

SECOND REGULAR SESSION

HOUSE BILL NO. 1466

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DAUS.

Read 1st time January 19, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3797L.01I

AN ACT

To repeal sections 86.252, 86.253, and 86.255, RSMo, and to enact in lieu thereof four new sections relating to police retirement.

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

Section A. Sections 86.252, 86.253, and 86.255, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 86.252, 86.253, 86.255, and 86.359, to read as follows:

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

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

(1) The life of the member;

(2) The life of the member and a designated beneficiary;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (3) A period certain not extending beyond the life expectancy of the member; or

16 (4) A period certain not extending beyond the joint and last survivor expectancy of the
17 member and a designated beneficiary.

18 **3. (1) This subsection shall apply for purposes of determining required minimum**
19 **distributions for calendar years beginning on and after January 1, 2003, and shall take**
20 **precedence over any inconsistent provisions of section 86.200 to 86.366. All distributions**
21 **required under this subsection shall be determined and made in accordance with the**
22 **United States Treasury regulations under Section 401(a)(9) of the Internal Revenue Code**
23 **of 1986, as amended.**

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

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

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

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

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

40 d. If the member's surviving spouse is the member's sole designated beneficiary and
41 the surviving spouse dies after the member but before distributions to the surviving spouse
42 begin, this paragraph, except for subparagraph a. of this paragraph, shall apply as if the
43 surviving spouse were the member.

44

45 For purposes of this paragraph and subdivision (5) of this subsection, distributions shall
46 be considered to begin on the member's required beginning date, or if subparagraph d. of
47 this paragraph applies, the date distributions are required to begin to the surviving spouse
48 under subparagraph a. of this paragraph. If annuity payments irrevocably commence to
49 the member before the member's required beginning date, or to the member's surviving
50 spouse before the date of distributions are required to begin to the surviving spouse under

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

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

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

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

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

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

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

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

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

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

80 (iv) To pay increased benefits that result from a revision of sections 86.200 to
81 86.366.

82 (b) The amount distributed on or before the member's required beginning date, or
83 if the member dies before distribution begins, the date distributions are required to begin
84 under subparagraph a. or b. of paragraph (b) of subdivision (2) of this subsection, shall be
85 the payment that is required for one payment interval. The second payment need not be
86 made until the end of the next payment interval even if the payment interval ends in the

87 next calendar year. "Payment intervals" means the periods for which payments are
88 received, such as bi-monthly, monthly, semi-annually, or annually. All of the member's
89 benefit accruals as of the last day of the first distribution calendar year shall be included
90 in the calculation of the amount of the annuity payments for payment intervals ending on
91 or after the member's required beginning date.

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

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

103 (b) The period certain for an annuity distribution commencing during the
104 member's lifetime shall not exceed the applicable distribution period for the member under
105 the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the United States Treasury
106 regulations for the calendar year that contains the annuity starting date. If the annuity
107 starting date precedes the year in which the member reaches age seventy, the applicable
108 distribution period for the member shall be the distribution period for age seventy under
109 the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the United States Treasury
110 regulations plus the excess of seventy over the age of the member as of the member's
111 birthday in the year that contained the annuity starting date.

112 (5) (a) If the member dies before the date distribution of his or her interest begins
113 and there is a designated beneficiary, the member's entire interest shall be distributed,
114 beginning no later than the time described in subparagraph a. or b. of paragraph (b) of
115 subdivision (2) of this subsection, over the life of the designated beneficiary or over a
116 period certain not exceeding:

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

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

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

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

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

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

141 (b) "Distribution calendar year", a calendar year for which a minimum
142 distribution is required. For distributions beginning before the member's death, the first
143 distribution calendar year is the calendar year immediately preceding the calendar year
144 which contains the member's required beginning date. For distributions beginning after
145 the member's death, the first distribution calendar year is the calendar year in which
146 distributions are required to begin under paragraph (b) of subdivision (2) of this
147 subsection;

148 (c) "Life expectancy", life expectancy as computed by use of the Single Life Table
149 in Section 1.401(a)(9)-9 of the United States Treasury regulations;

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

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

154 (a) A distribution for calendar years 2003, 2004, and 2005 shall not fail to satisfy
155 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, merely because the
156 payments do not satisfy Section 1.401(a)(9)-1, Q&A-1 to Q&A-16 of the United States

157 Treasury regulations, provided the payments satisfy Section 401(a)(9) of the Internal
158 Revenue Code of 1986, as amended; and

159 (b) In the case of an annuity distribution option provided under the terms of
160 sections 86.200 to 86.366 shall not fail to satisfy Section 401(a)(9) of the Internal Revenue
161 Code of 1986, as amended, merely because the annuity payments do not satisfy the
162 requirements of Section 1.401(a)(9)-1, Q&A-1 to Q&A-15 of the United States Treasury
163 regulations, provided the distribution option satisfies Section 401(a)(9) of the Internal
164 Revenue Code of 1986, as amended, based on a reasonable and good faith interpretation
165 of the provisions of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.

86.253. 1. Upon termination of employment as a police officer and actual retirement for
2 service, a member shall receive a service retirement allowance which shall be an amount equal
3 to two percent of the member's average final compensation multiplied by the number of years
4 of the member's creditable service, up to twenty-five years, plus an amount equal to four percent
5 of the member's average final compensation for each year of creditable service in excess of
6 twenty-five years but not in excess of thirty years; plus an additional five percent of the member's
7 average final compensation for any creditable service in excess of thirty years. Notwithstanding
8 the foregoing, the service retirement allowance of a member who does not earn any creditable
9 service after August 11, 1999, shall not exceed an amount equal to seventy percent of the
10 member's average final compensation, and the service retirement allowance of a member who
11 earns creditable service on or after August 12, 1999, shall not exceed an amount equal to
12 seventy-five percent of the member's average final compensation; provided, however, that the
13 service retirement allowance of a member who is participating in the DROP pursuant to section
14 86.251 on August 12, 1999, who returns to active participation in the system pursuant to section
15 86.251, and who terminates employment as a police officer and actually retires for reasons other
16 than death or disability before earning at least two years of creditable service after such return
17 shall be the sum of (1) the member's service retirement allowance as of the date the member
18 entered DROP and (2) an additional service retirement allowance based solely on the creditable
19 service earned by the member following the member's return to active participation. The
20 member's total years of creditable service shall be taken into account for the purpose of
21 determining whether the additional allowance attributable to such additional creditable service
22 is two percent, four percent or five percent of the member's average final compensation.

23 2. If, at any time since first becoming a member of the retirement system, the member
24 has served in the armed forces of the United States, and has subsequently been reinstated as a
25 policeman within ninety days after the member's discharge, the member shall be granted credit
26 for such service as if the member's service in the police department of such city had not been
27 interrupted by the member's induction into the armed forces of the United States. If earnable

28 compensation is needed for such period in computation of benefits it shall be calculated on the
29 basis of the compensation payable to the officers of the member's rank during the period of the
30 member's absence. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary,
31 the retirement system governed by sections 86.200 to 86.366 shall be operated and administered
32 in accordance with the applicable provisions of the Uniformed Services Employment and
33 Reemployment Rights Act of 1994, as amended.

34 3. The service retirement allowance of each present and future retired member who
35 terminated employment as a police officer and actually retired from service after attaining age
36 fifty-five or after completing twenty years of creditable service shall be increased annually at a
37 rate not to exceed three percent as approved by the board of trustees beginning with the first
38 increase in the second October following the member's retirement and subsequent increases in
39 each October thereafter, provided that each increase is subject to a determination by the board
40 of trustees that the consumer price index (United States City Average Index) as published by the
41 United States Department of Labor shows an increase of not less than the approved rate during
42 the latest twelve-month period for which the index is available at the date of determination; and
43 provided further, that if the increase is in excess of the approved rate for any year, such excess
44 shall be accumulated as to any retired member and increases may be granted in subsequent years
45 subject to a maximum of three percent for each full year from October following the member's
46 retirement but not to exceed a total percentage increase of thirty percent. In no event shall the
47 increase described under this subsection be applied to the amount, if any, paid to a member or
48 surviving spouse of a deceased member for services as a special consultant under subsection 5
49 of this section or, if applicable, subsection 6 of this section. If the board of trustees determines
50 that the index has decreased for any year, the benefits of any retired member that have been
51 increased shall be decreased but not below the member's initial benefit. No annual increase shall
52 be made of less than one percent and no decrease of less than three percent except that any
53 decrease may be limited in amount by the initial benefit.

54 4. In addition to any other retirement allowance payable under this section and section
55 86.250, a member, upon termination of employment as police officer and actual service
56 retirement, [shall be repaid] **may request payment of** the total amount of the member's
57 mandatory contributions to the retirement system without interest. **Upon receipt of such**
58 **request,** the board shall pay the retired member such total amount of the member's mandatory
59 contributions to the retirement system to be paid pursuant to this subsection within sixty days
60 after such retired member's date of termination of employment as a police officer and actual
61 retirement.

62 5. Any person who is receiving retirement benefits from the retirement system, upon
63 application to the board of trustees, shall be made, constituted, appointed and employed by the

64 board of trustees as a special consultant on the problems of retirement, aging and other matters,
65 for the remainder of the person's life or, in the case of a deceased member's surviving spouse,
66 until the earlier of the person's death or remarriage, and upon request of the board of trustees
67 shall give opinions and be available to give opinions in writing or orally, in response to such
68 requests, as may be required. For such services the special consultant shall be compensated
69 monthly, in an amount which, when added to any monthly retirement benefits being received
70 from the retirement system, including any cost-of-living increases under subsection 3 of this
71 section, shall total six hundred fifty dollars a month. This employment shall in no way affect any
72 person's eligibility for retirement benefits under this chapter, or in any way have the effect of
73 reducing retirement benefits, notwithstanding any provisions of law to the contrary.

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

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

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

9 (2) "Distributee", a member, a surviving spouse or a spouse;

10 (3) "Eligible retirement plan", an individual retirement account described in Section
11 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section
12 408(b) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the
13 Internal Revenue Code that accepts the distributee's eligible rollover distribution or, effective for
14 eligible rollover distributions made on or after January 1, 2002, an annuity contract described in
15 Section 403(b) of the Internal Revenue Code or an eligible plan under Section 457(b) of the
16 Internal Revenue Code which is maintained by a state, political subdivision of a state, or any
17 agency or instrumentality of a state or political subdivision of a state and which agrees to
18 separately account for amounts transferred into such plan from this plan, and shall include, for
19 eligible rollover distributions made on or after January 1, 2002, a distribution to a surviving
20 spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic
21 relations order, as defined in Section 414(p) of the Internal Revenue Code;

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

24 (a) A distribution that is one of a series of substantially equal periodic payments, made
25 not less frequently than annually, for the life or life expectancy of the distributee or for the joint

26 lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or
27 for a specified period of ten years or more;

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

30 (c) Effective for distributions made on or after January 1, 2002, a portion of a
31 distribution shall not fail to be an eligible rollover distribution merely because the portion
32 consists of after-tax employee contributions which are not includable in gross income. However,
33 such portion may be transferred only to an individual retirement account or annuity described
34 in Section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan
35 described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately
36 account for amounts so transferred, including to separately account for the portion of such
37 distribution which is includable in gross income and the portion that is not so includable.

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

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

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

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

48 **5. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, in no**
49 **event shall the trustees pay an eligible rollover distribution in the amount of five thousand**
50 **dollars or less to a member or retired member who has not attained age sixty-two unless**
51 **such member or retired member consents in writing either to receive such distribution in**
52 **cash or to have such distribution directly rolled over in accordance with the provisions of**
53 **this section.**

86.359. If a retroactive payment is made to a member, surviving spouse, dependent
2 **child, or other beneficiary under sections 86.200 to 86.366 for any reason, a lump sum**
3 **equal to the sum of the retroactive monthly payments, plus interest, shall be paid. For this**
4 **purpose, interest shall be credited at the rate of six percent annum, compounded annually.**

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