

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILLS NOS. 152 & 180**  
**92ND GENERAL ASSEMBLY**

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Reported from the Committee on Pensions and General Laws, April 15, 2003, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

0385S.07C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 86.251, 86.370, 86.393, 86.398, 86.407, 86.447, 86.600, 86.671, 86.690, 86.720, 86.745, and 169.712, RSMo, and to enact in lieu thereof twenty-one new sections relating to public employee retirement.

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

Section A. Sections 86.251, 86.370, 86.393, 86.398, 86.407, 86.447, 86.600, 86.671, 2 86.690, 86.720, 86.745, and 169.712, RSMo, are repealed and twenty-one new sections 3 enacted in lieu thereof, to be known as sections 86.251, 86.370, 86.374, 86.393, 86.394, 4 86.398, 86.407, 86.434, 86.445, 86.447, 86.600, 86.611, 86.665, 86.671, 86.676, 86.690, 5 86.720, 86.745, 168.303, 169.712, and 1, to read as follows:

86.251. 1. The board of trustees may develop and establish a deferred retirement 2 option plan (DROP) in which members who are eligible for retirement but who have not 3 terminated employment as police officers and who have not actually retired may 4 participate. The DROP shall be designed to allow members with at least twenty years 5 of creditable service or who have attained the age of fifty-five who have achieved 6 eligibility for retirement and are entitled to a service retirement allowance and other 7 benefits to postpone actual retirement, continue active employment and accumulate a 8 deferred receipt of the service retirement allowance. No one shall participate in the 9 DROP for a period exceeding five years.

10 2. Any member who has at least twenty years of creditable service or has 11 attained the age of fifty-five may elect in writing before retirement to participate in the 12 DROP. A member electing to participate in the DROP shall postpone actual retirement, 13 shall continue in active employment and shall not receive any direct retirement

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

14 allowance payments or benefits during the period of participation.

15           3. Upon the start of the participation in the DROP, the member shall cease to  
16 make any mandatory contributions to the system. No contribution shall be required by  
17 the city into the DROP account. During the period of participation in the DROP, the  
18 amount that the member would have received as a service retirement allowance if the  
19 member had actually retired instead of entering DROP shall be deposited monthly in the  
20 member's DROP account which shall be established in the member's name by the board  
21 of trustees. The member's service retirement allowance shall not be adjusted for any  
22 cost-of-living increases for any period prior to the member's termination of employment  
23 as a police officer and actual retirement. Cost-of-living increases, if any, for any period  
24 following the member's termination of employment as a police officer and actual  
25 retirement shall be applied only to monthly service retirement payments made following  
26 termination of employment as a police officer and actual retirement. Service earned  
27 during the period of participation in the DROP shall not be creditable service and shall  
28 not be counted in determination of any service retirement allowance or surviving  
29 spouse's or dependents' benefits. Compensation paid during the period of participation  
30 in the DROP shall not be earnable compensation and shall not be counted in the  
31 determination of any service retirement allowance or surviving spouse's or dependent's  
32 benefits. The member's service retirement allowance shall be frozen as of the date the  
33 member enters DROP. Except as specifically provided in sections 86.200 to 86.366, the  
34 member's frozen service retirement allowance shall not increase while the member is  
35 participating in DROP or after the member's participation in DROP ends, and the  
36 member shall not share in any benefit improvement that is enacted or that becomes  
37 effective while such member is participating in the DROP.

38           4. A member shall cease participation in the DROP upon the termination of the  
39 member's employment as a police officer and actual retirement, or at the end of the  
40 five-year period commencing on the first day of the member's participation in the DROP,  
41 or as of the effective date, but in no event prior to October 1, 2001, of the member's  
42 election to return to active participation in the system, whichever occurs first. A  
43 member's election to return to active participation in the system before the end of the  
44 five-year period commencing on the first day of participation in the DROP shall be made  
45 and shall become effective in accordance with procedures established by the board of  
46 trustees, but in no event prior to October 1, 2001. Upon the member's termination of  
47 employment as a police officer and actual retirement, the member shall elect to receive  
48 the value of the member's DROP account, in one of the following forms of payment:

49           (a) A lump sum payment; or

50 (b) Equal monthly installments over a ten-year period.

51 Either form of payment should begin within thirty days after the member's notice to the  
52 board of trustees that the member has selected a particular option.

53 5. If a member who is participating in the DROP elects to return to active  
54 participation in the system or if a member who is participating in the DROP does not  
55 terminate employment **and actually retires** as a police officer in the city for which the  
56 retirement system was established pursuant to sections 86.200 to 86.366 [and actually  
57 retires] at the end of the five-year period commencing on the first day of the member's  
58 participation in the DROP, the member shall return to active participation in the system  
59 and shall resume making mandatory contributions to the system effective as of the day  
60 after participation in the DROP ends or, if later, October 1, 2001. The board of trustees  
61 shall notify the police commissioners to begin deducting mandatory contributions from  
62 the member's salary and the member's employment period shall count as creditable  
63 service beginning as of the day the member returns to active participation.

64 6. In no event shall a member whose participation in DROP has ended for any  
65 reason be eligible to participate in DROP again.

66 7. Upon the member's termination of employment as a police officer and actual  
67 retirement, the member's mandatory contributions to the retirement system shall be paid  
68 to the member pursuant to subsection 4 of section 86.253.

69 8. If a member dies prior to termination of employment as a police officer and  
70 actual retirement while participating in the DROP or before the member has received  
71 full withdrawal of the amount in the member's DROP account under the installment  
72 optional payment form, the remaining balance of the member's DROP account shall be  
73 payable to the member's surviving spouse; or, if the member is then unmarried, to the  
74 member's dependent children in equal shares; or, if none, to the member's dependent  
75 mother or father; or, if none, to the member's designated beneficiary or, if no such  
76 beneficiary is then living, to the member's estate. Payment shall be made in a lump sum  
77 within sixty days after receipt by the board of trustees of evidence and proof of the death  
78 of a member. In addition, the member's mandatory contributions, if any, that were not  
79 already paid to the member pursuant to subsection 4 of section 86.253 shall be paid to  
80 the member's surviving spouse pursuant to section 86.288.

81 9. If a member [has elected to participate in the DROP and during such  
82 participation period] applies for and receives benefits for an accidental disability  
83 retirement allowance pursuant to the provisions of section 86.263, the member shall  
84 forfeit all rights, claims or interest in the member's DROP account and the member's  
85 benefits shall be calculated as if the member has continued in employment and had not

86 elected to participate in the DROP. Any portion of a DROP account that has been  
87 forfeited as provided in this subsection shall be a general asset of the system.

88       10. A member's DROP account shall earn interest equal to the rate of return  
89 earned by the system's investment portfolio on a market value basis, including realized  
90 and unrealized gains and losses, net of investment expense, as certified by the system's  
91 actuary. As of the last day of each plan year beginning after DROP participation begins,  
92 the member's DROP account balance, determined as of the last day of the prior plan  
93 year, shall be credited with interest at the investment rate earned by the assets of the  
94 retirement system for such prior plan year. If distribution of the member's DROP  
95 account balance is made in a lump sum under subsection 4 or 8 of this section, interest  
96 for the plan year of distribution shall be credited on the ending balance for the prior plan  
97 year at the investment rate earned on the assets of the retirement system for the prior  
98 plan year, in proportion to the part of the plan year preceding the date of the member's  
99 termination of employment or death, whichever is earlier. If the member's DROP  
100 account is paid in equal monthly installments pursuant to subsection 4 of this section,  
101 interest during the installment period shall be credited as of the last day of each plan  
102 year ending after installment payment begins on the account balance as of the first or  
103 last day of the plan year, whichever is lower, at the investment rate earned by the assets  
104 of the system for the prior plan year. Interest for the year in which the final installment  
105 is paid shall be credited on the balance remaining after the final installment is paid, at  
106 the investment rate earned on the assets of the system for the prior plan year, in  
107 proportion to the part of the plan year preceding payment of the final installment. Any  
108 interest credited to the DROP account during the installment period shall be paid as  
109 soon as reasonably possible after the final monthly installment. No interest shall be  
110 credited on amounts, if any, added to the member's DROP account during the year in  
111 which the distribution of the account is completed.

112       11. The board of trustees shall not incur any liability individually or on behalf  
113 of other individuals for any act or omission, made in good faith in relation to the DROP  
114 or assets credited to DROP accounts established by this section. The provisions of the  
115 Internal Revenue Code and regulations promulgated thereunder shall supersede any  
116 provision of this section if there is any inconsistency with the Internal Revenue Code or  
117 regulation.

118       12. Upon the receipt by the board of trustees of evidence and proof that the death  
119 of a member resulted from an event occurring while the member was in the actual  
120 performance of duty, and if the member is participating in the DROP, the member's  
121 surviving spouse or, if the member is then unmarried, the member's unmarried

122 dependent children, may elect within thirty days after the member's death to have the  
123 amount in the member's DROP account paid in the form of a monthly survivor  
124 annuity. Payment of the survivor annuity shall begin within sixty days after the election  
125 is received. Payment to the member's surviving spouse shall continue until the surviving  
126 spouse's death; payment to the member's unmarried dependent children shall be made  
127 while any child qualifies as an unmarried dependent child pursuant to section  
128 86.280. The survivor annuity shall be the actuarial equivalent of the member's DROP  
129 account as of the date of the member's death. In no event shall the total amount paid  
130 pursuant to this subsection be less than the member's DROP account balance as of the  
131 date of the member's death.

86.370. The following words and phrases as used in sections 86.370 to 86.497,  
2 unless a different meaning is plainly required by the context, shall have the following  
3 meanings, and the use of masculine gender shall include the feminine:

4 (1) "Accumulated contributions", the sum of all amounts deducted from the  
5 compensation of a member and paid to the retirement board, together with all amounts  
6 paid to the retirement board by a member or by a member's beneficiary, for the purchase  
7 of prior service credits or any other purpose permitted under sections 86.370 to 86.497;

8 (2) "Beneficiary", any person in receipt of pension or other benefit as provided in  
9 sections 86.370 to 86.497;

10 (3) "Board of police commissioners", any board composed of police commissioners  
11 and any other officials or boards authorized by law to employ and manage an organized  
12 police force in the cities;

13 (4) "City" or "cities", any city which now has or may hereafter have a population  
14 of more than three hundred thousand and less than seven hundred thousand  
15 inhabitants;

16 (5) "Compensation", whenever used in connection with members of the police  
17 retirement system created by sections 86.370 to 86.497, and whether used solely or as  
18 part of another defined term, the regular compensation which a member would earn  
19 during one year on the basis of the stated compensation for his rank and position, and  
20 therefore excluding any overtime pay, meal and travel expenses, uniform or other  
21 clothing allowances, any sick leave or vacation entitlements accrued from prior years,  
22 college incentive or skill incentive allowances and any other allowances available only  
23 to particular individuals and not a part of the base stated compensation for all persons  
24 holding the given rank and position; **except that, notwithstanding the foregoing,**  
25 **compensation for any year for any member shall not exceed the amount**  
26 **permitted to be taken into account under Section 401(a)(17) of the Internal**

27 **Revenue Code as applicable to such year;**

28 (6) "Creditable service", prior service plus membership service as provided in  
29 section 86.423;

30 (7) "Final compensation", the average annual compensation of a member during  
31 his service if less than two years, or the twenty-four months of his service for which he  
32 or she received the highest salary whether consecutive or otherwise. In computing the  
33 average annual compensation of a member under this subdivision, no compensation  
34 received for service which occurred after the thirtieth full year of membership service  
35 and no compensation attributable to any time a member was suspended from service  
36 without pay shall be included. For any period of time when a member is paid on a  
37 frequency other than monthly, the member's salary for such period shall be deemed to  
38 be the monthly equivalent of the member's annual rate of compensation for such period;

39 (8) "Fiscal year", the fiscal year of the cities;

40 (9) **"Internal Revenue Code", the United States Internal Revenue Code**  
41 **of 1986, as amended;**

42 (10) "Medical board", not less than one nor more than three physicians appointed  
43 by the retirement board to arrange for and conduct medical examinations as directed by  
44 the retirement board;

45 [(10)] (11) "Member", a member of the police retirement system as defined in  
46 section 86.380;

47 [(11)] (12) "Membership service", all service rendered as a policeman for  
48 compensation after June 15, 1946, excluding all probationary service of six months or  
49 less served prior to May 1, 1951;

50 [(12)] (13) "Pension", annual payments for life, payable monthly, beginning with  
51 the date of retirement and ending with death; if the total of such monthly payments plus  
52 benefits pursuant to section 86.447 is less than the total of the member's accumulated  
53 contributions, the excess of such accumulated contributions over the total of such  
54 monthly payments shall be paid in one sum to the beneficiary named by the member;

55 [(13)] (14) "Pension fund", the fund resulting from contributions made thereto  
56 by the cities affected by sections 86.370 to 86.497 and by the members of the police  
57 retirement system;

58 [(14) "Policeman"] (15) **"Police officer"**, entitled to membership in the police  
59 retirement system created by sections 86.370 to 86.497, is an officer or member of the  
60 police department of the cities employed for compensation by the boards of police  
61 commissioners of the cities for police duty and includes the chief of police, lieutenant  
62 colonels, majors, superintendents, captains, lieutenants, sergeants, corporals, detectives,

63 patrolmen, supervisors, technicians, radio operators, radio dispatchers, jailers, and  
64 matrons, but does not include any police commissioner or members of the police reserve  
65 corps, or special officers appointed to serve at elections, or temporary police appointed  
66 at school crossings or special officers appointed to serve during emergencies, or anyone  
67 employed in a clerical or other capacity not involving police duties; except that any  
68 policeman as herein defined, who is assigned to the performance of other duties for the  
69 police departments of the cities, by reason of personal injury by accident or disability  
70 arising out of and in the course of his employment as a policeman, shall be and remain  
71 a member of the police retirement system without regard to the duties performed under  
72 such assignment; in case of dispute as to whether any person is a policeman qualified  
73 for membership in the retirement system, the decision of the board of police  
74 commissioners shall be final;

75 [(15)] (16) "Retirement board", the board provided in section 86.393 to  
76 administer the retirement system;

77 [(16)] (17) "Retirement system", the police retirement system of the cities as  
78 defined in section 86.373.

**86.374. 1. A retirement plan under sections 86.370 to 86.497 is a  
2 qualified plan pursuant to the provisions of applicable federal law. The  
3 benefits and conditions of a retirement plan under sections 86.370 to 86.497  
4 shall always be adjusted to ensure that the tax-exempt status is maintained.**

**5 2. The retirement board shall administer this retirement system in a  
6 manner as to retain at all times qualified status under Section 401(a) of the  
7 Internal Revenue Code.**

**8 3. The retirement board shall hold in trust the assets of this retirement  
9 system for the exclusive benefit of the members and their beneficiaries and  
10 for defraying reasonable administrative expenses of the system. No part of  
11 such assets shall, at any time prior to the satisfaction of all liabilities with  
12 respect to members and their beneficiaries, be used for or diverted to any  
13 purpose other than such exclusive benefit or to any purpose inconsistent with  
14 sections 86.370 to 86.497.**

**15 4. A member's benefit shall be one hundred percent vested and  
16 nonforfeitable upon the member's attainment of normal retirement age, which  
17 shall be the earlier of:**

**18 (1) Completion of twenty-five years of service;**

**19 (2) Age sixty if the member has completed at least ten years of  
20 creditable service;**

21           **(3) Age seventy without regard to years of service; or**

22           **(4) To the extent funded, upon the termination of the system**  
23 **established under sections 86.370 to 86.497 or any partial termination which**  
24 **affects the member or any complete discontinuance of contributions by the**  
25 **city to the system.**

26 **Amounts representing forfeited nonvested benefits of terminated members**  
27 **shall not be used to increase benefits payable from the system but may be**  
28 **used to reduce contributions for future plan years.**

29           **5. Distribution of benefits shall begin not later than April first of the**  
30 **year following the later of the calendar year during which the member**  
31 **becomes seventy and one-half years of age or the calendar year in which the**  
32 **member retires, and shall otherwise conform to Section 401(a)(9) of the**  
33 **Internal Revenue Code.**

34           **6. A member or beneficiary of a member shall not accrue a service**  
35 **retirement annuity, disability retirement annuity, death benefit, whether**  
36 **death occurs in the line of duty or otherwise, or any other benefit under**  
37 **sections 86.370 to 86.497 in excess of the benefit limits applicable to the fund**  
38 **under Section 415 of the Internal Revenue Code. The retirement board shall**  
39 **reduce the amount of any benefit that exceeds those limits by the amount of**  
40 **the excess. If the total benefits under this retirement system and the benefits**  
41 **and contributions to which any member is entitled under any other qualified**  
42 **plan or plans maintained by the board of police commissioners that employs**  
43 **the member would otherwise exceed the applicable limits under Section 415**  
44 **of the Internal Revenue Code, the benefits the member would otherwise**  
45 **receive from this retirement system shall be reduced to the extent necessary**  
46 **to enable the benefits to comply with Section 415 of the Internal Revenue**  
47 **Code.**

48           **7. The total salary taken into account for any purpose for any member**  
49 **of this retirement system shall not exceed two hundred thousand dollars per**  
50 **year, subject to periodic adjustments in accordance with guidelines provided**  
51 **by the United States Secretary of the Treasury, and shall not exceed such**  
52 **other limits as may be applicable at any given time under Section 401(a)(17)**  
53 **of the Internal Revenue Code.**

54           **8. If the amount of any benefit is to be determined on the basis of**  
55 **actuarial assumptions that are not otherwise specifically set forth for that**  
56 **purpose in sections 86.370 to 86.497, the actuarial assumptions to be used are**  
57 **those earnings and mortality assumptions being used on the date of the**



58 **determination by the retirement system's actuary and approved by the**  
59 **retirement board. The actuarial assumptions being used at any particular**  
60 **time shall be attached as an addendum to a copy of the retirement system's**  
61 **statute that is maintained by the retirement board and shall be treated for all**  
62 **purposes as a part of sections 86.370 to 86.497. The actuarial assumptions**  
63 **may be changed by the retirement system's actuary annually if approved by**  
64 **the retirement board, but a change in actuarial assumptions shall not result**  
65 **in any decrease in benefits accrued as of the effective date of the change.**

66 **9. Any member or beneficiary who is entitled to receive any**  
67 **distribution that is an eligible rollover distribution, as defined by Section**  
68 **402(c)(4) of the Internal Revenue Code, is entitled to have that distribution**  
69 **transferred directly to another eligible retirement plan of the member's or**  
70 **beneficiary's choice upon providing direction to the secretary of this**  
71 **retirement system regarding the transfer in accordance with procedures**  
72 **established by the retirement board.**

73 **10. For all distributions made after December 31, 2001:**

74 **(1) For the purposes of subsection 9 of this section, an eligible**  
75 **retirement plan shall also mean an annuity contract described in Section**  
76 **403(b) of the Internal Revenue Code and an eligible plan under Section 457(b)**  
77 **of the Internal Revenue Code which is maintained by the state, political**  
78 **subdivision of a state, or any agency or instrumentality of a state or political**  
79 **subdivision of a state and which agrees to separately account for amounts**  
80 **transferred into such plan from this retirement system. The definition of**  
81 **eligible retirement plan shall also apply in the case of a distribution to a**  
82 **surviving spouse or to a spouse or former spouse who is the alternate payee**  
83 **under a qualified domestic relations order, as defined in Section 414(p) of the**  
84 **Internal Revenue Code; and**

85 **(2) For purposes of subsection 9 of this section, a portion of a**  
86 **distribution shall not fail to be an eligible rollover distribution merely**  
87 **because the portion consists of after-tax employee contributions which are**  
88 **not includable in gross income. However, such portion may be paid only to**  
89 **an individual retirement account or annuity described in Section 408(a) or**  
90 **408(b) of the Internal Revenue Code, or to a qualified defined contribution**  
91 **plan described in Section 401(a) or 403(a) of the Internal Revenue Code that**  
92 **agrees to separately account for amounts so transferred, including separately**  
93 **accounting for the portion of such distribution that is includable in gross**  
94 **income and the portion of such distribution that is not so includable.**

86.393. 1. The general administration and the responsibility for the proper  
2 operation of the retirement system and for making effective the provisions of sections  
3 86.370 to 86.497 are hereby vested in a retirement board of nine persons.

4 2. The board shall be constituted as follows:

5 (1) Two members, one of whom shall be of the political party casting the highest  
6 number of votes statewide for governor in the election next preceding such member's  
7 selection and the other of whom shall be of the political party casting the next highest  
8 number of votes statewide for governor at the election next preceding such member's  
9 selection, to be selected by the board of police commissioners of such cities to serve one-  
10 and two-year terms respectively. All such subsequent members shall serve for terms of  
11 two years each or to fill an unexpired term.

12 (2) Two members, one of whom shall be of the political party casting the highest  
13 number of votes statewide for governor in the election next preceding such member's  
14 selection and the other of whom shall be of the political party casting the next highest  
15 number of votes statewide for governor at the election next preceding such member's  
16 selection to be selected by the city council of said city, one of whom may be the director  
17 of finance of such city to act as ex officio member, and the other to serve for a term of  
18 two years.

19 (3) Five members shall be elected for three-year terms respectively or to fill an  
20 unexpired term, in annual elections in which each member of the police retirement  
21 system and, if such city has established a civilian employees' retirement system of the  
22 police department of such city pursuant to the provisions of sections 86.600 to 86.790,  
23 each member of such civilian employees' retirement system shall be entitled to one vote.

24 **3.** Commencing with the first annual election for members of the retirement  
25 board [after August 28, 1991] **in 2004**, the five elected members of the board shall  
26 [include] **be designated and elected as follows:**

27 **(1) If a city has established a civilian employees' retirement system of**  
28 **the police department of such city pursuant to the provisions of sections**  
29 **86.600 to 86.790, the elected members of the retirement board of such city**  
30 **shall consist of three restricted members and two open members:**

31 (a) [At least] One **restricted member shall be a** member of the police  
32 retirement system who has retired from active service with the police department as of  
33 the date of such member's election to the board;

34 (b) [At least] One **restricted member shall be a** member of the police  
35 retirement system who, as of the date of [his] **such member's** election to the board, is  
36 in active service as a [policeman] **police officer** and has not attained the rank of

37 sergeant or higher;

38 (c) [At least] One **restricted member shall be** a member of the civilian  
39 employees' retirement system of the police department of such city[, if such city has  
40 established such a system pursuant to the provisions of sections 86.600 to 86.790].

41 **There shall be no required qualifications for open members. At the annual**  
42 **election in 2004 and each third year thereafter, one open member shall be**  
43 **elected to a three-year term. At the annual election in 2005 and each third**  
44 **year thereafter, one open member shall be elected to a three-year term. At**  
45 **the annual election in 2006 and each third year thereafter, the three**  
46 **restricted members shall be elected to a three-year term. Such elections shall**  
47 **be conducted simultaneously but as elections for three separate offices, in**  
48 **which only persons qualified for a respective office may be a candidate for**  
49 **such office;**

50 (2) **If a city has not established a civilian employees' retirement system**  
51 **of the police department of such city pursuant to the provisions of sections**  
52 **86.600 to 86.790, the elected members of the retirement board of such city**  
53 **shall consist of two restricted members and three open members. All**  
54 **provisions of subdivision (1) of this subsection shall apply, except that the**  
55 **restricted membership provided for a member of a civilian employees'**  
56 **retirement system shall be an open membership;**

57 (3) **In every election in which more than one position is to be filled,**  
58 **either for a three-year term or for the unexpired portion of the term of a**  
59 **position which has become vacant, every candidate in such election must**  
60 **declare the position to which such candidate desires to be elected; and no**  
61 **person may be a candidate for more than one such position in any given**  
62 **election;**

63 (4) [Whenever] Any person [is] elected to a **restricted position on the**  
64 retirement board who at the time of such election meets the qualifications [of paragraph  
65 (a), (b), or (c) of subdivision (3) of subsection 2 of this section, that person] **for such**  
66 **position** shall be deemed to continue to meet such qualifications[, and the requirements  
67 of this section with respect to paragraph (a), (b), or (c) of subdivision (3) of subsection 2  
68 of this section, the qualifications of which are so met by such person shall continue to  
69 be satisfied,] throughout the term to which such person was elected, regardless of any  
70 change in the rank, classification or other employment status of such person[, unless  
71 such person dies, resigns as a member of such board or for any other reason ceases to  
72 serve as a member of such board.

73 (5) At the first annual election for members of the retirement board after August  
74 28, 1991, there shall be elected three members to such board for three-year terms, in  
75 addition to any other election necessary to fill the unexpired portion of a term in which  
76 a vacancy has occurred. At each of the next two such annual elections, there shall be  
77 elected one member to such board for a three-year term, in addition to any other election  
78 necessary to fill the unexpired portion of a term in which a vacancy has occurred. At  
79 such annual election in each subsequent year, there shall be elected one member to such  
80 board for a three-year term for each three-year term expiring in such year, in addition  
81 to any other election necessary to fill the unexpired portion of a term in which a vacancy  
82 has occurred].

83 [3.] 4. If a vacancy occurs in the office of a member of the retirement board the  
84 vacancy shall be filled for the unexpired term in the same manner as the vacated office  
85 was previously filled.

**86.394. Each member of the retirement board who is in active service  
2 with the police department of a city as either a police officer, as defined in  
3 section 86.370, or as an employee, as defined in section 86.600, shall be  
4 granted authorized leave with pay by such police department to attend any  
5 and all educational seminars and like functions that have been authorized by  
6 the retirement board, including travel time to and from such functions, not  
7 to exceed ten days in any calendar year. Leave granted under this section  
8 shall not reduce vacation or other authorized leave time to which such  
9 member may be entitled without reference to this section.**

**86.398. 1. The retirement board may purchase with retirement system  
2 assets from one or more insurers licensed to do business in this state one or  
3 more insurance policies that provide for reimbursement of this retirement  
4 system and any trustee, member of the retirement board, officer, or employee  
5 of the retirement system for liability imposed or damages because of an  
6 alleged act, error, or omission committed in the trustee's, board member's,  
7 officer's, or employee's capacity as a fiduciary, officer, or employee of the  
8 retirement system and for costs and expenses, including attorney fees,  
9 incurred as a trustee, board member, officer, or employee in defense of a  
10 claim for an alleged act, error, or omission, as long as the insurance policy  
11 does not provide for reimbursement of a trustee, board member, officer, or  
12 employee for liability imposed or expenses incurred because of the trustee's,  
13 board member's, officer's, or employee's personal dishonesty, fraud, lack of  
14 good faith, or intentional failure to act prudently.**

15           **2. If the insurance coverage described in subsection 1 of this section**  
16 **is insufficient or is not in effect**, the retirement board may indemnify any person  
17 who was or is a party or is threatened to be made a party to any threatened, pending or  
18 completed action, suit or proceeding, whether civil, criminal, administrative or  
19 investigative, by reason of the fact that [he] **the person** is or was a member of the  
20 retirement board, or is or was serving at the request of the retirement board in the  
21 capacity which caused [his] **the person's** relationship to such action, suit or proceeding,  
22 against expenses, including attorneys' fees, judgments, fines and amounts paid in  
23 settlement actually and reasonably incurred by [him] **the person** in connection with  
24 such action, suit or proceeding, if [he] **the person** acted in good faith and without  
25 willful malfeasance, and, with respect to any criminal action or proceeding, had  
26 reasonable cause to believe [his] **the relevant** conduct was lawful. The termination of  
27 any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea  
28 of nolo contendere or its equivalent, shall not, of itself, create a presumption that the  
29 person did not act in good faith, or, with respect to any criminal action or proceeding,  
30 that [he] **the person** did not have reasonable cause to believe that [his] **the relevant**  
31 conduct was lawful.

32           [2.] **3.** To the extent that a member of the retirement board has been successful  
33 on the merits or otherwise in defense of any action, suit or proceeding referred to in  
34 [subsection] **subsections 1 and 2** of this section, or in defense of any claim, issue or  
35 matter therein, [he] **the person** shall be indemnified against expenses, including  
36 attorneys' fees, actually and reasonably incurred [by him] in connection with the action,  
37 suit or proceeding **that are not covered by the insurance described in subsection**  
38 **1 of this section.**

39           [3.] **4.** Any indemnification under [subsection 1 of] this section, unless ordered  
40 by a court, shall be made by the retirement board only as authorized in each specific case  
41 upon a determination that indemnification of [a member of the retirement board] **any**  
42 **person potentially entitled to indemnification hereunder** is proper in the  
43 circumstances because [he] **the person** has met the applicable standard of conduct set  
44 forth in this section. The determination shall be made by the retirement board by a  
45 majority vote of a quorum consisting of members of the retirement board who are not  
46 parties to the action, suit or proceeding, or if such a quorum is not obtainable, or even  
47 if obtainable a quorum of disinterested members of the retirement board so directs, by  
48 independent legal counsel in a written opinion. Such legal counsel may but need not be  
49 counsel to the retirement system.

50           [4.] **5.** Expenses incurred in defending a civil or criminal action, suit or

51 proceeding may be paid by the retirement board in advance of the final disposition of the  
52 action, suit or proceeding as authorized by the retirement board in the specific case upon  
53 receipt of an undertaking by or on behalf of the [member of the retirement board]  
54 **person potentially entitled to indemnification hereunder** to repay such amount  
55 unless it shall ultimately be determined that [he] **the person** is entitled to be  
56 indemnified by the retirement board as authorized in this section.

86.407. 1. Subject to the limitations of sections 86.370 to 86.497 the retirement  
2 board shall, from time to time, establish rules and regulations for the administration of  
3 its assets, for the transaction of its business and for the conduct of nominations and  
4 elections of the elected members of the retirement board. [Whenever the board deems  
5 it necessary in order to maintain compliance with the qualification requirements of  
6 subdivision (3) of subsection 2 of section 86.393, the board may restrict nominations for  
7 one or more positions on the board to persons possessing the qualifications required  
8 under paragraph (a), (b), or (c) of subdivision (3) of subsection 2 of section 86.393.] **The**  
9 **retirement board shall be deemed to be a state agency within the meaning of**  
10 **chapter 536, RSMo.**

11 2. The retirement board shall elect from its membership, a chairman, a vice  
12 chairman and a treasurer and shall, by majority vote of its members, appoint a  
13 secretary, who may be, but need not be, one of its members. It may employ such  
14 actuarial, legal and other services as may be necessary to transact the business of the  
15 retirement system. The compensation of all persons employed by the retirement board  
16 and all other expenses of the board necessary for the operation of the retirement system  
17 shall be paid in such manner as the retirement board shall determine; provided, that the  
18 compensation of such persons as may be employed by the retirement board shall not be  
19 greater than the compensation paid for comparable abilities by the governments of the  
20 cities in which said retirement board is located.

**86.434. 1. Any member entitled to commence a pension under section**  
2 **86.433 with twenty-six years or more of creditable service may elect an**  
3 **optional distribution under the partial lump-sum option plan provided in this**  
4 **section if the member:**

5 **(1) Notifies the retirement system in writing of the member's**  
6 **retirement date at least ninety days in advance of the member's retirement**  
7 **date and requests an explanation of the member's rights under this section;**  
8 **and**

9 **(2) Notifies the retirement system of the member's election hereunder**  
10 **at least thirty days in advance of the member's retirement date.**

11 **Following receipt of an initial notice of a member's retirement date and**  
12 **request for an explanation hereunder, the retirement system shall, at least**  
13 **sixty days in advance of such retirement date, provide the member a written**  
14 **explanation of the member's rights under this section and an estimate of the**  
15 **amount by which the member's regular monthly base pension would be**  
16 **reduced in the event of the member's election of any of the options available**  
17 **to the member under this section.**

18 **2. (1) A member entitled to make an election under this section may**  
19 **elect to receive a lump-sum distribution with the member's initial monthly**  
20 **pension payment under section 86.433, subject to all the terms of this**  
21 **section. The member may elect the amount of the member's lump-sum**  
22 **distribution from one, but not more than one, of the following options for**  
23 **which the member qualifies:**

24 **(a) A member having twenty-six or more years of creditable service**  
25 **may elect a lump-sum amount equal to twelve times the initial monthly base**  
26 **pension the member would receive if no election were made under this**  
27 **section;**

28 **(b) A member having twenty-seven or more years of creditable service**  
29 **may elect a lump-sum amount equal to twenty-four times the initial monthly**  
30 **base pension the member would receive if no election were made under this**  
31 **section; or**

32 **(c) A member having twenty-eight or more years of creditable service**  
33 **may elect a lump-sum amount equal to thirty-six times the initial monthly**  
34 **base pension the member would receive if no election were made under this**  
35 **section.**

36 **(2) When a member makes an election to receive a lump-sum**  
37 **distribution under this section, the base pension which the member would**  
38 **have received in the absence of the election shall be reduced on an**  
39 **actuarially equivalent basis to reflect the payment of the lump-sum**  
40 **distribution, and the reduced base pension shall be the member's base**  
41 **pension thereafter for all purposes relating to base pension amounts under**  
42 **sections 86.370 to 86.497.**

43 **3. An election under this section to receive a lump-sum distribution**  
44 **and reduce monthly base pension shall be void if the member dies before**  
45 **retirement, and amounts due a surviving spouse or other beneficiary of the**  
46 **member shall be determined without regard to such election.**

**86.445. If a city and the police department of such city adopt any**

2 **program of incentives to authorize or encourage early retirements, whether**  
3 **for employees not yet eligible for regular retirement or for employees who are**  
4 **eligible but have not yet chosen to retire or for both, the retirement board**  
5 **shall be authorized to administer and pay such incentives for retirees who**  
6 **accept such incentives and are members of this retirement system under**  
7 **sections 86.370 to 86.497, in addition to such other benefits as such members**  
8 **or their beneficiaries are entitled to receive under sections 86.370 to 86.497**  
9 **provided such city shall so request and shall agree to increase the city's**  
10 **contribution under section 86.477 sufficiently to provide the full actuarial**  
11 **cost of any such incentives in addition to the contribution required of such**  
12 **city necessary, in conjunction with members' contributions under section**  
13 **86.470, to provide all other benefits provided under sections 86.370 to 86.497.**

86.447. 1. Upon receipt of the proper proofs of death of a member in service for  
2 any reason whatever or of the death of a member after having been retired and  
3 pensioned, there shall be paid, in addition to all other benefits but subject to subsection  
4 7 of this section, the following:

5 (1) If a member dies while in service, such member's surviving spouse, if any,  
6 shall be paid a base pension equal to forty percent of the final compensation of such  
7 member, subject to subsequent adjustments, if any, as provided in section 86.441;

8 (2) If a member retires or terminates service after August 28, 1999, and dies after  
9 commencement of benefits pursuant to the provisions of sections 86.370 to 86.497, the  
10 member's surviving spouse, if any, shall be paid a base pension equal to eighty percent  
11 of the pension being received by such member, including cost-of-living adjustments to  
12 such pension but excluding supplemental retirement benefits, at the time of such  
13 member's death, subject to subsequent adjustments, if any, as provided in section 86.441;

14 (3) If a member retired or terminated service on or before August 28, 1999, and  
15 died after August 28, 1999, and after commencement of benefits, such member's  
16 surviving spouse shall upon application to the retirement board, be appointed and  
17 employed by the retirement board as a special consultant on the problems of retirement,  
18 aging and other matters, and upon request of the retirement board shall give opinions  
19 and be available to give opinions in writing or orally in response to such requests, as  
20 may be required. For such services, the surviving spouse shall, beginning the later of  
21 August 28, 1999, or the time of such appointment under this subsection, be compensated  
22 in such amount as shall make the benefits received by such surviving spouse pursuant  
23 to this subsection equal to eighty percent of the pension being received by such member,  
24 including cost-of-living adjustments to such pension but excluding supplemental



25 retirement benefits, at the time of such member's death, subject to subsequent  
26 adjustments, if any, as provided in section 86.441;

27 (4) Upon the death of any member who is in service after August 28, 2000, and  
28 who either had at least twenty-five years of creditable service or was retired or died as  
29 a result of an injury or illness occurring in the line of duty or course of employment  
30 pursuant to section 86.450, the surviving spouse's benefit provided pursuant to this  
31 subsection, without including any supplemental retirement benefits paid such surviving  
32 spouse by this retirement system, shall not be less than six hundred dollars per  
33 month. For any member who dies, retires or terminates service on or before August 28,  
34 2000, and who either had at least twenty-five years of creditable service or was retired  
35 or died as a result of an injury or illness occurring in the line of duty or course of  
36 employment pursuant to section 86.450, the surviving spouse shall upon application to  
37 the retirement board be appointed by the retirement board as a special consultant on the  
38 problems of retirement, aging and other matters, and upon request of the retirement  
39 board shall give opinions and be available to give opinions in writing or orally in  
40 response to such requests, as may be required. For such services, the surviving spouse  
41 shall, beginning the later of August 28, 2000, or the time the appointment is made  
42 pursuant to this subsection, be compensated in an amount which without including  
43 supplemental retirement benefits provided by this system shall be not less than six  
44 hundred dollars monthly. A pension benefit pursuant to this subdivision shall be paid  
45 in lieu of any base pension as increased by cost-of-living adjustments granted pursuant  
46 to section 86.441. The benefit pursuant to this subdivision shall not be subject to  
47 cost-of-living adjustments, but shall be terminated and replaced by the base pension and  
48 cost-of-living adjustments to which such spouse would otherwise be entitled at such time  
49 as the total base pension and such adjustments exceed six hundred dollars monthly;

50 (5) Such member's child or children under the age of eighteen years at the time  
51 of the member's decease shall be paid fifty dollars per month each, subject to  
52 adjustments, if any, as provided in section 86.441, until he or she shall attain the age  
53 of eighteen years; however, each such child who is or becomes a full-time student at an  
54 accredited educational institution shall continue to receive payments hereunder for so  
55 long as such child shall remain such a full-time student or shall be in a summer or other  
56 vacation period scheduled by the institution with intent by such child, demonstrated to  
57 the satisfaction of the retirement board, to return to such full-time student status upon  
58 the resumption of the institution's classes following such vacation period, but in no event  
59 shall such payments be continued after such child shall attain the age of twenty-one  
60 years except as hereinafter provided. Any child eighteen years of age or older, who is

61 physically or mentally incapacitated from wage earning, so long as such incapacity exists  
62 as certified by a member of the medical board, shall be entitled to the same benefits as  
63 a child under the age of eighteen;

64 (6) A funeral benefit of one thousand dollars.

65 2. For the purposes of this section, "commencement of benefits" shall begin, for  
66 any benefit, at such time as all requirements have been met entitling the member to a  
67 payment of such benefit at the next following payment date, disregarding advance notice  
68 periods required by any paying agent for physical preparation of the payment, so that  
69 a member who dies between the date all such requirements are met and the date when  
70 the system would have delivered such member's initial payment shall be deemed to have  
71 commenced such benefit.

72 3. If there is no person qualified to receive a pension as a surviving spouse or if  
73 a surviving spouse dies, the total amount which would be received by a qualified  
74 surviving spouse or which is being received by the surviving spouse at the date of death  
75 of such surviving spouse shall be added to the amounts received by and shall be divided  
76 among the children under the age of eighteen years and the incapacitated children in  
77 equal shares. As each child attains the age of eighteen years or has such incapacity  
78 removed, the total of the surviving spouse's pension shall then be added to and divided  
79 among the remaining children, and when there is only one child under the age of  
80 eighteen years or incapacitated, whether such child is the sole surviving child of the  
81 member or the youngest child of several children, the total amount of the surviving  
82 spouse's pension shall be paid to the child until such child reaches the age of eighteen  
83 years or such incapacity is removed.

84 4. (1) The surviving spouse of a member who retired or died prior to August 28,  
85 1997, shall not be entitled to receive benefits or the payment of a pension pursuant to  
86 sections 86.370 to 86.497 unless marriage to the member occurred at least two years  
87 before the member's retirement or at least two years before the death of the member  
88 while in service; provided, that no benefits shall be denied pursuant to this subsection  
89 to the surviving spouse of a member whose death occurred in the line of duty or from an  
90 occupational disease arising out of and in the course of the member's employment.

91 (2) No surviving spouse of a member who retired or died while in service after  
92 August 28, 1997, and before August 28, 2000, shall be entitled to receive any benefits  
93 pursuant to this section unless such spouse was married to the member at the time of  
94 the member's retirement or death while in service.

95 (3) Any surviving spouse who would qualify for benefits pursuant to subdivision  
96 (1) or (2) of this subsection and who has not remarried prior to August 28, 2000, but

97 remarries thereafter, shall upon application to the retirement board be appointed by the  
98 retirement board as a special consultant on the problems of retirement, aging and other  
99 matters, and upon request of the retirement board shall give opinions and be available  
100 to give opinions in writing or orally in response to such requests, as may be  
101 required. For such services, such surviving spouse shall be compensated in an amount  
102 equal to the benefits such spouse would have received pursuant to sections 86.370 to  
103 86.497 in the absence of such remarriage.

104 (4) No surviving spouse of a member who retires or dies in service after August  
105 28, 2000, shall be entitled to receive any benefits pursuant to sections 86.370 to 86.497  
106 unless such spouse was married to the member at the time of the member's retirement  
107 or death in service. Any surviving spouse who was married to such a member at the  
108 time of the member's retirement or death in service shall be entitled to all benefits for  
109 surviving spouses pursuant to sections 86.370 to 86.497 for the life of such surviving  
110 spouse without regard to remarriage.

111 5. If no benefits are otherwise payable to a surviving spouse or child of a  
112 deceased member, the member's accumulated contributions, to any extent not fully paid  
113 to such member prior to the member's death or to the surviving spouse or child of such  
114 member, shall be paid in one lump sum to the member's named beneficiary or, if none,  
115 to the member's estate.

116 6. For purposes of this section, a determination of whether a child of a member  
117 is physically or mentally incapacitated from wage earning so that the child is entitled  
118 to benefits under this section shall be made at the time of the member's death. If a child  
119 becomes incapacitated after the member's death, or if a child's incapacity existing at the  
120 member's death is removed and such child later becomes incapacitated again, such child  
121 shall not be entitled to benefits as an incapacitated child under the provisions of this  
122 section. A child shall be deemed incapacitated only for so long as the incapacity existing  
123 at the time of the member's death continues.

124 7. Any beneficiary of benefits pursuant to sections [86.600 to 86.790] **86.370 to**  
125 **86.497** who becomes the surviving spouse of more than one member shall be paid all  
126 benefits due a surviving spouse of that member whose entitlements produce the largest  
127 surviving spouse benefits for such beneficiary but shall not be paid surviving spouse  
128 benefits as the surviving spouse of more than one member.

86.600. As used in sections 86.600 to 86.790, unless a different meaning is  
2 plainly required by the context, the following words and phrases mean:

3 (1) "Accumulated contributions", the sum of all amounts deducted from the  
4 compensation of a member and paid to the retirement board, together with all amounts

5 paid to the retirement board by a member or by a member's beneficiary for the purchase  
6 of prior service credits or any other purpose permitted under sections 86.600 to 86.790  
7 in all cases with interest thereon at a rate determined from time to time for such  
8 purpose by the retirement board;

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

11 (3) "Appointing authority", any person or group of persons having power by law  
12 to make appointments to any position in the police departments of the cities;

13 (4) "Beneficiary", any person receiving a benefit from the retirement system as  
14 a result of the death of a member;

15 (5) "Compensation", the basic wage or salary paid an employee for any period,  
16 excluding bonuses, overtime pay, expense allowance, and other extraordinary  
17 compensation; **except that, notwithstanding the foregoing, compensation for any**  
18 **year for any member shall not exceed the amount permitted to be taken into**  
19 **account under Section 401(a)(17) of the Internal Revenue Code as applicable**  
20 **to such year;**

21 (6) "Creditable service", the period of service to which an employee, a former  
22 employee, or a member is entitled, as prescribed by sections 86.600 to 86.790;

23 (7) "Employee", any regularly appointed civilian employee of the police  
24 departments of the cities as specified in sections 86.600 to 86.790, who is not eligible to  
25 receive a pension from the police pension system;

26 (8) "Employer", the police boards of the cities as specified in sections 86.600 to  
27 86.790;

28 (9) "Final compensation", the average annual compensation of a member during  
29 his or her service if less than two years, or the twenty-four months of his or her service  
30 for which he or she received the highest salary whether consecutive or otherwise. In  
31 computing the average annual compensation of a member under this subsection, no  
32 compensation attributable to any time a member was suspended from service without  
33 pay shall be included. For any period of time when a member is paid on a frequency  
34 other than monthly, the member's salary for such period shall be deemed to be the  
35 monthly equivalent of the member's annual rate of compensation for such period;

36 (10) **"Internal Revenue Code", the United States Internal Revenue Code**  
37 **of 1986, as amended;**

38 (11) "Medical board", the board of physicians chosen by the retirement board;

39 [(11)] (12) "Member", any member of the retirement system as provided by  
40 sections 86.600 to 86.790;

41 [(12)] (13) "Normal retirement", retirement from the service of the employer on  
42 or after the normal retirement date;

43 [(13)] (14) "Operative date", the date this retirement system becomes operative;

44 [(14)] (15) "Pension", the annual payments for life which shall be payable in  
45 equal monthly installments to a member or his or her spouse;

46 [(15)] (16) "Retirement board", the persons appointed or elected to be members  
47 of the retirement board for civilian employees of police departments of the cities;

48 [(16)] (17) "Retirement system", the retirement system of the civilian employees  
49 of the cities as specified in sections 86.600 to 86.790;

50 [(17)] (18) "Surviving spouse", the legally married wife or husband of a member  
51 surviving the member's death.

**86.611. 1. A retirement plan under sections 86.600 to 86.790 is a  
2 qualified plan pursuant to the provisions of applicable federal law. The  
3 benefits and conditions of a retirement plan under sections 86.600 to 86.790  
4 shall always be adjusted to ensure that the tax-exempt status is maintained.**

**5 2. The retirement board shall administer this retirement system in such  
6 manner as to retain at all times qualified status under Section 401(a) of the  
7 Internal Revenue Code.**

**8 3. The retirement board shall hold in trust the assets of this retirement  
9 system for the exclusive benefit of the members and their beneficiaries and  
10 for defraying reasonable administrative expenses of the system. No part of  
11 such assets shall, at any time prior to the satisfaction of all liabilities with  
12 respect to members and their beneficiaries, be used for or diverted to any  
13 purpose other than such exclusive benefit or to any purpose inconsistent with  
14 sections 86.600 to 86.790.**

**15 4. A member's benefit shall be one hundred percent vested and  
16 nonforfeitable upon the member's attainment of normal retirement age, which  
17 shall be the earlier of:**

**18 (1) The attaining of the age of sixty-five or the member's tenth  
19 anniversary of employment, whichever is later;**

**20 (2) When the total sum of age and years of service equals or exceeds  
21 eighty; or**

**22 (3) To the extent funded, upon the termination of the system  
23 established under sections 86.600 to 86.790 or any partial termination which  
24 affects the member or any complete discontinuance of contributions by the  
25 city to the system.**

**26 Amounts representing forfeited nonvested benefits of terminated members**

27 shall not be used to increase benefits payable from the system but may be  
28 used to reduce contributions for future plan years.

29       **5. Distribution of benefits shall begin not later than April first of the**  
30 **year following the later of the calendar year during which the member**  
31 **becomes seventy and one-half years of age or the calendar year in which the**  
32 **member retires, and shall otherwise conform to Section 401(a)(9) of the**  
33 **Internal Revenue Code.**

34       **6. A member or beneficiary of a member shall not accrue a service**  
35 **retirement annuity, disability retirement annuity, death benefit, whether**  
36 **death occurs in the line of duty or otherwise, or any other benefit under**  
37 **sections 86.600 to 86.790 in excess of the benefit limits applicable to the fund**  
38 **under Section 415 of the Internal Revenue Code. The retirement board shall**  
39 **reduce the amount of any benefit that exceeds the limits of this section by the**  
40 **amount of the excess. If the total benefits under this retirement system and**  
41 **the benefits and contributions to which any member is entitled under any**  
42 **other qualified plan or plans maintained by the board of police commissioners**  
43 **that employs the member would otherwise exceed the applicable limits under**  
44 **Section 415 of the Internal Revenue Code, the benefits the member would**  
45 **otherwise receive from this retirement system are reduced to the extent**  
46 **necessary to enable the benefits to comply with Section 415 of the Internal**  
47 **Revenue Code.**

48       **7. The total salary taken into account for any purpose for any member**  
49 **of this retirement system shall not exceed two hundred thousand dollars per**  
50 **year, subject to periodic adjustments in accordance with guidelines provided**  
51 **by the United States Secretary of the Treasury and may not exceed such other**  
52 **limits as may be applicable at any given time under Section 401(a)(17) of the**  
53 **Internal Revenue Code.**

54       **8. If the amount of any benefit is determined on the basis of actuarial**  
55 **assumptions that are not specifically set forth for that purpose in sections**  
56 **86.600 to 86.790, the actuarial assumptions used are those earnings and**  
57 **mortality assumptions used on the date of the determination by the**  
58 **retirement system's actuary and approved by the retirement board. The**  
59 **actuarial assumptions used at any particular time shall be attached as an**  
60 **addendum to a copy of the retirement system's statute maintained by the**  
61 **retirement board and shall be treated for all purposes as part of sections**  
62 **86.600 to 86.790. The actuarial assumptions may be changed by the retirement**  
63 **system's actuary annually if approved by the retirement board, but a change**

64 **in actuarial assumptions shall not result in any decrease in benefits accrued**  
65 **as of the effective date of the change.**

66 **9. Any member or beneficiary who is entitled to receive any**  
67 **distribution that is an eligible rollover distribution, as defined by Section**  
68 **402(c)(4) of the Internal Revenue Code, is entitled to have that distribution**  
69 **transferred directly to another eligible retirement plan of the member's or**  
70 **beneficiary's choice upon providing direction to the secretary of this**  
71 **retirement system regarding the transfer in accordance with procedures**  
72 **established by the retirement board.**

73 **10. For all distributions made after December 31, 2001:**

74 **(1) For the purposes of subsection 9 of this section, an eligible**  
75 **retirement plan shall also mean an annuity described in Section 403(b) of the**  
76 **Internal Revenue Code and an eligible plan under Section 457(b) of the**  
77 **Internal Revenue Code that is maintained by a state, political subdivision of**  
78 **a state, or any agency or instrumentality of a state or political subdivision of**  
79 **a state and which agrees to separately account for amounts transferred into**  
80 **such plan from this retirement system. The definition for eligible retirement**  
81 **plan shall also apply in the case of a distribution to a surviving spouse or to**  
82 **a spouse or former spouse who is the alternate payee under a qualified**  
83 **domestic relations order, as defined in Section 414(p) of the Internal Revenue**  
84 **Code; and**

85 **(2) For the purposes of subsection 9 of this section, a portion of a**  
86 **distribution shall not fail to be an eligible rollover distribution merely**  
87 **because the portion consists of after-tax employee contributions which are**  
88 **not includable in gross income. However, such portion may be paid only to**  
89 **an individual retirement account or annuity described in Section 408(a) or**  
90 **408(b) of the Internal Revenue Code, or to a qualified defined contribution**  
91 **plan described in Section 401(a) or 403(a) of the Internal Revenue Code that**  
92 **agrees to separately account for amounts so transferred, including separately**  
93 **accounting for the portion of such distribution that is includable in gross**  
94 **income and the portion of such distribution that is not so includable.**

**86.665. 1. Any member entitled to commence a pension under either**  
2 **section 86.650 or 86.660 may elect an optional distribution under the partial**  
3 **lump-sum option plan provided in this section if such member:**

4 **(1) Notifies the retirement system in writing of such member's**  
5 **retirement date at least ninety days in advance thereof and requests an**  
6 **explanation of such member's rights under this section; and**

7           **(2) Notifies the retirement system of the member's election hereunder**  
8 **at least thirty days in advance of the retirement date.**

9 **Following receipt of an initial notice of a member's retirement date and**  
10 **request for an explanation hereunder, the retirement system shall, at least**  
11 **sixty days in advance of such retirement date, provide such member a written**  
12 **explanation of such member's rights under this section and an estimate of the**  
13 **amount by which such member's regular monthly base pension would be**  
14 **reduced in the event of the member's election of any of the options available**  
15 **to such member under this section.**

16           **2. (1) A member entitled to make an election under this section may**  
17 **elect to receive a lump-sum distribution with such member's initial monthly**  
18 **pension payment under section 86.650 or 86.660, subject to all the terms of**  
19 **this section. The member may elect the amount of the member's lump-sum**  
20 **distribution from one, but not more than one, of the following options for**  
21 **which such member qualifies:**

22           **(a) A member having one or more years of creditable service after such**  
23 **member's eligible retirement date may elect a lump-sum amount equal to**  
24 **twelve times the initial monthly base pension the member would receive if no**  
25 **election were made under this section;**

26           **(b) A member having two or more years of creditable service after such**  
27 **member's eligible retirement date may elect a lump-sum amount equal to**  
28 **twenty-four times the initial monthly base pension the member would receive**  
29 **if no election were made under this section; or**

30           **(c) A member having three or more years of creditable service after**  
31 **such member's eligible retirement date may elect a lump-sum amount equal**  
32 **to thirty-six times the initial monthly base pension the member would receive**  
33 **if no election were made under this section.**

34 **For purposes of this section, "eligible retirement date" for a member shall**  
35 **mean the earliest date on which the member could elect to retire and be**  
36 **entitled to receive a pension under either section 86.650 or 86.660.**

37           **(2) When a member makes an election to receive a lump-sum**  
38 **distribution under this section, the base pension that the member would have**  
39 **received in the absence of an election shall be reduced on an actuarially**  
40 **equivalent basis to reflect the payment of the lump-sum distribution, and the**  
41 **reduced base pension shall be the member's base pension thereafter for all**  
42 **purposes relating to base pension amounts under sections 86.600 to 86.790.**

43           **(3) If a member electing a lump-sum distribution under this section has**



44 **elected the optional annuity described in section 86.650, the calculation of**  
45 **such member's pension shall be made in the following order:**

46 **(a) The amount of the member's normal pension under section 86.650**  
47 **shall be reduced if applicable by any reductions required under section**  
48 **86.660;**

49 **(b) The amount of the normal pension as determined under paragraph**  
50 **(a) of this subdivision shall be reduced to the actuarially equivalent amount**  
51 **to produce the optional form of annuity described in subsection 2 of section**  
52 **86.650;**

53 **(c) The amount of reduced pension as determined under paragraph (b)**  
54 **of this subdivision shall be further reduced as required to produce an actuarially**  
55 **equivalent benefit in the form of the lump-sum distribution option elected under this**  
56 **section and a remaining monthly annuity which shall be paid on the basis that the**  
57 **annuity for the member's spouse if such spouse survives the member shall be the same**  
58 **amount as the annuity paid the member and shall be paid to such surviving spouse for**  
59 **the lifetime of such spouse without regard to remarriage.**

60 3. An election under this section to receive a lump-sum distribution and reduced  
61 monthly base pension shall be void if the member dies before retirement, and amounts  
62 due a surviving spouse or other beneficiary of the member shall be determined without  
63 regard to such election.

86.671. 1. Any [period] **periodic** payment, excluding payments for medical  
2 treatment, which may be paid or payable by the cities pursuant to the provisions of any  
3 workers' compensation or similar law to a member or to the dependents of a member on  
4 account of any disability or death shall be offset against any benefits payable to the  
5 recipient of the workers' compensation payments from funds provided by the cities  
6 pursuant to the provisions of sections 86.600 to 86.790 on account of the same disability  
7 or death. In no event, however, shall the amount paid from funds pursuant to the  
8 provisions of sections 86.600 to 86.790 be less than the amount which represents the  
9 member's percentage, as defined in subsection 4 of this section, of total benefits payable  
10 pursuant to sections 86.600 to 86.790, before any offset for workers' compensation  
11 benefits.

12 2. Any lump sum amount, excluding payments for medical treatments, which may  
13 be paid or payable by the cities pursuant to the provisions of any workers' compensation  
14 or similar law to a member or to the dependents of a member on account of any disability  
15 or death shall be offset against any benefits payable from funds provided by the cities  
16 pursuant to the provisions of sections 86.600 to 86.790 on account of the same disability

17 or death. The amounts by which each periodic payment made pursuant to the provisions  
18 of sections 86.600 to 86.790 is offset or reduced shall be computed as the periodic amount  
19 necessary to amortize as an annuity over the period of time represented by the respective  
20 workers' compensation benefits the total amount of the lump sum settlement received  
21 as a workers' compensation benefit by a beneficiary of the retirement system. Such  
22 computation shall be based upon the same interest rate and mortality assumptions as  
23 used for the retirement system at the time of such computation. In no event, however,  
24 shall the amount paid from funds pursuant to the provisions of sections 86.600 to 86.790  
25 be less than the amount which represents the member's percentage, as defined in  
26 subsection 4 of this section, of total benefits payable pursuant to sections 86.600 to  
27 86.790, before any offset for workers' compensation benefits.

28 3. The retirement board shall adopt such rules and regulations as may be  
29 necessary to effectuate the purposes of this section.

30 4. As used in this section, the term "member's percentage" shall be the fraction  
31 of which the numerator is the percentage of compensation contributed by a working  
32 member to the retirement pension system pursuant to section 86.760 during the pay  
33 period immediately preceding such member's death or disability which created  
34 entitlement to benefits and the denominator is the sum of percentages of a member's  
35 compensation contributed by a working member and the city pursuant to section 86.760  
36 to the retirement pension system during such pay period. Such percentage shall identify  
37 the portion of any benefits due pursuant to the provisions of sections 86.600 to 86.790  
38 which is deemed to have been provided by the member's own contributions.

**86.676. If a city and the police department of such city adopt any  
2 program of incentives to authorize or encourage early retirements, whether  
3 for employees not yet eligible for regular retirement or for employees who are  
4 eligible but have not yet chosen to retire or for both, the retirement board  
5 shall be authorized to administer and pay such incentives for retirees who  
6 accept such incentives and are members of this retirement system under  
7 sections 86.600 to 86.790, in addition to such other benefits as such members  
8 or their beneficiaries are entitled to receive under sections 86.600 to 86.790,  
9 provided such city shall so request and shall agree to increase said city's  
10 contribution under section 86.760 sufficiently to provide the full actuarial  
11 cost of any such incentives in addition to the contribution required of such  
12 city necessary, in conjunction with members' contribution under section  
13 86.760, to provide all other benefits provided under sections 86.600 to 86.790.**

86.690. 1. Upon death after August 28, 2001, of a member for any cause prior

2 to retirement, the following amounts shall be payable subject to subsection 5 of this  
3 section, as full and final settlement of any and all claims for benefits under this  
4 retirement system:

5 (1) If the member has less than five years of creditable service, the member's  
6 surviving spouse shall be paid, in a lump sum, the amount of accumulated contributions  
7 and interest. If there be no surviving spouse, payment shall be made to the member's  
8 designated beneficiary, or if none, to the executor or administrator of the member's  
9 estate.

10 (2) If the member has at least five, but less than twenty years of creditable  
11 service, the member's surviving spouse may elect, in lieu of the lump sum settlement in  
12 subdivision (1) of this subsection, an annuity. Such annuity shall be one-half of the  
13 member's accrued annuity at date of death as computed in section 86.650. The effective  
14 date of the election shall be the latter of the first day of the month after the member's  
15 death or attainment of what would have been the member's early retirement date as  
16 provided in section 86.660.

17 (3) If the member has at least twenty years of creditable service, the member's  
18 surviving spouse may elect, in lieu of the lump sum settlement in subdivision (1) of this  
19 subsection, the larger of the annuity as computed in subdivision (2) of this subsection or  
20 an annuity determined on a joint and survivor's basis from the actuarial value of the  
21 member's accrued annuity at date of death.

22 (4) Any death of a retired member occurring before the date of first payment of  
23 the retirement annuity shall be deemed to be a death before retirement.

24 (5) Benefits payable pursuant to this section shall continue for the lifetime of  
25 such surviving spouse without regard to remarriage.

26 (6) No surviving spouse of a member who dies in service after August 28, 2001,  
27 shall be entitled to receive any benefits pursuant to sections 86.600 to 86.790 unless such  
28 spouse was married to the member at the time of the member's death in service.

29 2. Upon death following retirement for any cause after August 28, 2001, of a  
30 member who has not elected the optional annuity pursuant to section 86.650, the  
31 member's surviving spouse shall receive a pension payable for life, equaling one-half of  
32 the member's normal retirement allowance, computed under section 86.650, as of the  
33 member's actual retirement date, subject to adjustments provided in subsection 5 of  
34 section 86.675, if any; provided, no surviving spouse of a member who retires after  
35 August 28, 2001, shall be entitled to receive any benefits pursuant to sections 86.600 to  
36 86.790 unless such spouse was married to the member at the time of the member's  
37 retirement. Any surviving spouse who was married to such a member at the time of the

38 member's retirement shall be entitled to all benefits for surviving spouses pursuant to  
39 sections 86.600 to 86.790 for the life of such surviving spouse without regard to  
40 remarriage. If there be no surviving spouse, payment of the member's accumulated  
41 contributions less the amount of any prior payments from the retirement system to the  
42 member or to any beneficiary of the member shall be made to the member's designated  
43 beneficiary or, if none, to the personal representative of the member's estate.

44 3. Any surviving spouse of a member who dies in service or retired prior to  
45 August 28, 2001, who otherwise qualifies for benefits pursuant to subsection 1 or 2 of  
46 this section and who has not remarried prior to August 28, 2001, but remarries  
47 thereafter, shall upon application to the retirement board be appointed by the retirement  
48 board as a special consultant on the problems of retirement, aging and other matters,  
49 and upon request of the retirement board shall give opinions in writing or orally in  
50 response to such requests, as may be required. For such services, such surviving spouse  
51 shall be compensated in an amount equal to the benefits such spouse would have  
52 received pursuant to sections 86.600 to 86.790 in the absence of such remarriage.

53 4. Should the total amount paid from the retirement system to a member, the  
54 member's surviving spouse [and], any other beneficiary of the member, **and the funeral**  
55 **benefit under subsection 6 of this section** be less than the member's accumulated  
56 contributions, an amount equal to such difference shall be paid to the member's  
57 designated beneficiary or, if none, to the personal representative of the member's estate,  
58 and such payment shall constitute full and final payment of any and all claims for  
59 benefits under the retirement system.

60 5. Any beneficiary of benefits pursuant to sections 86.600 to 86.790 who becomes  
61 the surviving spouse of more than one member shall be paid all benefits due a surviving  
62 spouse of that member whose entitlements produce the largest surviving spouse benefits  
63 for such beneficiary but shall not be paid surviving spouse benefits as the surviving  
64 spouse of more than one member, except that any surviving spouse for whom an election  
65 has been made for an optional annuity under subsection 2 of section 86.650 shall be  
66 entitled to every annuity for which such surviving spouse has so contracted.

67 **6. Upon receipt of the proper proof of death of a member in service**  
68 **after August 28, 2003, or the death of a member in service on or after August**  
69 **28, 2003, who dies after having been retired and pensioned, there shall be**  
70 **paid in addition to all other benefits a funeral benefit of one thousand**  
71 **dollars.**

86.720. The general administration and the responsibility for the proper  
2 operation of the retirement system and for making effective the provisions of sections

3 86.600 to 86.790 are hereby vested in the retirement board. The retirement board shall,  
4 from time to time, establish rules and regulations for the administration of its assets and  
5 for the transaction of its business. **The retirement board shall be deemed to be a**  
6 **state agency within the meaning of chapter 536, RSMo.** The retirement board  
7 shall elect from its membership a chairman, a vice chairman, and a treasurer, and shall,  
8 by majority vote of its members, appoint a secretary, who may be but need not be one of  
9 its members. The retirement board may employ any actuarial, legal and other services  
10 as may be necessary to transact the business of the retirement system. The  
11 compensation of all persons employed by the retirement board and all other expenses of  
12 the board necessary for the operation of the retirement system shall be paid in the  
13 manner as the retirement board shall determine; except that the compensation of the  
14 persons as may be employed by the retirement board shall not be greater than the  
15 compensation paid for comparable abilities by the government of the city in which the  
16 retirement board is located.

86.745. 1. **The retirement board may purchase with retirement system**  
2 **assets from one or more insurers licensed to do business in this state one or**  
3 **more insurance policies that provide for reimbursement of the retirement**  
4 **system and any trustee, member of the retirement board, officer, or employee**  
5 **of the retirement system for liability imposed or damages because of an**  
6 **alleged act, error, or omission committed in the trustee's, board member's,**  
7 **officer's, or employee's capacity as a fiduciary, officer, or employee of the**  
8 **retirement system and for costs and expenses, including attorney fees,**  
9 **incurred as a trustee, board member, officer, or employee in defense of a**  
10 **claim for an alleged act, error, or omission, as long as the insurance policy**  
11 **does not provide for reimbursement of a trustee, board member, officer, or**  
12 **employee for liability imposed or expenses incurred because of the trustee's,**  
13 **board member's, officer's, or employee's personal dishonesty, fraud, lack of**  
14 **good faith, or intentional failure to act prudently.**

15 **2. If the insurance coverage described in subsection 1 of this section**  
16 **is insufficient or is not in effect,** the retirement board may indemnify any person  
17 who was or is a party or is threatened to be made a party to any threatened, pending or  
18 completed action, suit or proceeding, whether civil, criminal, administrative or  
19 investigative, by reason of the fact that [he] **the person** is or was a member of the  
20 retirement board, or is or was serving at the request of the retirement board in the  
21 capacity which caused [his] **the person's** relationship to such action, suit or proceeding,  
22 against expenses, including attorneys' fees, judgments, fines and amounts paid in

23 settlement actually and reasonably incurred by [him] **the person** in connection with  
24 such action, suit or proceeding, if [he] **the person** acted in good faith and without  
25 willful malfeasance, and, with respect to any criminal action or proceeding, had  
26 reasonable cause to believe [his] **the relevant** conduct was lawful. The termination of  
27 any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea  
28 of nolo contendere or its equivalent, shall not, of itself, create a presumption that the  
29 person did not act in good faith, or, with respect to any criminal action or proceeding,  
30 that [he] **the person** did not have reasonable cause to believe that [his] **the relevant**  
31 conduct was lawful.

32 [2.] **3.** To the extent that a member of the retirement board has been successful  
33 on the merits or otherwise in defense of any action, suit or proceeding referred to in  
34 [subsection] **subsections 1 and 2** of this section, or in defense of any claim, issue or  
35 matter therein, [he] **the person** shall be indemnified against expenses, including  
36 attorneys' fees, actually and reasonably incurred [by him] in connection with the action,  
37 suit or proceeding **that are not covered by the insurance described in subsection**  
38 **1 of this section.**

39 [3.] **4.** Any indemnification under [subsection 1 of] this section, unless ordered  
40 by a court, shall be made by the retirement board only as authorized in each specific case  
41 upon a determination that indemnification of [the member of the retirement board] **any**  
42 **person potentially entitled to indemnification hereunder** is proper in the  
43 circumstances because [he] **the person** has met the applicable standard of conduct set  
44 forth in this section. The determination shall be made by the retirement board by a  
45 majority vote of a quorum consisting of members of the retirement board who are not  
46 parties to the action, suit or proceeding, or if such a quorum is not obtainable, or even  
47 if obtainable a quorum of disinterested members of the retirement board so directs, by  
48 independent legal counsel (who may but need not be counsel to the retirement system)  
49 in a written opinion.

50 [4.] **5.** Expenses incurred in defending a civil or criminal action, suit or  
51 proceeding may be paid by the retirement board in advance of the final disposition of the  
52 action, suit or proceeding as authorized by the retirement board in the specific case upon  
53 receipt of an undertaking by or on behalf of the [member of the retirement board]  
54 **person potentially entitled to indemnification hereunder** to repay such amount  
55 unless it shall ultimately be determined that [he] **the person** is entitled to be  
56 indemnified by the retirement board as authorized in this section.

**168.303. The state board of education shall adopt rules to facilitate job-**  
2 **sharing positions for classroom teachers, as the term "job-sharing" is defined**

3 **in this section. These rules shall provide that a classroom teacher in a job-**  
4 **sharing position shall receive paid legal holidays, annual vacation leave, sick**  
5 **leave, and personal leave on a pro rata basis. "Job-sharing position" shall**  
6 **mean any position:**

7 **(1) Shared with one other employee;**

8 **(2) Requiring employment of at least seventeen hours per week but not**  
9 **more than twenty hours per week on a regular basis; and**

10 **(3) Requiring at least seventy percent of all time spent in classroom**  
11 **instruction as determined by the employer;**

12 **provided that, job sharing position shall not include instructional support or**  
13 **school services positions including, but not limited to, guidance counselor,**  
14 **media coordinator, psychologist, social worker, audiologist, speech and**  
15 **language pathologist, and nursing positions.**

169.712. 1. Notwithstanding any provision of law to the contrary, any person  
2 duly certificated under the law governing the certification of teachers **in Missouri** who,  
3 after August 28, 1997, is first employed in a position which would otherwise qualify the  
4 person for membership in the nonteacher school employee retirement system pursuant  
5 to the provisions of sections 169.600 to 169.710 shall be a member of the public school  
6 retirement system pursuant to the provisions of sections 169.010 to 169.141, and shall  
7 receive creditable service on a pro rata basis in that system for subsequent certificated  
8 services which would otherwise have been creditable in the nonteacher school employee  
9 retirement system. Any such person shall have the option of being a member of the  
10 nonteacher school employee retirement system. The option election must be filed with  
11 the board of trustees of the public school retirement system within ninety days of first  
12 such employment following August 28, 1997.

13 **2. Notwithstanding any provision of law to the contrary, any person**  
14 **duly certificated under the law governing the certification of teachers in**  
15 **Missouri who, on or after August 28, 2003, is employed by a public school, as**  
16 **defined in section 169.010, for at least seventeen but less than twenty hours**  
17 **per week on a regular basis shall be a member of the public school retirement**  
18 **system pursuant to the provisions of sections 169.010 to 169.141, and shall**  
19 **receive creditable service on a pro rata basis in that system. Any such person**  
20 **shall have the option of being a member of the nonteacher school employee**  
21 **retirement system. The option election must be filed with the board of**  
22 **trustees of the public school retirement system within ninety days of first**  
23 **such employment or within ninety days of August 28, 2003, whichever later**  
24 **occurs.**

25           **3. Any person who is a member of the public school retirement system**  
26 **or the nonteacher school employee retirement system pursuant to subsection**  
27 **2 of this section may purchase credit in such system for service after August**  
28 **28, 1991, that would have qualified such person for membership in either**  
29 **retirement system pursuant to subsection 2 of this section had such**  
30 **subsection been in effect prior to August 28, 2003; provided that such**  
31 **purchase of credit in the public school retirement system shall be subject to**  
32 **the provisions of section 169.056 and such purchase of credit in the**  
33 **nonteacher school employee retirement system shall be subject to the**  
34 **provisions of section 169.655.**

**Section 1. Notwithstanding the provisions of section 169.030 and**  
2 **169.620 to the contrary, the board of trustees shall have the authority to fix**  
3 **and certify to employers the level rate of contribution for a fiscal year no**  
4 **later than six months prior to the date such rate is to be effective, subject to**  
5 **the following:**

6           **(1) The level rate of contribution for the system created by sections**  
7 **169.010 to 169.141 shall not exceed the level rate of contribution for the prior**  
8 **fiscal year by more than one-half percent;**

9           **(2) The level rate of contribution for the system created by sections**  
10 **169.600 to 169.715 shall not exceed the level rate of contribution for the prior**  
11 **fiscal year by more than one-quarter percent;**

12           **(3) The contribution rate shall be based on an actuarial valuation as**  
13 **of a date not earlier than the last day of the second prior fiscal year. Such**  
14 **actuarial valuation shall be performed using processes and actuarial**  
15 **assumptions that are in accordance with the actuarial standards of practice**  
16 **in effect at the time the valuation is performed, as promulgated by the**  
17 **actuarial standards board or its successor; provided that such actuarial**  
18 **valuation shall be based on the entry age normal actuarial cost method and**  
19 **an asset valuation method based on the market value of system assets that**  
20 **may provide for smoothing of investment gains and losses, and further, that**  
21 **the level rate of contribution shall be the total of the normal cost and a rate**  
22 **which shall amortize the unfunded actuarial accrued liability over a period**  
23 **that shall not exceed thirty years from the date of the valuation, subject to**  
24 **the limitations of this subsection;**

25           **(4) Not less than once every ten years the board shall have an actuary,**  
26 **other than the actuary performing the actuarial valuation pursuant to this**  
27 **section, review such actuarial valuation and perform an additional actuarial**



28 **valuation of the system;**

29 **(5) Notwithstanding the provisions of subdivision (3) to (8) of**  
30 **subsection 1 of section 169.070 and subdivision (4) of subsection 1 of section**  
31 **169.670 to the contrary, no legislation shall be enacted after July 1, 2003, that**  
32 **increases benefits provided to members or retirees of the systems created by**  
33 **sections 169.010 to 169.141 or 169.600 contribution rate in effect on July 1,**  
34 **2003.**

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