

SECOND REGULAR SESSION

SENATE BILL NO. 871

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR COLEMAN.

Read 1st time January 12, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

3798L.011

AN ACT

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

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

Section A. Sections 86.252, 86.253, and 86.255, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 86.252, 86.253,
3 86.255, and 86.359, to read as follows:

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

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

- 15 (1) The life of the member;
- 16 (2) The life of the member and a designated beneficiary;
- 17 (3) A period certain not extending beyond the life expectancy of the
18 member; or

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

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

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

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

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

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

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

44 c. If there is no designated beneficiary as of September thirtieth
45 of the calendar year following the calendar year of the member's death,
46 the member's entire interest shall be distributed by December thirty-
47 first of the calendar year containing the fifth anniversary of the
48 member's death;

49 d. If the member's surviving spouse is the member's sole
50 designated beneficiary and the surviving spouse dies after the member
51 but before distribution to the surviving spouse begins, this paragraph,
52 except for subparagraph a. of this paragraph, shall apply as if the
53 surviving spouse were the member.

54 For purposes of this paragraph and subdivision (5) of this subsection,
55 distributions shall be considered to begin on the member's required

56 beginning date, or if subparagraph d. of this paragraph applies, the
57 date distributions are required to begin to the surviving spouse under
58 subparagraph a. of this paragraph. If annuity payments irrevocably
59 commence to the member before the member's required beginning date,
60 or to the member's surviving spouse before the date of distributions are
61 required to begin to the surviving spouse under subparagraph a. of this
62 paragraph, the date of distributions shall be considered to begin the
63 date distributions actually commence.

64 (c) Unless the member's interest is distributed in the form of an
65 annuity purchased from an insurance company or in a single sum on or
66 before the required beginning date, as of the first distribution calendar
67 year distributions shall be made in accordance with subdivisions (3),
68 (4), and (5) of this subsection. If the member's interest is distributed in
69 the form of an annuity purchased from an insurance company,
70 distributions shall be made in accordance with the requirements of
71 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, and
72 the United States Treasury regulations.

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

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

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

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

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

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

89 (ii) To the extent of the reduction in the amount of the member's
90 payments to provide for a surviving benefit upon death, but only if the
91 beneficiary whose life was being used to determine the distribution
92 period described in subdivision (4) of this subsection dies or is no

93 longer the member's beneficiary under a qualified domestic relations
94 order with the meaning of Section 414(p) of the Internal Revenue Code
95 of 1986, as amended;

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

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

100 (b) The amount distributed on or before the member's required
101 beginning date, or if the member dies before distribution begins, the
102 date distributions are required to begin under subparagraph a. or b. of
103 paragraph (b) of subdivision (2) of this subsection, shall be the payment
104 that is required for one payment interval. The second payment need
105 not be made until the end of the next payment interval even if the
106 payment interval ends in the next calendar year. "Payment intervals"
107 means the periods for which payments are received, such as bi-monthly,
108 monthly, semi-annually, or annually. All of the member's benefit
109 accruals as of the last day of the first distribution calendar year shall
110 be included in the calculation of the amount of the annuity payments
111 for payment intervals ending on or after the member's required
112 beginning date.

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

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

125 (b) The period certain for an annuity distribution commencing
126 during the member's lifetime shall not exceed the applicable
127 distribution period for the member under the Uniform Lifetime Table
128 set forth in Section 1.401(a)(9)-9 of the United States Treasury
129 regulations for the calendar year that contains the annuity starting

130 date. If the annuity starting date precedes the year in which the
131 member reaches age seventy, the applicable distribution period for the
132 member shall be the distribution period for age seventy under the
133 Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the United
134 States Treasury regulations plus the excess of seventy over the age of
135 the member as of the member's birthday in the year that contained the
136 annuity starting date.

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

143 a. Unless the annuity starting date is before the first distribution
144 calendar year, the life expectancy of the designated beneficiary
145 determined using the beneficiary's age as of the beneficiary's birthday
146 in the calendar year immediately following the calendar year of the
147 member's death; or

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

152 (b) If the member dies before the date distributions begin and
153 there is no designated beneficiary as of September thirtieth of the
154 calendar year following the calendar year of the member's death,
155 distribution of the member's entire interest shall be completed by
156 December thirty-first of the calendar year containing the fifth
157 anniversary of the member's death.

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

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

166 (a) "Designated beneficiary", the surviving spouse or the

167 individual who is designated as the beneficiary under subdivision (4)
168 of section 86.200 or any individual who is entitled to receive death
169 benefits under section 86.283 or 86.287 and is the designated
170 beneficiary under Section 401(a)(9) of the Internal Revenue Code of
171 1986, as amended, and Section 1.401(a)(9)-1, Q&A-4 of the United States
172 Treasury regulations;

173 (b) "Distribution calendar year", a calendar year for which a
174 minimum distribution is required. For distributions beginning before
175 the member's death, the first distribution calendar year is the calendar
176 year immediately preceding the calendar year which contains the
177 member's required beginning date. For distributions beginning after
178 the member's death, the first distribution calendar year is the calendar
179 year in which distributions are required to begin under paragraph (b)
180 of subdivision (2) of this subsection;

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

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

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

190 (a) A distribution for calendar years 2003, 2004, and 2005 shall
191 not fail to satisfy Section 401(a)(9) of the Internal Revenue Code of
192 1986, as amended, merely because the payments do not satisfy Section
193 1.401(a)(9)-1, Q&A-1 to Q&A-16 of the United States Treasury
194 regulations, provided the payments satisfy Section 401(a)(9) of the
195 Internal Revenue Code of 1986, as amended; and

196 (b) In the case of an annuity distribution option provided under
197 the terms of sections 86.200 to 86.366 shall not fail to satisfy Section
198 401(a)(9) of the Internal Revenue Code of 1986, as amended, merely
199 because the annuity payments do not satisfy the requirements of
200 Section 1.401(a)(9)-1, Q&A-1 to Q&A-15 of the United States Treasury
201 regulations, provided the distribution option satisfies Section 401(a)(9)
202 of the Internal Revenue Code of 1986, as amended, based on a
203 reasonable and good faith interpretation of the provisions of Section

204 401(a)(9) of the Internal Revenue Code of 1986, as amended.

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

28 2. If, at any time since first becoming a member of the retirement system,
29 the member has served in the armed forces of the United States, and has
30 subsequently been reinstated as a policeman within ninety days after the
31 member's discharge, the member shall be granted credit for such service as if the
32 member's service in the police department of such city had not been interrupted
33 by the member's induction into the armed forces of the United States. If earnable
34 compensation is needed for such period in computation of benefits it shall be
35 calculated on the basis of the compensation payable to the officers of the

36 member's rank during the period of the member's absence. Notwithstanding any
37 provision of sections 86.200 to 86.366 to the contrary, the retirement system
38 governed by sections 86.200 to 86.366 shall be operated and administered in
39 accordance with the applicable provisions of the Uniformed Services Employment
40 and Reemployment Rights Act of 1994, as amended.

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

65 4. In addition to any other retirement allowance payable under this
66 section and section 86.250, a member, upon termination of employment as police
67 officer and actual service retirement, [~~shall be repaid~~] **may request payment**
68 **of** the total amount of the member's mandatory contributions to the retirement
69 system without interest. **Upon receipt of such request**, the board shall pay
70 the retired member such total amount of the member's mandatory contributions
71 to the retirement system to be paid pursuant to this subsection within sixty days

72 after such retired member's date of termination of employment as a police officer
73 and actual retirement.

74 5. Any person who is receiving retirement benefits from the retirement
75 system, upon application to the board of trustees, shall be made, constituted,
76 appointed and employed by the board of trustees as a special consultant on the
77 problems of retirement, aging and other matters, for the remainder of the person's
78 life or, in the case of a deceased member's surviving spouse, until the earlier of
79 the person's death or remarriage, and upon request of the board of trustees shall
80 give opinions and be available to give opinions in writing or orally, in response
81 to such requests, as may be required. For such services the special consultant
82 shall be compensated monthly, in an amount which, when added to any monthly
83 retirement benefits being received from the retirement system, including any
84 cost-of-living increases under subsection 3 of this section, shall total six hundred
85 fifty dollars a month. This employment shall in no way affect any person's
86 eligibility for retirement benefits under this chapter, or in any way have the effect
87 of reducing retirement benefits, notwithstanding any provisions of law to the
88 contrary.

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

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

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

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

11 (3) "Eligible retirement plan", an individual retirement account described
12 in Section 408(a) of the Internal Revenue Code, an individual retirement annuity
13 described in Section 408(b) of the Internal Revenue Code, or a qualified trust
14 described in Section 401(a) of the Internal Revenue Code that accepts the
15 distributee's eligible rollover distribution or, effective for eligible rollover
16 distributions made on or after January 1, 2002, an annuity contract described in
17 Section 403(b) of the Internal Revenue Code or an eligible plan under Section
18 457(b) of the Internal Revenue Code which is maintained by a state, political
19 subdivision of a state, or any agency or instrumentality of a state or political

20 subdivision of a state and which agrees to separately account for amounts
21 transferred into such plan from this plan, and shall include, for eligible rollover
22 distributions made on or after January 1, 2002, a distribution to a surviving
23 spouse or to a spouse or former spouse who is the alternate payee under a
24 qualified domestic relations order, as defined in Section 414(p) of the Internal
25 Revenue Code;

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

28 (a) A distribution that is one of a series of substantially equal periodic
29 payments, made not less frequently than annually, for the life or life expectancy
30 of the distributee or for the joint lives or joint life expectancies of the distributee
31 and the distributee's designated beneficiary, or for a specified period of ten years
32 or more;

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

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

45 3. The board of trustees shall, at least thirty days, but not more than
46 ninety days, before making an eligible rollover distribution, provide a written
47 explanation to the distributee in accordance with the requirements of Section
48 402(f) of the Internal Revenue Code.

49 4. If the eligible rollover distribution is not subject to Sections 401(a) and
50 417 of the Internal Revenue Code, such eligible rollover distribution may be made
51 less than thirty days after the distributee has received the notice described in
52 subsection 3 of this section, provided that:

53 (1) The board of trustees clearly informs the distributee of the
54 distributee's right to consider whether to elect a direct rollover, and if applicable,
55 a particular distribution option, for at least thirty days after the distributee

56 receives the notice; and

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

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

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

Bill ✓

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