

FIRST REGULAR SESSION

# HOUSE BILL NO. 947

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES LEARA (Sponsor) AND SCHOEMEHL (Co-sponsor).

2321L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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

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2 repealed and six new sections enacted in lieu thereof, to be known as sections 86.200, 86.237,  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

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

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

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

8 (3) "Average final compensation":

9 (a) With respect to a member who earns no creditable service on or after October 1,  
10 2001, the average earnable compensation of the member during the member's last three years of  
11 creditable service as a police officer, or if the member has had less than three years of creditable  
12 service, the average earnable compensation of the member's entire period of creditable service;

13 (b) With respect to a member who is not participating in the DROP pursuant to section  
14 86.251 on October 1, 2001, who did not participate in the DROP at any time before such date,  
15 and who earns any creditable service on or after October 1, 2001, the average earnable  
16 compensation of the member during the member's last two years of creditable service as a

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.

17 policeman, or if the member has had less than two years of creditable service, then the average  
18 earnable compensation of the member's entire period of creditable service;

19 (c) With respect to a member who is participating in the DROP pursuant to section  
20 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns  
21 to active participation in the system pursuant to section 86.251, and who terminates employment  
22 as a police officer for reasons other than death or disability before earning at least two years of  
23 creditable service after such return, the portion of the member's benefit attributable to creditable  
24 service earned before DROP entry shall be determined using average final compensation as  
25 defined in paragraph (a) of this subdivision; and the portion of the member's benefit attributable  
26 to creditable service earned after return to active participation in the system shall be determined  
27 using average final compensation as defined in paragraph (b) of this subdivision;

28 (d) With respect to a member who is participating in the DROP pursuant to section  
29 86.251 on October 1, 2001, or whose participation in the DROP ended before such date, who  
30 returns to active participation in the system pursuant to section 86.251, and who terminates  
31 employment as a police officer after earning at least two years of creditable service after such  
32 return, the member's benefit attributable to all of such member's creditable service shall be  
33 determined using the member's average final compensation as defined in paragraph (b) of this  
34 subdivision;

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

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

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

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

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

52 (7) "Creditable service", prior service plus membership service as provided in sections  
53 86.200 to 86.366;

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

55 (9) "Earnable compensation", the annual salary which a member would earn during one  
56 year on the basis of the member's rank or position as specified in the applicable salary matrix in  
57 section 84.160, RSMo, plus additional compensation for academic work as provided in  
58 subsection 8 of section 84.160, RSMo, plus shift differential as provided in subdivision (4) of  
59 subsection 9 of section 84.160, RSMo. Such amount shall include the member's deferrals to a  
60 deferred compensation plan pursuant to Section 457 of the Internal Revenue Code or to a  
61 cafeteria plan pursuant to Section 125 of the Internal Revenue Code or, effective October 1,  
62 2001, to a transportation fringe benefit program pursuant to Section 132(f)(4) of the Internal  
63 Revenue Code. Earnable compensation shall not include a member's additional compensation  
64 for overtime, standby time, court time, nonuniform time or unused vacation time.  
65 Notwithstanding the foregoing, the earnable compensation taken into account under the plan  
66 established pursuant to sections 86.200 to 86.366 with respect to a member who is a noneligible  
67 participant, as defined in this subdivision, for any plan year beginning on or after October 1,  
68 1996, shall not exceed the amount of compensation that may be taken into account under Section  
69 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost of living, for such  
70 plan year. For purposes of this subdivision, a "noneligible participant" is an individual who first  
71 becomes a member on or after the first day of the first plan year beginning after the earlier of:

72 (a) The last day of the plan year that includes August 28, 1995; or  
73 (b) December 31, 1995;

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

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

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

78 (13)] "Member", a member of the retirement system as defined by sections 86.200 to  
79 86.366;

80 [(14)] **(13)** "Members' interest", interest on accumulated contributions at such rate as  
81 may be set from time to time by the board of trustees;

82 [(15)] **(14)** "Membership service", service as a policeman rendered since last becoming  
83 a member, except in the case of a member who has served in the armed forces of the United  
84 States and has subsequently been reinstated as a policeman, in which case "membership service"  
85 means service as a policeman rendered since last becoming a member prior to entering such  
86 armed service;

87 [(16)] (15) "Plan year" or "limitation year", the twelve consecutive-month period  
88 beginning each October first and ending each September thirtieth;

89 [(17)] (16) "Policeman" or "police officer", any member of the police force of such cities  
90 who holds a rank in such police force for which the annual salary is listed in section 84.160,  
91 RSMo;

92 [(18)] (17) "Prior service", all service as a policeman rendered prior to the date the  
93 system becomes operative or prior to membership service which is creditable in accordance with  
94 the provisions of sections 86.200 to 86.366;

95 [(19)] (18) "Retirement allowance", annual payments for life as provided by sections  
96 86.200 to 86.366 which shall be payable in equal monthly installments or any benefits in lieu  
97 thereof granted to a member upon termination of employment as a police officer and actual  
98 retirement;

99 [(20)] (19) "Retirement system", the police retirement system of the cities as defined in  
100 sections 86.200 to 86.366;

101 [(21)] (20) "Surviving spouse", the surviving spouse of a member who was the  
102 member's spouse at the time of the member's death.

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

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

86.257. 1. Upon the application of a member in service or of the board of police  
2 commissioners, any member who has [had] **completed** ten or more years of creditable service

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

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

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

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

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

8 percent of the member's accrued service retirement benefit based on continuation of the  
9 member's creditable service to the age set out in section 86.250.

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

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

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

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

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

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

18 **2. No member shall be approved for retirement under the provisions of subsection**  
19 **1 of this section unless the application was made and submitted to the board of trustees of**  
20 **the police retirement system no later than five years following the date of accident,**  
21 **provided, that if the accident was reported within five years of the date of the accident and**  
22 **an examination made of the member within thirty days of the date of accident by a health**  
23 **care provider whose services were provided through the board of police commissioners**  
24 **with subsequent examinations made as requested, then an application made more than five**  
25 **years following the date of the accident shall be considered timely.**

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

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

39 **5. If upon cessation of a disability pension under subsection 4 of this section, the**  
40 **former disability beneficiary is restored to active service, he or she shall again become a**  
41 **member, and he or she shall contribute thereafter at the same rate as other members.**  
42 **Upon his or her subsequent retirement, he or she shall be credited with all of his or her**  
43 **active service time as a member including the service time prior to receiving disability**

44 retirement, but not including any time during which the former disability beneficiary  
45 received a disability pension under this section.

46       **6. If upon cessation of a disability pension under subsection 4 of this section, the**  
47 **former disability beneficiary is not restored to active service, such former disability**  
48 **beneficiary shall be entitled to the retirement benefit to which such former disability**  
49 **beneficiary would have been entitled if such former disability beneficiary had terminated**  
50 **service for any reason other than dishonesty, intemperate habits, or being convicted of a**  
51 **felony at the time of such cessation of such former disability beneficiary's disability**  
52 **pension. For purposes of such retirement benefits, such former disability beneficiary shall**  
53 **be credited with all of the former disability beneficiary's active service time as a member,**  
54 **but not including any time during which the former disability beneficiary received a**  
55 **disability beneficiary pension under this section.**

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

14       **2. The board of trustees shall require each member who applies for disability benefits**  
15 **and any disability beneficiary to be reexamined under the provisions of section 86.257 or**  
16 **86.263 to undergo [a] medical [examination] examinations at [a place] places designated by**  
17 **the medical [board] director and any physicians appointed by the medical director under**  
18 **the provisions of section 86.237. The examination shall be made by the medical [board]**  
19 **director or by [a physician or] any physicians [designated] appointed by [such board] the**  
20 **medical director under the provisions of section 86.237. [Once each year during the first five**  
21 **years following the retirement of a member on a disability retirement allowance and once in**  
22 **every three-year period after that, the board of trustees may require any disabled member to**  
23 **undergo a medical examination. Should any disabled member refuse to submit to such medical**  
24 **examination, such member's disability allowance may be discontinued until the withdrawal of**



25 such refusal and should the refusal continue for one year all rights in and to the member's  
26 disability allowance may be revoked by the board of trustees.]

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