

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 397
AND
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 947
95TH GENERAL ASSEMBLY

Reported from the Committee on Veterans' Affairs, Pensions and Urban Affairs, April 9, 2009, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

1227S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 86.200, 86.207, 86.237, 86.257, 86.260, 86.263, and 86.270, RSMo,
and to enact in lieu thereof seven new sections relating to police retirement.

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

Section A. Sections 86.200, 86.207, 86.237, 86.257, 86.260, 86.263, and
2 86.270, RSMo, are repealed and seven new sections enacted in lieu thereof, to be
3 known as sections 86.200, 86.207, 86.237, 86.257, 86.260, 86.263, and 86.270, to
4 read as follows:

86.200. The following words and phrases as used in sections 86.200 to
2 86.366, unless a different meaning is plainly required by the context, shall have
3 the following meanings:

4 (1) "Accumulated contributions", the sum of all mandatory contributions
5 deducted from the compensation of a member and credited to the member's
6 individual account, together with members' interest thereon;

7 (2) "Actuarial equivalent", a benefit of equal value when computed upon
8 the basis of mortality tables and interest assumptions adopted by the board of
9 trustees;

10 (3) "Average final compensation":

11 (a) With respect to a member who earns no creditable service on or after
12 October 1, 2001, the average earnable compensation of the member during the

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

13 member's last three years of creditable service as a police officer, or if the member
14 has had less than three years of creditable service, the average earnable
15 compensation of the member's entire period of creditable service;

16 (b) With respect to a member who is not participating in the DROP
17 pursuant to section 86.251 on October 1, 2001, who did not participate in the
18 DROP at any time before such date, and who earns any creditable service on or
19 after October 1, 2001, the average earnable compensation of the member during
20 the member's last two years of creditable service as a policeman, or if the member
21 has had less than two years of creditable service, then the average earnable
22 compensation of the member's entire period of creditable service;

23 (c) With respect to a member who is participating in the DROP pursuant
24 to section 86.251 on October 1, 2001, or whose participation in DROP ended
25 before such date, who returns to active participation in the system pursuant to
26 section 86.251, and who terminates employment as a police officer for reasons
27 other than death or disability before earning at least two years of creditable
28 service after such return, the portion of the member's benefit attributable to
29 creditable service earned before DROP entry shall be determined using average
30 final compensation as defined in paragraph (a) of this subdivision; and the
31 portion of the member's benefit attributable to creditable service earned after
32 return to active participation in the system shall be determined using average
33 final compensation as defined in paragraph (b) of this subdivision;

34 (d) With respect to a member who is participating in the DROP pursuant
35 to section 86.251 on October 1, 2001, or whose participation in the DROP ended
36 before such date, who returns to active participation in the system pursuant to
37 section 86.251, and who terminates employment as a police officer after earning
38 at least two years of creditable service after such return, the member's benefit
39 attributable to all of such member's creditable service shall be determined using
40 the member's average final compensation as defined in paragraph (b) of this
41 subdivision;

42 (e) With respect to a member who is participating in the DROP pursuant
43 to section 86.251 on October 1, 2001, or whose participation in DROP ended
44 before such date, who returns to active participation in the system pursuant to
45 section 86.251, and whose employment as a police officer terminates due to death
46 or disability after such return, the member's benefit attributable to all of such
47 member's creditable service shall be determined using the member's average final
48 compensation as defined in paragraph (b) of this subdivision; and

49 (f) With respect to the surviving spouse or surviving dependent child of
50 a member who earns any creditable service on or after October 1, 2001, the
51 average earnable compensation of the member during the member's last two years
52 of creditable service as a police officer or, if the member has had less than two
53 years of creditable service, the average earnable compensation of the member's
54 entire period of creditable service;

55 (4) "Beneficiary", any person in receipt of a retirement allowance or other
56 benefit;

57 (5) "Board of police commissioners", any board of police commissioners,
58 police commissioners and any other officials or boards now or hereafter
59 authorized by law to employ and manage a permanent police force in such cities;

60 (6) "Board of trustees", the board provided in sections 86.200 to 86.366 to
61 administer the retirement system;

62 (7) "Creditable service", prior service plus membership service as provided
63 in sections 86.200 to 86.366;

64 (8) "DROP", the deferred retirement option plan provided for in section
65 86.251;

66 (9) "Earnable compensation", the annual salary which a member would
67 earn during one year on the basis of the member's rank or position as specified
68 in the applicable salary matrix in section 84.160, RSMo, plus additional
69 compensation for academic work as provided in subsection 8 of section 84.160,
70 RSMo, plus shift differential as provided in subdivision (4) of subsection 9 of
71 section 84.160, RSMo. Such amount shall include the member's deferrals to a
72 deferred compensation plan pursuant to Section 457 of the Internal Revenue Code
73 or to a cafeteria plan pursuant to Section 125 of the Internal Revenue Code or,
74 effective October 1, 2001, to a transportation fringe benefit program pursuant to
75 Section 132(f)(4) of the Internal Revenue Code. Earnable compensation shall not
76 include a member's additional compensation for overtime, standby time, court
77 time, nonuniform time or unused vacation time. Notwithstanding the foregoing,
78 the earnable compensation taken into account under the plan established
79 pursuant to sections 86.200 to 86.366 with respect to a member who is a
80 noneligible participant, as defined in this subdivision, for any plan year beginning
81 on or after October 1, 1996, shall not exceed the amount of compensation that
82 may be taken into account under Section 401(a)(17) of the Internal Revenue Code,
83 as adjusted for increases in the cost of living, for such plan year. For purposes
84 of this subdivision, a "noneligible participant" is an individual who first becomes

85 a member on or after the first day of the first plan year beginning after the
86 earlier of:

87 (a) The last day of the plan year that includes August 28, 1995; or

88 (b) December 31, 1995;

89 (10) "Internal Revenue Code", the federal Internal Revenue Code of 1986,
90 as amended;

91 (11) "Mandatory contributions", the contributions required to be deducted
92 from the salary of each member who is not participating in DROP in accordance
93 with section 86.320;

94 (12) ["Medical board", the board of physicians provided for in section
95 86.237;

96 (13)] "Member", a member of the retirement system as defined by sections
97 86.200 to 86.366;

98 [(14)] **(13)** "Members' interest", interest on accumulated contributions at
99 such rate as may be set from time to time by the board of trustees;

100 [(15)] **(14)** "Membership service", service as a policeman rendered since
101 last becoming a member, except in the case of a member who has served in the
102 armed forces of the United States and has subsequently been reinstated as a
103 policeman, in which case "membership service" means service as a policeman
104 rendered since last becoming a member prior to entering such armed service;

105 [(16)] **(15)** "Plan year" or "limitation year", the twelve consecutive-month
106 period beginning each October first and ending each September thirtieth;

107 [(17)] **(16)** "Policeman" or "police officer", any member of the police force
108 of such cities who holds a rank in such police force for which the annual salary
109 is listed in section 84.160, RSMo;

110 [(18)] **(17)** "Prior service", all service as a policeman rendered prior to the
111 date the system becomes operative or prior to membership service which is
112 creditable in accordance with the provisions of sections 86.200 to 86.366;

113 [(19)] **(18)** "Reserve officer", any member of the police reserve
114 force of such cities, armed or unarmed, who works less than full time,
115 with or without compensation, and who, by his or her assigned function
116 or as implied by his or her uniform, performs duties associated with
117 those of a police officer and who currently receives a service
118 retirement as provided by sections 86.200 to 86.366;

119 **(19)** "Retirement allowance", annual payments for life as provided by
120 sections 86.200 to 86.366 which shall be payable in equal monthly installments

121 or any benefits in lieu thereof granted to a member upon termination of
122 employment as a police officer and actual retirement;

123 (20) "Retirement system", the police retirement system of the cities as
124 defined in sections 86.200 to 86.366;

125 (21) "Surviving spouse", the surviving spouse of a member who was the
126 member's spouse at the time of the member's death.

86.207. 1. All persons who become policemen and all policemen who enter
2 or reenter the service of the city after the first day of October, 1957, become
3 members as a condition of their employment and shall receive no pensions or
4 retirement allowance from any other pension or retirement system supported
5 wholly or in part by the city or the state of Missouri, nor shall they be required
6 to make contributions under any other pension or retirement system of the city
7 or the state of Missouri, anything to the contrary notwithstanding.

8 2. If any member ceases to be in service for more than one year unless the
9 member has attained the age of fifty-five or has twenty years or more of
10 creditable service, or if the member withdraws the member's accumulated
11 contributions or if the member receives benefits under the retirement system or
12 dies, the member thereupon ceases to be a member; except in the case of a
13 member who has served in the armed forces of the United States and has
14 subsequently been reinstated as a policeman. A member who has terminated
15 employment as a police officer, has actually retired and is receiving retirement
16 benefits under the system shall be considered a retired member.

17 **3. A reserve officer shall not be considered a member of the**
18 **system for the purpose of determining creditable service, nor shall any**
19 **contributions be due. A reserve officer shall not be entitled to any**
20 **benefits from the system other than those awarded when the reserve**
21 **officer originally retired under section 86.250, nor shall service as a**
22 **reserve officer prohibit distribution of those benefits.**

86.237. 1. The board of trustees is authorized to use the city counselor
2 of the specified cities as a legal advisor to the board of trustees and may also
3 appoint an attorney-at-law or firm of attorneys-at-law to serve as the legal
4 advisor and consultant to the board of trustees and to represent the system and
5 the board of trustees in all legal proceedings.

6 2. The board of trustees shall designate a medical [board to be composed
7 of three physicians who shall] **director, who shall appoint physicians,**
8 **including himself or herself if appropriate, as he or she deems**

9 **necessary to** arrange for and pass upon all medical examinations required
10 under the provisions of sections 86.200 to 86.366[.]. **Such physicians** shall
11 investigate all essential statements [and certificates] **as to physical or mental**
12 **conditions** made by or on behalf of a member in connection with an application
13 for disability retirement and shall report in writing [to the board of trustees its]
14 **their** conclusions and recommendations upon all the matters referred to [it]
15 **them**. [In addition, the board of trustees may appoint a fourth physician to act
16 as an administrator of the medical board who may, with the consent of the board
17 of trustees, select the members of the medical board and coordinate any reports
18 to the board of trustees.] **The medical director shall report in writing to**
19 **the board of trustees conclusions and recommendations concerning all**
20 **essential statements as to physical or mental conditions made by or on**
21 **behalf of a member in connection with an application for disability**
22 **retirement.**

86.257. 1. Upon the application of a member in service or of the board of
2 police commissioners, any member who has had ten or more years of creditable
3 service [shall terminate employment as a police officer and] **and who has**
4 **become permanently unable to perform the duties of a police officer as**
5 **the result of an injury or illness not exclusively caused or induced by**
6 **the actual performance of his or her official duties or by his or her own**
7 **negligence**, shall be [actually] retired by the board of trustees[, not more than
8 ninety days next following the date of filing such application on an ordinary
9 disability retirement allowance; provided, that] **of the police retirement**
10 **system upon certification by** the medical [board after a medical examination
11 of such member shall certify that such] **director of the police retirement**
12 **system and approval by the board of trustees of the police retirement**
13 **system that the** member is mentally or physically [incapacitated for the further
14 performance of duty, that such incapacity] **unable to perform the duties of**
15 **a police officer, that the inability is permanent or likely to [be] become**
16 permanent, and that [such] **the** member should be retired.

17 2. **Once each year during the first five years following such**
18 **member's retirement, and at least once in every three-year period**
19 **thereafter, the board of trustees may, and upon the member's**
20 **application shall, require any nonduty disability beneficiary who has**
21 **not yet attained sixty years of age, to undergo a medical examination**
22 **at a place designated by the medical director or such physicians as the**

23 **medical director appoints. If any nonduty disability beneficiary who**
24 **has not attained sixty years of age refuses to submit to a medical**
25 **examination, his or her nonduty disability pension may be discontinued**
26 **until his or her withdrawal of such refusal, and if his or her refusal**
27 **continues for one year, all rights in and to such pension may be**
28 **revoked by the board of trustees.**

29 **3. If the medical director certifies to the board of trustees that**
30 **a nonduty disability beneficiary is able to perform the duties of a police**
31 **officer, and if the board of trustees concurs on the report, then such**
32 **beneficiary's nonduty disability pension shall cease.**

33 **4. If upon cessation of a disability pension under subsection 3 of**
34 **this section, the former disability beneficiary is restored to active**
35 **service, he or she shall again become a member, and he or she shall**
36 **contribute thereafter at the same rate as other members. Upon his or**
37 **her subsequent retirement, he or she shall be credited with all of his or**
38 **her active retirement, but not including any time during which the**
39 **former disability beneficiary received a disability pension under this**
40 **section.**

86.260. 1. Upon termination of employment as a police officer and actual
2 retirement for [ordinary] **nonduty** disability a member shall receive a service
3 retirement allowance **as calculated under subsection 1 of section 86.253** if
4 the member has attained the age of fifty-five or completed twenty years of
5 creditable service; otherwise the member shall receive [an ordinary] **a nonduty**
6 disability retirement allowance which shall be equal to ninety percent of the
7 member's accrued service retirement in section 86.253, but not less than
8 one-fourth of the member's average final compensation; provided, however, that
9 no such allowance shall exceed ninety percent of the member's accrued service
10 retirement benefit based on continuation of the member's creditable service to the
11 age set out in section 86.250.

12 **2. Effective October 1, 1999, the [ordinary] nonduty disability retirement**
13 **allowance will be increased by fifteen percent of the member's average final**
14 **compensation for each unmarried dependent child of the disabled member who**
15 **is under the age of eighteen, or who, regardless of age, is totally and permanently**
16 **mentally or physically disabled and incapacitated from engaging in gainful**
17 **occupation sufficient to support himself or herself.**

18 **3. Any member receiving benefits pursuant to the provisions of this**

19 section immediately prior to October 1, 1999, shall upon application to the board
20 of trustees be made, constituted, appointed and employed by the board of trustees
21 as a special consultant on the problems of retirement, aging and other matters
22 while the member is receiving such benefits, and upon request of the board of
23 trustees shall give opinions in writing or orally in response to such requests as
24 may be required. Beginning October 1, 1999, for such services as may be
25 required, there shall be payable an additional monthly compensation of one
26 hundred dollars or five percent of the member's average final compensation,
27 whichever is greater, for each unmarried dependent child of the member.

28 4. Any benefit payable to or for the benefit of a child or children under the
29 age of eighteen years pursuant to the provisions of subsections 2 and 3 of this
30 section shall continue to be paid beyond the age of eighteen years through the age
31 of twenty-two years in those cases where the child is a full-time student at a
32 regularly accredited college, business school, nursing school, school for technical
33 or vocational training, or university, but such extended benefit shall cease
34 whenever the child ceases to be a student. A college or university shall be
35 deemed to be regularly accredited which maintains membership in good standing
36 in a national or regional accrediting agency recognized by any state college or
37 university.

38 5. No benefits pursuant to this section shall be paid to a child over
39 eighteen years of age who is totally and permanently disabled if such child is a
40 patient or resident of a public-supported institution, nor shall such benefits be
41 paid unless such disability occurred prior to such child reaching the age of
42 eighteen.

86.263. [Upon application by the member or the board of police
2 commissioners] 1. Any member who [has become totally and permanently
3 incapacitated for duty at some definite time and place] **is permanently unable**
4 **to perform the duties of a police officer** as the natural [and], proximate,
5 **and exclusive** result of an accident occurring [while in] **within** the actual
6 performance of duty **at some definite time and place**, through no negligence
7 on the member's part, [and if such accident occurred not more than five years
8 prior to date of application unless the accident was reported and an examination
9 made of the member by the medical staff of the board of police commissioners
10 within five years of the date of the accident with subsequent examinations made
11 as requested,] shall, **upon application**, be retired **upon certification** by [the
12 board of trustees provided that] the medical [board shall certify that such]

13 **director of the police retirement system and approval by the board of**
14 **trustees of the police retirement system that the** member is mentally or
15 physically [incapacitated for further performance of duty, that such incapacity]
16 **unable to perform the duties of a police officer and that the inability**
17 **is permanent or reasonably** likely to [be] **become** permanent [and that such
18 member should be retired; provided that if the accident occurred prior to the age
19 and year set out in section 86.250, application for benefits must be made before
20 such age and year except that the interval between date of accident and of
21 application may be six months].

22 **2. No member shall be approved for retirement under the**
23 **provisions of subsection 1 of this section unless the application was**
24 **made and submitted to the board of trustees of the police retirement**
25 **system no later than five years following the date of accident, provided,**
26 **that if the accident was reported within five years of the date of the**
27 **accident and an examination made of the member within thirty days of**
28 **the date of accident by a health care provider whose services were**
29 **provided through the board of police commissioners with subsequent**
30 **examinations made as requested, then an application made more than**
31 **five years following the date of the accident shall be considered timely.**

32 **3. Once each year during the first five years following a**
33 **member's retirement, and at least once in every three-year period**
34 **thereafter, the board of trustees may require any disability beneficiary**
35 **who has not yet attained sixty years of age to undergo a medical**
36 **examination or medical examinations at a place designated by the**
37 **medical director or such physicians as the medical director appoints.**
38 **If any disability beneficiary who has not attained sixty years of age**
39 **refuses to submit to a medical examination, his or her disability**
40 **pension may be discontinued until his or her withdrawal of such**
41 **refusal, and if his or her refusal continues for one year, all rights in**
42 **and to such pension may be revoked by the board of trustees.**

43 **4. If the medical director certifies to the board of trustees that**
44 **a disability beneficiary is able to perform the duties of a police officer,**
45 **and if the board of trustees concurs with the medical director's**
46 **determination, then such beneficiary's disability pension shall cease.**

47 **5. If upon cessation of a disability pension under subsection 4 of**
48 **this section, the former disability beneficiary is restored to active**

49 service, he or she shall again become a member, and he or she shall
50 contribute thereafter at the same rate as other members. Upon his or
51 her subsequent retirement, he or she shall be credited with all of his or
52 her active service time as a member including the service time prior to
53 receiving disability retirement, but not including any time during
54 which the former disability beneficiary received a disability pension
55 under this section.

56 6. If upon cessation of a disability pension under subsection 4 of
57 this section, the former disability beneficiary is not restored to active
58 service, such former disability beneficiary shall be entitled to the
59 retirement benefit to which such former disability beneficiary would
60 have been entitled if such former disability beneficiary had terminated
61 service for any reason other than dishonesty, intemperate habits, or
62 being convicted of a felony at the time of such cessation of such former
63 disability beneficiary's disability pension. For purposes of such
64 retirement benefits, such former disability beneficiary shall be credited
65 with all of the former disability beneficiary's active service time as a
66 member, but not including any time during which the former disability
67 beneficiary received a disability beneficiary pension under this section.

86.270. 1. Any determination of whether a member is disabled
2 under the provisions of section 86.257 or 86.263 shall consist of an
3 investigation of the member's physical and mental condition by the
4 medical director of the police retirement system and all physicians
5 appointed by the medical director under the provisions of section
6 86.237 and an investigation by the board of trustees of the police
7 retirement system of any other matter relevant to determine whether
8 the member satisfies the applicable requirements of section 86.257 or
9 86.263. The board of trustees may authorize the use of staff of the
10 police retirement system and other persons not employed by the police
11 retirement system to assist in its investigation. The board of trustees
12 of the police retirement system and the medical director of the police
13 retirement system and any such physicians appointed by the medical
14 director under the provisions of section 86.237 may communicate with
15 each other as to matters relevant to determine whether the member
16 satisfies the applicable requirements of section 86.257 or 86.263.

17 2. The board of trustees shall require each member who applies for

18 disability benefits **and any disability beneficiary to be reexamined under**
19 **the provisions of section 86.257 or 86.263** to undergo [a] medical
20 [examination] **examinations** at [a place] **places** designated by the medical
21 [board] **director and any physicians appointed by the medical director**
22 **under the provisions of section 86.237.** The examination shall be made by
23 the medical [board] **director** or by [a physician or] **any** physicians [designated]
24 **appointed** by [such board] **the medical director under the provisions of**
25 **section 86.237.** [Once each year during the first five years following the
26 retirement of a member on a disability retirement allowance and once in every
27 three-year period after that, the board of trustees may require any disabled
28 member to undergo a medical examination. Should any disabled member refuse
29 to submit to such medical examination, such member's disability allowance may
30 be discontinued until the withdrawal of such refusal and should the refusal
31 continue for one year all rights in and to the member's disability allowance may
32 be revoked by the board of trustees.]

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