

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

HOUSE BILL NO. 1710

94TH GENERAL ASSEMBLY

4488L.01T

2008

AN ACT

To repeal sections 86.1180, 86.1200, and 86.1560, RSMo, and section 86.1230 as enacted by senate bill no. 172, ninety-fourth general assembly, first regular session, and section 86.1230 as enacted by conference committee substitute no. 2 for house committee substitute no. 2 for senate bill no. 406, ninety-fourth general assembly, first regular session, 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 86.1180, 86.1200, and 86.1560, RSMo, and section 86.1230 as enacted by senate bill no. 172, ninety-fourth general assembly, first regular session, and section 86.1230 as enacted by conference committee substitute no. 2 for house committee substitute no. 2 for senate bill no. 406, ninety-fourth general assembly, first regular session, are repealed and four new sections enacted in lieu thereof, to be known as sections 86.1180, 86.1200, 86.1230, and 86.1560, to read as follows:

86.1180. 1. Any member **in active service** who is permanently unable to perform the full and unrestricted duties of a police officer as the natural, proximate, and exclusive result of an accident occurring within the actual performance of duty at some definite time and place or through an occupational disease arising exclusively out of and in the course of his or her employment shall be retired by the board of police commissioners upon certification by one or more physicians of the medical board that the member is mentally or physically unable to perform the full and unrestricted duties of a police officer, that the inability is permanent or likely to become permanent, and that the member should be retired. The inability to perform the full and unrestricted duties of a police officer means that the member is unable to perform all the

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.

10 essential job functions for the position of police officer as established by the board of police
11 commissioners.

12 2. Upon such retirement on or after August 28, 2001, a member shall receive a base
13 pension equal to seventy-five percent of his or her final compensation for so long as the
14 permanent disability shall continue, during which time such member shall for purposes of this
15 section be referred to as a disability beneficiary. Such pension may be subject to offset or
16 reduction under section 86.1190 by amounts paid or payable under any workers' compensation
17 law.

18 3. Once each year during the first five years following his or her retirement, and at least
19 once in every three-year period thereafter, the retirement board may, and upon the member's
20 application shall, require any disability beneficiary who has not yet attained the age of sixty years
21 to undergo a medical examination at a place designated by the medical board or some member
22 thereof. If any disability beneficiary who has not attained the age of sixty years refuses to submit
23 to a medical examination his or her disability pension may be discontinued until his or her
24 withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to
25 such pension may be revoked by the retirement board.

26 4. If one or more members of the medical board certify to the retirement board that a
27 disability beneficiary is able to perform the full and unrestricted duties of a police officer, and
28 if the retirement board concurs on the report, then such beneficiary's disability pension shall
29 cease.

30 5. If upon cessation of a disability pension under subsection 4 of this section, the former
31 disability beneficiary is restored to active service, such member shall contribute to this retirement
32 system thereafter at the same rate as other members. Upon subsequent retirement, such member
33 shall be credited with all his or her creditable service, including any years in which such member
34 received a disability pension under this section.

35 6. If upon cessation of a disability pension under subsection 4 of this section, the former
36 disability beneficiary is not restored to active service, such member shall be entitled to the
37 retirement benefit to which such member would have been entitled if such member had
38 terminated service at the time of such cessation of the disability pension. For the purpose of such
39 retirement benefits, such former disability beneficiary will be credited with all his or her
40 creditable service, including any years in which such member received a disability pension under
41 this section.

86.1200. 1. Any member **in active service** who has completed ten or more years of
2 creditable service and who has become permanently unable to perform the full and unrestricted
3 duties of a police officer as the result of an injury or illness not exclusively caused or induced
4 by the actual performance of his or her official duties or by his or her own negligence shall be

5 retired by the board of police commissioners upon certification by one or more physicians of the
6 medical board of the retirement board that the member is mentally or physically unable to
7 perform the full and unrestricted duties of a police officer, that the inability is permanent or likely
8 to become permanent, and that the member should be retired. The inability to perform the full
9 and unrestricted duties of a police officer means that the member is unable to perform all the
10 essential job functions for the position of police officer as established by the board of police
11 commissioners.

12 2. Upon such retirement on or after August 28, 2001, a member shall receive a base
13 pension equal to two and one-half percent of final compensation multiplied by the number of
14 years of creditable service. Such pension shall be paid for so long as the permanent disability
15 shall continue, during which time such member shall for purposes of this section be referred to
16 as a nonduty disability beneficiary.

17 3. Once each year during the first five years following such member's retirement, and at
18 least once in every three-year period thereafter, the retirement board may, and upon the member's
19 application shall, require any nonduty disability beneficiary who has not yet attained the age of
20 sixty years to undergo a medical examination at a place designated by the medical board. If any
21 nonduty disability beneficiary who has not attained the age of sixty years refuses to submit to a
22 medical examination, his or her nonduty disability pension may be discontinued until his or her
23 withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to
24 such pension may be revoked by the retirement board.

25 4. If one or more members of the medical board certify to the retirement board that a
26 nonduty disability beneficiary is able to perform the full and unrestricted duties of a police
27 officer, and if the retirement board concurs in the report, then such beneficiary's nonduty
28 disability pension shall cease.

2 [86.1230. 1. Any member who retires subsequent to August 28, 1991,
3 with entitlement to a pension under sections 86.900 to 86.1280, shall receive each
4 month, in addition to such member's base pension and cost-of-living adjustments
5 thereto under section 86.1220, and in addition to any other compensation or
6 benefit to which such member may be entitled under sections 86.900 to 86.1280,
7 a supplemental retirement benefit of fifty dollars per month. The amount of such
8 supplemental retirement benefit may be adjusted by cost-of-living adjustments
9 determined by the retirement board not more frequently than annually.

10 2. Any member who was retired on or before August 28, 1991, and is
11 receiving retirement benefits from the retirement system shall, upon application
12 to the retirement board, be retained as a consultant, and for such services such
13 member shall receive each month, in addition to such member's base pension and
14 cost-of-living adjustments thereto under section 86.1220, and in addition to any
15 other compensation or benefit to which such member may be entitled under
sections 86.900 to 86.1280, a supplemental compensation in the amount of fifty

16 dollars per month. This appointment as a consultant shall in no way affect any
17 member's eligibility for retirement benefits under the provisions of sections
18 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits
19 otherwise payable to such member. The amount of such supplemental
20 compensation under this subsection may be adjusted by cost-of-living
21 adjustments determined by the retirement board not more frequently than
22 annually.

23 3. For purposes of subsections 1 and 2 of this section, the term "member"
24 shall include a surviving spouse entitled to a benefit under sections 86.900 to
25 86.1280 who shall be deemed to have retired for purposes of this section on the
26 date of retirement of the member of whom such person is the surviving spouse
27 or on the date of death of such member if such member died prior to retirement;
28 provided, that if the surviving spouse of any member who retired prior to August
29 28, 2000, shall not have remarried prior to August 28, 2000, but remarries
30 thereafter, such surviving spouse shall thereafter receive benefits under
31 subsection 2 of this section, and provided further, that no benefits shall be
32 payable under this section to the surviving spouse of any member who retired
33 prior to August 28, 2000, if such surviving spouse was at any time remarried after
34 the member's death and prior to August 28, 2000. All benefits payable to a
35 surviving spouse under this section shall be in addition to all other benefits to
36 which such surviving spouse may be entitled under other provisions of sections
37 86.900 to 86.1280. Any such surviving spouse of a member who dies while
38 entitled to payments under this section shall succeed to the full amount of
39 payment under this section to which such member was entitled at the time of such
40 member's death, including any cost-of-living adjustments received by such
41 member in the payment under this section prior to such member's death. In all
42 events, the term "member" shall not include any children of the member who
43 would be entitled to receive part or all of the pension which would be received
44 by a surviving spouse if living.

45 4. Any member who is receiving benefits from the retirement system and
46 who either was retired under the provisions of subsection 1 of section 86.1150,
47 or who retired before August 28, 2001, under the provisions of section 86.1180
48 or section 86.1200, shall, upon application to the retirement board, be retained
49 as a consultant. For such services such member shall receive each month in
50 addition to such member's base pension and cost-of-living adjustments thereto
51 under section 86.1220, and in addition to any other compensation or benefit to
52 which such member may be entitled under sections 86.900 to 86.1280, an
53 equalizing supplemental compensation of ten dollars per month. This
54 appointment as a consultant shall in no way affect any member's eligibility for
55 retirement benefits under the provisions of sections 86.900 to 86.1280, or in any
56 way have the effect of reducing retirement benefits otherwise payable to such
57 member. The amount of equalizing supplemental compensation under this
58 subsection may be adjusted by cost-of-living adjustments, determined by the

retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the member's base pension. Each cost-of-living adjustment to compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. For the purposes of this subsection, the term "member" shall include a surviving spouse entitled to benefits under the provisions of sections 86.900 to 86.1280, and who is the surviving spouse of a member who qualified, or would have qualified if living, for compensation under this subsection. Such surviving spouse shall, upon application to the retirement board, be retained as a consultant, and for such services shall be compensated in an amount equal to the compensation which would have been received by the member under this subsection, if living. Any such surviving spouse of a member who dies while entitled to payments under this subsection shall succeed to the full amount of payment under this subsection to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this subsection prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

5. A surviving spouse who is entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death prior to August 28, 2007, of a member in service, and who is receiving benefits from the retirement system, shall, upon application to the retirement board, be retained as a special consultant, and for such services such surviving spouse shall receive each month an equalizing supplemental compensation of ten dollars per month. A surviving spouse entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death of a member in service on or after August 28, 2008, shall receive each month an equalizing supplemental benefit of ten dollars per month. All benefits payable to a surviving spouse under this subsection shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280 and shall in no way have the effect of reducing benefits otherwise payable to such surviving spouse. The amount of equalizing supplemental benefit or equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental benefit or compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the base pension of the surviving spouse. Each cost-of-living adjustment to an equalizing supplemental benefit or compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. In all events the term "surviving spouse" as used in this subsection shall not include any

children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

6. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any benefit or compensation under this section for any member.

7. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, any benefit compensation payments provided under this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.]

86.1230. 1. Any member who retires subsequent to August 28, 1991, with entitlement to a pension under sections 86.900 to 86.1280, shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

2. Any member who was retired on or before August 28, 1991, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

3. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse entitled to a benefit under sections 86.900 to 86.1280 who shall be deemed

21 to have retired for purposes of this section on the date of retirement of the member of whom such
22 person is the surviving spouse or on the date of death of such member if such member died prior
23 to retirement; provided, that if the surviving spouse of any member who retired prior to August
24 28, 2000, shall not have remarried prior to August 28, 2000, but remarries thereafter, such
25 surviving spouse shall thereafter receive benefits under subsection 2 of this section, and provided
26 further, that no benefits shall be payable under this section to the surviving spouse of any
27 member who retired prior to August 28, 2000, if such surviving spouse was at any time remarried
28 after the member's death and prior to August 28, 2000. All benefits payable to a surviving
29 spouse under this section shall be in addition to all other benefits to which such surviving spouse
30 may be entitled under other provisions of sections 86.900 to 86.1280. Any such surviving spouse
31 of a member who dies while entitled to payments under this section shall succeed to the full
32 amount of payment under this section to which such member was entitled at the time of such
33 member's death, including any cost-of-living adjustments received by such member in the
34 payment under this section prior to such member's death. In all events, the term "member" shall
35 not include any children of the member who would be entitled to receive part or all of the
36 pension which would be received by a surviving spouse if living.

37 4. Any member who is receiving benefits from the retirement system and who either was
38 retired under the provisions of subdivision (1) of subsection 1 of section 86.1150, or who retired
39 before August 28, 2001, under the provisions of section 86.1180 or section 86.1200, shall, upon
40 application to the retirement board, be retained as a consultant. For such services such member
41 shall receive each month in addition to such member's base pension and cost-of-living
42 adjustments thereto under section 86.1220, and in addition to any other compensation or benefit
43 to which such member may be entitled under sections 86.900 to 86.1280, an equalizing
44 supplemental compensation of ten dollars per month. This appointment as a consultant shall in
45 no way affect any member's eligibility for retirement benefits under the provisions of sections
46 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise
47 payable to such member. The amount of equalizing supplemental compensation under this
48 subsection may be adjusted by cost-of-living adjustments, determined by the retirement board
49 not more frequently than annually, but in no event shall the aggregate of such equalizing
50 supplemental compensation together with all such cost-of-living adjustments thereto exceed
51 twenty-five percent of the member's base pension. Each cost-of-living adjustment to
52 compensation under this subsection shall be determined independently of any cost-of-living
53 adjustment to any other benefit under sections 86.900 to 86.1280. For the purposes of this
54 subsection, the term "member" shall include a surviving spouse entitled to benefits under the
55 provisions of sections 86.900 to 86.1280, and who is the surviving spouse of a member who
56 qualified, or would have qualified if living, for compensation under this subsection. Such

57 surviving spouse shall, upon application to the retirement board, be retained as a consultant, and
58 for such services shall be compensated in an amount equal to the compensation which would
59 have been received by the member under this subsection, if living. Any such surviving spouse
60 of a member who dies while entitled to payments under this subsection shall succeed to the full
61 amount of payment under this subsection to which such member was entitled at the time of such
62 member's death, including any cost-of-living adjustments received by such member in the
63 payment under this subsection prior to such member's death. In all events, the term "member"
64 shall not include any children of the member who would be entitled to receive part or all of the
65 pension that would be received by a surviving spouse, if living.

66 5. A surviving spouse who is entitled to benefits under the provisions of subsection 1 of
67 section 86.1240 as a result of the death prior to August 28, 2007, of a member in service, and
68 who is receiving benefits from the retirement system, shall, upon application to the retirement
69 board, be retained as a consultant, and for such services such surviving spouse shall receive each
70 month an equalizing supplemental compensation of ten dollars per month. A surviving spouse
71 entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the
72 death of a member in service on or after August 28, 2007, shall receive each month an equalizing
73 supplemental benefit of ten dollars per month. All benefits payable to a surviving spouse under
74 this subsection shall be in addition to all other benefits to which such surviving spouse may be
75 entitled under other provisions of sections 86.900 to 86.1280 and shall in no way have the effect
76 of reducing benefits otherwise payable to such surviving spouse. The amount of equalizing
77 supplemental benefit or equalizing supplemental compensation under this subsection may be
78 adjusted by cost-of-living adjustments, determined by the retirement board not more frequently
79 than annually, but in no event shall the aggregate of such equalizing supplemental benefit or
80 compensation together with all such cost-of-living adjustments thereto exceed twenty-five
81 percent of the base pension of the surviving spouse. Each cost-of-living adjustment to an
82 equalizing supplemental benefit or compensation under this subsection shall be determined
83 independently of any cost-of-living adjustment to any other benefit under sections 86.900 to
84 86.1280. In all events the term "surviving spouse" as used in this subsection shall not include any
85 children of the member who would be entitled to receive part or all of the pension that would be
86 received by a surviving spouse, if living.

87 6. In determining and granting the cost-of-living adjustments under this section, the
88 retirement board shall adopt such rules and regulations as may be necessary to effectuate the
89 purposes of this section, including provisions for the manner of computation of such adjustments
90 and the effective dates thereof. The retirement board shall provide for such adjustments to be
91 determined once each year and granted on a date or dates to be chosen by the board. The

92 retirement board shall not be required to prorate the initial adjustment to any benefit or
93 compensation under this section for any member.

94 7. The determination of whether the retirement system will remain actuarially sound
95 shall be made at the time any cost-of-living adjustment under this section is granted. If at any
96 time the retirement system ceases to be actuarially sound, any benefit or compensation payments
97 provided under this section shall continue as adjusted by increases or decreases theretofore
98 granted. A member of the retirement board shall have no personal liability for granting increases
99 under this section if that retirement board member in good faith relied and acted upon advice of
100 a qualified actuary that the retirement system would remain actuarially sound.

86.1560. 1. A member **in active service** who becomes totally and permanently disabled,
2 as defined in this section, shall be entitled to retire and to receive a base pension determined in
3 accordance with the terms of this section. Members who are eligible and totally and permanently
4 disabled shall receive a disability pension computed as follows:

5 (1) Duty disability, fifty percent of final compensation as of the date of disability;

6 (2) Nonduty disability, thirty percent of final compensation as of the date of disability,
7 provided that a nonduty disability pension shall not be available to any member with less than
8 ten years creditable service;

9 (3) In no event shall the disability pension be less than the amount to which the member
10 would be entitled as a pension if the member retired on the same date with equivalent age and
11 creditable service.

12 2. The final payment due a member receiving a disability pension shall be the payment
13 due on the first day of the month in which such member's death occurs. Such member's
14 surviving spouse, if any, shall be entitled to such benefits as may be provided under section
15 86.1610.

16 3. For purposes of sections 86.1310 to 86.1640, the following terms shall mean:

17 (1) "Duty disability", total and permanent disability directly due to and caused by actual
18 performance of employment with the police department;

19 (2) "Nonduty disability", total and permanent disability arising from any other cause than
20 duty disability;

21 (3) "Total and permanent disability", a state or condition which presumably prevents for
22 the rest of a member's life the member's engaging in any occupation or performing any work for
23 remuneration or profit. Such disability, whether duty or nonduty, must not have been caused by
24 the member's own negligence or willful self-infliction.

25 4. The retirement board in its sole judgment shall determine whether the status of total
26 and permanent disability exists. Its determination shall be binding and conclusive. The
27 retirement board shall rely upon the findings of a medical board of three physicians, and shall

28 procure the written recommendation of at least one member thereof in each case considered by
29 the retirement board. The medical board shall be appointed by the retirement board and expense
30 for such examinations as are required shall be paid from funds of the retirement system.

31 5. From time to time, the retirement board shall have the right to require proof of
32 continuing disability which may include further examination by the medical board. Should the
33 retirement board determine that disability no longer exists, it shall terminate the disability
34 pension. A member who immediately returns to work with the police department shall again
35 earn creditable service beginning on the first day of such return. Creditable service prior to
36 disability retirement shall be reinstated. A member who does not return to work with the police
37 department shall be deemed to have terminated employment at the time disability retirement
38 commenced; but in calculating any benefits due upon such presumption, the retirement system
39 shall receive credit for all amounts paid such member during the period of disability, except that
40 such member shall not be obligated in any event to repay to the retirement system any amounts
41 properly paid during such period of disability.

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