

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 319

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VILLA.

Read 1st time January 10, 2007 and copies ordered printed.

Read 2nd time January 11, 2007 and referred to the Special Committee on Retirement January 25, 2007.

Reported from the Special Committee on Retirement February 15, 2007 with recommendation that the bill Do Pass by Consent.
Referred to the Committee on Rules pursuant to Rule 25(21)(f).

Reported from the Committee on Rules February 20, 2007 with recommendation that the bill Do Pass by Consent.

Perfected by Consent February 28, 2007.

D. ADAM CRUMBLISS, Chief Clerk

0999L.01P

AN ACT

To repeal sections 87.120, 87.140, 87.160, 87.182, 87.205, 87.325, 87.330, 87.335, 87.340, and 87.345, RSMo, and to enact in lieu thereof ten new sections relating to firefighter retirement.

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

Section A. Sections 87.120, 87.140, 87.160, 87.182, 87.205, 87.325, 87.330, 87.335,
2 87.340, and 87.345, RSMo, are repealed and ten new sections enacted in lieu thereof, to be
3 known as sections 87.120, 87.140, 87.160, 87.182, 87.205, 87.325, 87.330, 87.335, 87.340, and
4 87.345, to read as follows:

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

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

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.

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

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

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

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

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

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

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

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

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

25 (11) **"Entry age normal funding method", a method under which the actuarial**
26 **present value of each active member's projected pension and death benefits is allocated as**
27 **a level percentage of the earning of the individual between entry age and assumed exit ages.**
28 **The portion of the funding requirement allocated to a valuation year is called the normal**
29 **cost. The actuarial accrued liability is the portion of the actuarial present value not**
30 **provided for at a valuation date by the actuarial value for future normal costs;**

31 (12) "Firefighter", any officer or employee of the fire department of the city employed
32 by the city for the duty of fighting fires, but does not include anyone employed in a clerical or
33 other capacity not involving fire-fighting duties. In case of doubt as to whether any person is a
34 firefighter within the meaning of sections 87.120 to 87.370, the decision of the board of trustees
35 shall be final;

36 [(12)] (13) "Medical board", the board of physicians provided for in section 87.160;

37 [(13)] (14) "Member", a member of the retirement system as defined by section 87.130;

38 [(14)] (15) "Membership service", service as a firefighter rendered since last becoming
39 a member;

40 [(15)] (16) "Prior service", all service as a firefighter rendered prior to the date the
41 system becomes operative which is creditable in accordance with the provisions of section
42 87.135;

43 [(16)] (17) "Retirement allowance", annual payments for life which shall be payable in
44 equal monthly installments or any benefits in lieu thereof granted to a member upon retirement
45 or to a beneficiary;

46 [(17)] (18) "Retirement system", the firefighter's retirement system of any city as defined
47 in section 87.125.

 87.140. 1. The general administration and the responsibility for the proper operation of
2 the retirement system shall be vested in a board of trustees of nine persons. The board shall be
3 constituted as follows:

4 (1) The chief of the fire department of the city, ex officio;

5 (2) The comptroller or deputy comptroller of the city, ex officio;

6 (3) Two members to be appointed by the mayor of the city to serve for a term of two
7 years;

8 (4) Three members to be elected by the members of the retirement system for a term of
9 three years who shall be members of the system and hold office only while members of the
10 system;

11 (5) Two members who shall be retired firemen to be elected by the retired firemen of the
12 city and who shall hold office for a term of three years.

13 2. If a vacancy occurs in the office of trustee, the vacancy shall be filled for the
14 unexpired term in the same manner as the office was previously filled.

15 3. The trustees shall serve without compensation, but they shall be reimbursed from the
16 expense fund for all necessary expenses which they may incur through service on the board.

17 4. Each trustee shall, within ten days after his appointment or election, take an oath of
18 office before the clerk of circuit court of the city, that, so far as it devolves upon him, he will
19 diligently and honestly administer the affairs of the board and that he will not knowingly violate
20 or willingly permit to be violated any of the provisions of the law applicable to the retirement
21 system. The oath shall be subscribed to by the member making it and certified by the clerk of
22 circuit court and filed in his office.

23 5. [Each trustee shall be entitled to one vote on the board. Five votes shall be necessary
24 for a decision by the trustees at any meeting of the board.] **Five trustees shall constitute a**
25 **quorum for the transaction of business, and any official action of the board shall be based**
26 **on the majority vote of the trustees present.**

 87.160. 1. [The city counselor of the city shall be the legal adviser of the board of
2 trustees.] **The board of trustees shall be authorized to use the city counselor of the city as**

3 **a legal advisor to the board of trustees. The board of trustees may also retain an attorney**
4 **or firm of attorneys to serve as a legal advisor and consultant to the board of trustees and**
5 **to represent the system and the board of trustees in legal proceedings.**

6 2. The board of trustees shall designate a medical board to be composed of three
7 physicians who shall arrange for and pass upon all medical examinations required under the
8 provisions of sections 87.120 to 87.370, shall investigate all essential statements and certificates
9 made by or on behalf of a member in connection with an application for disability retirement and
10 shall report in writing to the board of trustees its conclusions and recommendations upon all the
11 matters referred to it.

87.182. 1. The board may develop and establish a deferred retirement plan program
2 (DROP) which may include a self-directed program, in which members eligible for retirement
3 may participate. The DROP program shall be designed to allow members with at least twenty
4 years of creditable service who have achieved eligibility for retirement and receipt of a service
5 retirement allowance to continue active employment and defer receipt of the retirement
6 allowance for a period not to exceed five years. Any member who has at least twenty years of
7 creditable service may elect in writing before retirement to participate in the DROP program.
8 A member electing to participate in the DROP program shall continue in active employment and
9 shall not receive any direct retirement allowance payments during the time of participation.
10 Upon the start of participation in the DROP program, the member shall make the contributions
11 as provided in section 87.295. No contribution shall be required by the city. During the period
12 of participation in the DROP program, the amount that the member would have received as a
13 service retirement allowance shall be deposited monthly in the member's DROP account which
14 shall be established in his or her name by the board. Service earned during the period of
15 participation in the DROP program shall not be creditable service and shall not be counted in
16 determination of any service retirement allowance.

17 2. If a member who has elected to participate in the DROP program chooses to stop
18 participation in the DROP program, he or she shall notify the board in writing. Upon receipt of
19 notice of a member's desire to end participation in the DROP program, the board shall return the
20 member to non-DROP participation status and both the member and the city shall make the
21 contributions required by sections 87.120 to 87.370. Service rendered after restoration of the
22 member to non-DROP participation status shall be counted as creditable service. No member
23 ending participation in the DROP program and returning to non-DROP participation status shall
24 make any withdrawal from his or her DROP account until after termination of employment. If
25 after return to non-DROP participation status, a member retires, the member's retirement
26 allowance shall be computed on the combination of the member's pre-DROP service retirement
27 allowance plus an additional allowance earned by a member after returning to non-DROP

28 participation status. Post-DROP participation years of service will be the only years used in
29 computing the additional allowance; however total years of creditable service will be used to
30 determine the appropriate level of additional allowance, two percent or five percent, for each year
31 of post-DROP participation service. Upon retirement the member shall receive additional
32 benefits as provided under the provisions of sections 87.120 to 87.371 plus the amount which
33 has accumulated in his or her DROP account. The amount in the member's DROP account shall
34 be payable, at the member's option, either as a lump sum payment or as a periodic payment
35 calculated according to a deferred payment plan established by the board.

36 3. A member who terminates employment after participation in the DROP program may
37 withdraw any amount in his or her DROP account in a lump sum or according to a deferred
38 payment plan established by the board at his option. If the member is eligible to receive a service
39 retirement allowance, benefit payment shall begin at the time specified in sections 87.120 to
40 87.370.

41 4. If a member dies prior to termination of employment while participating in the DROP
42 program, the funds in his or her DROP account shall be payable to the member's designated
43 beneficiary under either of the following options:

44 (1) [A lump sum payment equal to the amount in the member's DROP account shall be
45 paid to the beneficiary or the member's estate. The benefits for a beneficiary provided under the
46 provisions of sections 87.120 to 87.370 shall be based on the member's compensation and
47 creditable service prior to the member's election to participate in the DROP program] **The**
48 **beneficiary shall be paid, at the beneficiary's option, a lump sum payment or a periodic**
49 **payment calculated according to a deferred payment plan established by the board of**
50 **trustees; or**

51 (2) The beneficiary shall waive any right, claim or interest in the member's DROP
52 account and any benefits payable to the beneficiary under the provisions of sections 87.120 to
53 87.370 shall be calculated as if the member had continued as an employee and had not elected
54 to participate in the DROP program. Any funds in a DROP account which has been waived as
55 provided in this subdivision shall become funds of the system.

56 5. [If a member who has elected to participate in the DROP program subsequently
57 applies for and receives benefits for an accidental disability retirement allowance under the
58 provisions of section 87.205, the member shall forfeit all rights, claims or interest in his or her
59 DROP account and the member's benefits shall be calculated as if the member had continued in
60 employment and had not elected to participate in the DROP program. Any funds in a DROP
61 account which has been forfeited as provided in this subsection shall become funds of the
62 system.

63 6.] Except in the case of any self-directed program, a member's DROP account shall earn
64 interest equal to the percentage rate of return of the system's investment portfolio as certified
65 annually by the system's actuary in the yearly evaluation report. Except in the case of any
66 self-directed program, the interest shall be credited annually to the member's account beginning
67 with the start of the second fiscal year of participation.

68 [7.] 6. No member may elect to participate in the DROP program more than once.

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

9 **(2) Upon retirement for accidental disability, if the member is participating or has**
10 **participated in the deferred retirement option plan (DROP) the member may elect to**
11 **receive the monthly retirement benefit as determined by his or her DROP participation,**
12 **the DROP accumulation, and all other benefits as provided under the provisions of sections**
13 **87.120 to 87.371, in accordance with the rules and regulations of the Internal Revenue**
14 **Service.**

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

 87.325. [Contributions to and payments from the general reserve fund shall be as
2 follows: On account of each member there shall be paid annually into the fund by the city an
3 amount equal to a certain percentage of the earnable compensation of the member to be known
4 as "the normal contribution" and an additional amount equal to a percentage of his earnable
5 compensation to be known as "the accrued liability contribution". The rates percent of the
6 contributions shall be fixed on the basis of the liabilities of the retirement system as shown by
7 actuarial valuations.] **Effective October 1, 2007, the city shall contribute an amount**
8 **determined as follows: Each year, as of the first day of the system's fiscal year, the actuary**
9 **shall perform an actuarial valuation under the entry age normal funding method and**
10 **utilize such mortality tables and other tables as shall be adopted by the board of trustees.**
11 **On the basis of each valuation, there shall be paid annually into the fund by the city an**

12 **amount equal to the normal contribution and an additional amount to be known as the**
13 **accrued liability contribution.**

87.330. [On the basis of the interest rate and of such mortality and other tables as shall
2 be adopted by the board of trustees, the actuary shall determine the uniform and constant
3 percentage of the earnable compensation of the average new entrant, which, if contributed
4 throughout his entire period of active service, would be sufficient to provide for the payment of
5 any death benefit or pension payable on his account. The rate percent so determined shall be
6 known as "the normal contribution rate". After the accrued liability contribution has ceased to
7 be payable the normal contribution rate shall be the rate percent of the earnable compensation
8 of all members obtained by deducting from the total liabilities of the fund the amount of the
9 funds in hand to the credit of the fund and dividing the remainder by one percent of the present
10 value of the prospective future compensation of all members as computed on the basis of the
11 interest rate and the mortality and service tables adopted by the board of trustees. The normal
12 rate of contribution shall be determined by the actuary after each valuation.] **On the basis of**
13 **each annual actuarial valuation, as provided in section 87.325, the normal contribution**
14 **shall be determined as the normal cost under the entry age normal funding method.**

87.335. [At the first valuation after the effective date of these amendments (in 1959) the
2 actuary engaged by the board of trustees shall compute the rate percent of the total earnable
3 compensation of all members which is equivalent to three and one-half percent of the amount
4 of the total unfunded benefit liability on account of all members and beneficiaries which is not
5 dischargeable by the aforesaid normal contribution made on account of such members during the
6 remainder of their active service. The rate percent originally so determined shall be known as
7 "the accrued liability contribution rate".] **On October 1, 2007, the actuary engaged by the**
8 **board of trustees shall compute the level rate percent of the total earnable compensation**
9 **of current and future earnings of active members that will be required to amortize the**
10 **unfunded actuarial accrued liability as determined under the entry age normal funding**
11 **method over a thirty-year period commencing October 1, 2007. Any future increase or**
12 **decrease in the unfunded actuarial accrued liability resulting from statutory changes shall**
13 **be amortized as a level percentage of earnable compensation over a thirty-year period**
14 **commencing with the beginning of the fiscal year coincident with or next following the**
15 **effective date of the statutory changes. All other changes in the unfunded actuarial**
16 **accrued liability subsequent to October 1, 2007, including from experience gains and losses**
17 **and from changes in actuarial assumptions and methods shall be aggregated at each**
18 **actuarial valuation subsequent to October 1, 2007, and shall be amortized as a level**
19 **percentage of earnable compensation over a thirty-year period commencing at that**
20 **valuation date. The thirty-year amortization period for the aggregated unfunded liability**

21 **changes from experience gains and losses and from assumption and method changes shall**
22 **be reestablished at each valuation date. The amount so determined shall be known as the**
23 **accrued liability contribution.**

87.340. [The total amount payable in each year to the general reserve fund shall be not
2 less than the sum of the rates percent known as the normal contribution rate and the accrued
3 liability contribution rate of the total compensation earnable by all members during the year, and
4 the aggregate payment by the city shall be sufficient when combined with the amount in the fund
5 to provide the retirement allowances and other benefits payable out of the fund during the then
6 current year. The city may contribute at any time from bond issue or other available funds an
7 amount equal to the unfunded accrued liability as certified by the actuary in which event no
8 further accrued liability contribution will be required or may contribute any lesser amount which
9 will be used to proportionately reduce future accrued liability contributions.] **The total amount**
10 **payable in each year to the general reserve shall not be less than the sum of the normal**
11 **contribution and the accrued liability contribution, and the aggregate payment by the city**
12 **shall be sufficient when combined with the amount in the fund to provide the retirement**
13 **allowances and other benefits payable out of the fund during the current year. The city**
14 **may contribute at any time from bond issue or other available funds an amount equal to**
15 **the unfunded accrued liability as certified by the actuary in which event no further**
16 **accrued liability contribution shall be required, except as determined at subsequent**
17 **actuarial valuations under section 87.335. The city may also contribute any lesser amount**
18 **which shall be used to proportionately reduce future accrued liability contributions.**

87.345. [The accrued liability contribution should be discontinued as soon as the
2 accumulated reserve in the general reserve fund shall equal the present value as actuarially
3 computed and approved by the board of trustees, of the total liability of the fund, less the present
4 value computed on the basis of the normal contribution rate then in force of the prospective
5 normal contributions to be received on account of persons who are at that time members. The
6 accrued liability contribution rate may be decreased by the board of trustees provided the reduced
7 level rate does not require an amortization period extending beyond the year 2010 for any
8 accrued liability as of August 31, 1980. Subsequent to that date, any changes in the accrued
9 liability by reason of changes in the benefits payable under the retirement system, changes in the
10 actuarial assumptions, or changes in the actuarial funding method are to be amortized over a
11 period not exceeding thirty years from the date in which the additional accrued liabilities are
12 recognized in the annual actuarial valuation of the system.] **The accrued liability contributions**
13 **shall be suspended for years in which the accumulated reserve in the general reserve fund**
14 **equals or exceeds the actuarial accrued liability as determined by an actuarial valuation**
15 **provided under section 87.325. For each year in which the accumulated reserve is equal**

- 16 **to or greater than the actuarial accrued liability, as determined under the entry age normal**
17 **funding method, the city shall contribute the normal contribution.**

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