mortality  
16 tables and interest rate as shall be adopted by the board of trustees;

17 (6) "Board of trustees", the board provided for in section 87.140 to administer the  
18 retirement system;

19 (7) "City", any city not within a county and adopting the retirement system provided by  
20 sections 87.120 to 87.370;

21 (8) "Creditable service", prior service plus membership service as provided in section  
22 87.135;

23 (9) "DROP", the deferred retirement option plan provided in section 87.182;

24 (10) "Earnable compensation", the regular compensation which a member would earn  
25 during one year on the basis of the stated compensation for his **or her** rank or position;

26 (11) "[Fireman] **Firefighter**", any officer or employee of the fire department of the city  
27 employed by the city for the duty of fighting fires, but does not include anyone employed in a  
28 clerical or other capacity not involving fire-fighting duties. In case of doubt as to whether any  
29 person is a [fireman] **firefighter** within the meaning of sections 87.120 to 87.370, the decision  
30 of the board of trustees shall be final;

31 (12) "Medical board", the board of physicians provided for in section 87.160;

32 (13) "Member", a member of the retirement system as defined by section 87.130;

33 (14) "Membership service", service as a [fireman] **firefighter** rendered since last  
34 becoming a member;

35 (15) "Prior service", all service as a [fireman] **firefighter** rendered prior to the date the  
36 system becomes operative which is creditable in accordance with the provisions of section  
37 87.135;

38 (16) "Retirement allowance", annual payments for life which shall be payable in equal

39 monthly installments or any benefits in lieu thereof granted to a member upon retirement or to  
40 a beneficiary;

41 (17) "Retirement system", the [firemen's] **firefighter's** retirement system of any city as  
42 defined in section 87.125[;

43 (18) "Widow", the surviving spouse of a member].

87.130. 1. All persons who are [firemen] **firefighters** shall be members as a condition  
2 of their employment and shall receive no pension or retirement allowance from any other pension  
3 or retirement system supported wholly or in part by the city or the state of Missouri because of  
4 years of service for which they are entitled to benefits under this system nor shall they be  
5 required to make contributions under any other pension or retirement system of the city or the  
6 state of Missouri, anything to the contrary notwithstanding.

7 2. If any member, in any period of five consecutive years after last becoming a member,  
8 is absent from service for more than four years unless the member has twenty years or more of  
9 creditable service, or if any member withdraws the member's accumulated contributions, or if  
10 any member becomes a beneficiary, the person shall thereupon cease to be a member; except in  
11 the case of a member who has served in the armed forces of the United States or retired pursuant  
12 to section 87.170 and is subsequently reinstated as a [fireman] **firefighter** or as a member in  
13 beneficiary status as a [widow] **surviving spouse**.

14 3. Any member who is reinstated after retiring pursuant to conditions in section 87.170  
15 shall not be eligible to participate in the benefit provided pursuant to section 87.182.

87.135. 1. Under such rules and regulations as the board of trustees shall adopt, each  
2 member who was a [fireman] **firefighter** on and prior to the date of the establishment of the  
3 retirement system shall file a detailed statement of all service as a [fireman] **firefighter** rendered  
4 by him **or her** prior to that date for which [he] **the firefighter** claims credit.

5 2. The board of trustees shall fix and determine by proper rules and regulations how  
6 much service in any year is equivalent to one year of service, but in no case shall more than one  
7 year of service be creditable for all service in one calendar year, nor shall the board of trustees  
8 allow credit as service for any period of more than one month's duration during which the  
9 member was absent without pay.

10 3. Subject to the above restrictions and to such other rules and regulations as the board  
11 of trustees may adopt, the board of trustees shall verify the service claims as soon as practicable  
12 after the filing of the statement of service.

13 4. Upon verification of the statements of service the board of trustees shall issue prior  
14 service certificates, certifying to each member the length of prior service with which [he] **the**  
15 **member** is credited on the basis of his **or her** statement of service. So long as the holder of the  
16 certificate continues to be a member, a prior service certificate shall be final and conclusive for

17 retirement purposes as to such service, except that any member may, within one year from the  
18 date of issuance or modification of the certificate, request the board of trustees to modify or  
19 correct [his] **the member's** prior service certificate, and upon such request or of its own motion  
20 the board may correct the certificate. When any [fireman] **firefighter** ceases to be a member his  
21 **or her** prior service certificate shall become void. Should he **or she** again become a member, he  
22 **or she** shall enter the retirement system as a member not entitled to prior service credit except  
23 as provided in section 87.215.

24         5. Creditable service at retirement on which the retirement allowance of a member shall  
25 be based shall consist of creditable membership service rendered by him **or her**, and also if [he]  
26 **the member** has a prior service certificate which is in full force and effect, the amount of the  
27 service certified on [his] **the member's** prior service certificate. Service rendered by a [fireman]  
28 **firefighter** after the operative date and prior to becoming a member shall be included as  
29 creditable membership service provided the service was rendered since he **or she** last became  
30 a [fireman] **firefighter**.

       87.170. Retirement of a member on a service retirement allowance shall be made by the  
2 board of trustees as follows:

3         (1) Any member may retire upon the member's written application to the board of  
4 trustees setting forth at what time, not less than thirty days nor more than ninety days subsequent  
5 to the execution and filing therefor, the member desires to be retired, if the member at the time  
6 so specified for such member's retirement has twenty-five years or more of service; except that  
7 a member who ceases to be a [fireman] **firefighter** after twenty years or more of service may  
8 retire prior to the twenty-five years of service with a retirement allowance based on the member's  
9 years of service;

10         (2) Any member in service upon attaining the age of sixty, if qualifying for a service  
11 retirement allowance equal to seventy-five percent of the average final compensation, shall be  
12 retired forthwith; except that with respect to any member, the board shall not retire such member  
13 when the member attains sixty years of age or more merely because the member has attained that  
14 age unless the member so requests or the member has completed thirty or more years of service,  
15 even if a portion of such service is not creditable service pursuant to participation in the deferred  
16 retirement option plan prescribed by section 87.182;

17         (3) Any member who qualifies for a service retirement allowance of seventy-five percent  
18 or over and has not attained sixty years of age may be retained as a member until sixty years of  
19 age, with no increase in retirement allowance.

       87.185. If, at any time since first becoming a member of the retirement system, a member  
2 has served in the armed forces of the United States, in any war or period of armed hostilities  
3 between the armed forces of the United States and those of a foreign power, and is subsequently

4 reinstated as a [fireman] **firefighter** within ninety days after his **or her** discharge, [he] **the**  
5 **member** shall be granted credit for such service as if his **or her** service in the fire department  
6 of the city had not been interrupted by his **or her** induction into the armed forces of the United  
7 States, and as if [he] **the member** had made the required contributions during such service. If  
8 earnable compensation is needed for such period in computation of benefits it shall be calculated  
9 on the basis of the compensation payable to the officers of his **or her** rank during the period of  
10 his **or her** absence.

87.205. 1. Upon retirement for accidental disability, a member shall receive seventy-five  
2 percent of the pay then provided by law for the highest step in the range of salary for the title or  
3 rank held by such member at the time of such retirement unless the member is permanently and  
4 totally incapacitated from performing any work, occupation or vocation of any kind whatsoever  
5 and is continuously confined to the member's home except for visits to obtain medical treatment,  
6 in which event the member may receive, in the discretion of the board of trustees, a retirement  
7 allowance in an amount not exceeding the member's rate of compensation as a [fireman]  
8 **firefighter** in effect as of the date the allowance begins.

9 2. Anyone who has retired pursuant to the provisions of section 87.170 and has been  
10 reinstated pursuant to subsection 2 of section 87.130 who subsequently becomes disabled, as  
11 provided in section 87.200, shall receive a total benefit which is the higher of either the disability  
12 pension or the service pension.

87.215. 1. If the medical board reports and certifies to the board of trustees that the  
2 disability beneficiary is engaged or is able to engage in a gainful occupation other than [fireman]  
3 **firefighter** paying more than the difference between his **or her** retirement allowance and one and  
4 one-half times the then current rate of pay for the rank held by the member at the time of  
5 retirement, and if the board of trustees concurs in the report, then the amount of his **or her**  
6 retirement allowance shall be reduced to an amount which together with the amount earnable by  
7 him **or her** in such other occupation shall equal the amount of such current rate of pay. If his  
8 **or her** earning capacity is later changed, the amount of his **or her** retirement may be further  
9 modified. If any such disability beneficiary is found by such medical board to be able to engage  
10 in the occupation of [fireman] **firefighter**, his **or her** retirement allowance shall not cease until  
11 he **or she** is restored to active service at the position and title held by such disability beneficiary  
12 at the time such disability occurred.

13 2. If a disability beneficiary is restored to active service, his **or her** retirement allowance  
14 shall cease and he **or she** shall again become a member. His **or her** creditable service at the time  
15 of his **or her** retirement shall be restored to full force and effect and in addition, upon his **or her**  
16 subsequent retirement, he **or she** shall be credited with all his **or her** additional service as a  
17 member, and if his **or her** then average final compensation is less than the average final

18 compensation used in determining his **or her** disability benefits, the latter amount shall be used  
19 in determining benefits. In addition, an accident disabled member restored to active service shall  
20 be credited with all the time he **or she** has served as a beneficiary.

87.237. 1. Any person who served as a [fireman] **firefighter** and who is retired and  
2 receiving a retirement allowance of less than one hundred percent of the federal poverty level for  
3 a single person as set and updated by the United States Department of Health and Human  
4 Services or its successor agency may act as a special advisor to the retirement system.

5 2. For the additional service as a special advisor, each retired person shall receive, in  
6 addition to the retirement allowance provided [under] **pursuant to** this chapter, an additional  
7 amount, which amount, together with the retirement allowance he **or she** is receiving [under]  
8 **pursuant to** other provisions of this chapter, shall equal, but not exceed, one hundred percent  
9 of the federal poverty level for a single person as set and updated by the United States  
10 Department of Health and Human Services or its successor agency. Any retirement allowance  
11 paid to a retiree [under] **pursuant to** this subsection shall be withdrawn from the [firemen's]  
12 **firefighters'** retirement and relief system fund and no moneys shall be withdrawn from the  
13 general revenue fund of any city not within a county.

87.240. If a member ceases to be a [fireman] **firefighter** except by death or retirement,  
2 [he] **the firefighter** shall be paid on demand the amount of his **or her** accumulated contributions  
3 standing to the credit of his **or her** individual account in the members' savings fund, and such  
4 a member who has left his **or her** contributions with the system may later withdraw his **or her**  
5 accumulated contributions at any time prior to the beginning of his **or her** retirement benefits.

87.288. 1. Any person who served as a [fireman] **firefighter** who is retired and not  
2 receiving a cost-of-living benefit and any [widow] **surviving spouse** or dependent child  
3 receiving retirement benefits, but not receiving a cost-of-living benefit shall be made,  
4 constituted, and appointed as a special consultant on the problems of retirement, aging, and other  
5 state matters, and be available to give opinion in writing or orally, in response to such requests  
6 as may be required and for such services shall be compensated annually in accordance with the  
7 provisions of subsection 2 of this section.

8 2. Effective September 1, 1996, and annually thereafter, one-half of the annual interest  
9 earned in the future benefits fund created [under] **pursuant to** section 87.287 shall be  
10 appropriated to provide an ad hoc COLA administered by the board of trustees and from  
11 September 1, 2016, and annually thereafter three-fourths of the annual interest earned in the  
12 future benefits fund created [under] **pursuant to** section 87.287 shall be appropriated to provide  
13 an ad hoc COLA administered by the board of trustees based upon the formula in this subsection.  
14 The distributable amount shall be divided by the number of retirees and surviving spouses and  
15 dependent children eligible to receive the ad hoc COLA [under] **pursuant to** this provision

16 calculated and distributed based upon the following years of service:

17 (1) Members retiring with thirty or more years of service shall receive a full share of the  
18 distributable amount;

19 (2) Members retiring with twenty-five or more years of service but less than thirty years  
20 shall receive a three-quarter share of the distributable amount;

21 (3) Members retiring with less than twenty-five years shall receive a one-half share of  
22 the distributable amount;

23 (4) Surviving spouses and dependent children shall receive one-half of the ad hoc COLA  
24 the member would have been entitled to receive.

87.310. When any member terminates his **or her** employment as a [fireman] **firefighter**  
2 and withdraws his **or her** accumulated contributions from the retirement system, he **or she**  
3 ceases to be a member of the retirement system. If he **or she** is reinstated as a [fireman he]  
4 **firefighter he or she** will again become a member of the retirement system as a new member  
5 with no creditable service prior to his **or her** termination. However, any member currently  
6 employed as a [fireman] **firefighter** may repay the retirement system his **or her** total  
7 accumulated contribution withdrawn at the time of his **or her** termination and an amount of  
8 interest on such contribution at the same rate per annum as allowed in the member's savings  
9 account in the same period. Such repayment shall occur within two years after August 13, 1984,  
10 and when made the member shall then receive full credit for service prior to the date of his **or**  
11 **her** termination.

87.445. If any member of such fire department shall, while in the performance of his **or**  
2 **her** duty, be killed or die as the result of an injury received in the line of [his] duty, or of any  
3 disease contracted by reason of his **or her** occupation as [fireman] **firefighter**, or shall die from  
4 any cause whatever while in such service, and shall leave a [widow] **surviving spouse**, or child  
5 or children under the age of sixteen years, surviving, said board of trustees shall direct the  
6 payment from said pension fund monthly to such [widow] **surviving spouse**, while unmarried,  
7 such sum of money as may be determined by the rules and regulations provided for the  
8 management of such funds, and said board shall also direct the payment out of said pension fund  
9 for each child until [it] **the child** reaches the age of sixteen years such sum of money as may be  
10 determined by said rules and regulations, and in case the party suffering such disability is a  
11 member of the volunteer department, the amount to be paid monthly to his [widow] **or her**  
12 **surviving spouse** and children aforesaid shall be fixed by said board of trustees. If there be no  
13 [widow] **surviving spouse**, or if such [widow die] **surviving spouse dies** while unmarried, the  
14 amount of **his or her** said benefits may be added to the said benefits for such children. If any  
15 member of the fire department shall die from any cause while a member of such department, but  
16 not while in the service thereof, if he **or she** be married his [widow] **or her surviving spouse**



17 and children shall receive from the pension fund the same benefits as are payable from the  
18 pension fund in other cases, and if he **or she** be unmarried his **or her** dependent father, mother,  
19 brothers and sisters shall receive from the pension fund the same benefits as are payable from  
20 said fund in other cases.

87.450. If any member of such fire department being single and unmarried shall, while  
2 in the performance of his **or her** duty, be killed, or die, as the result of an injury received, or shall  
3 die of any disease contracted by reason of his **or her** occupation as [fireman] **firefighter**, or shall  
4 die from any cause whatever while in said service, and shall leave a father or mother who are  
5 dependent upon him **or her** for support, or a brother or sister under the age of sixteen years so  
6 dependent, said board of trustees shall direct the payment from the pension fund monthly to such  
7 dependent parents or the survivor thereof and to each such dependent brother or sister under  
8 sixteen years of age, such sum of money as may be determined by the rules and regulations of  
9 said board; provided, that the board of trustees shall also have the power to make provision for  
10 any such dependent brother or sister over the age of sixteen years who may be mentally deficient  
11 or physically incapacitated, in such sum as the board may determine, and the board shall have the  
12 sole power to determine who is mentally deficient or physically incapacitated.

87.470. Whenever an active or retired [fireman] **firefighter** shall die, as aforesaid, the  
2 board of trustees may appropriate a sum not exceeding two hundred dollars for funeral expenses,  
3 to be paid out of the pension fund and may expend a sum not exceeding fifty dollars, to be drawn  
4 from the pension fund, for the expenses of the attendance of the [firemen] **firefighters** at said  
5 funeral.