FIRST REGULAR SESSION

HOUSE BILL NO. 183

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SILVEY.

0651L.01I D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 86.900, 86.1030, 86.1100, 86.1110, 86.1120, 86.1140, 86.1150, 86.1230, 86.1240, 86.1250, 86.1310, 86.1420, 86.1480, 86.1490, 86.1500, 86.1510, 86.1540, 86.1560, 86.1600, 86.1610, and 86.1620, RSMo, and to enact in lieu thereof twenty-one new sections relating to police and civilian employees' retirement systems.

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

Section A. Sections 86.900, 86.1030, 86.1100, 86.1110, 86.1120, 86.1140, 86.1150, 86.1230, 86.1240, 86.1250, 86.1310, 86.1420, 86.1480, 86.1490, 86.1500, 86.1510, 86.1540, 86.1560, 86.1600, 86.1610, and 86.1620, RSMo, are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 86.900, 86.1030, 86.1100, 86.1110, 86.1120, 86.1140, 86.1150, 86.1230, 86.1240, 86.1250, 86.1310, 86.1420, 86.1480, 86.1490, 86.1500, 86.1510, 86.1540, 86.1560, 86.1600, 86.1610, and 86.1620, to read as follows:

86.900. The following words and phrases as used in sections 86.900 to 86.1280 shall have the following meanings unless a different meaning is plainly required by the context:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and paid to the retirement board, together with all amounts paid to the retirement board by a member or by a member's beneficiary, for the purchase of prior service credits or any other purpose permitted under sections 86.900 to 86.1280;

(2) **"Actuarial cost", the present value of a future payment or series of payments as calculated by applying the actuarial assumptions established according to subsection 8 of section 86.1270;**

(3) "Beneficiary", any person entitled, either currently or conditionally, to receive pension or other benefits provided in sections 86.900 to 86.1280;

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.

[(3)**] (4)** "Board of police commissioners", the board composed of police commissioners authorized by law to employ and manage an organized police force in the cities;

[(4)**] (5)** "City" or "cities", any city which now has or may hereafter have a population of more than three hundred thousand and less than seven hundred thousand inhabitants, or any city that has made an election under section 86.910 to continue a police retirement system maintained under sections 86.900 to 86.1280;

[(5)**] (6)** "Compensation", the basic wage or salary paid a member for any period on the basis of the member's rank and position, excluding bonuses, overtime pay, expense allowances, and other extraordinary compensation; except that, notwithstanding such provision, compensation for any year for any member shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of the Internal Revenue Code as applicable to such year;

[(6)**] (7)** "Consultant", unless otherwise specifically defined, a person retained by the retirement system as a special consultant on the problems of retirement, aging and related matters who, upon request of the retirement board, shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be needed by the board;

[(7)**] (8)** "Creditable service", service qualifying as a determinant of a member's pension or other benefit under sections 86.900 to 86.1280 by meeting the requirements specified in said sections or section 105.691;

[(8)**] (9)** "Final compensation", the average annual compensation of a member during the member's service if less than two years, or the twenty-four months of service for which the member received the highest salary whether consecutive or otherwise. In computing the average annual compensation of a member, no compensation for service after the thirtieth full year of membership service shall be included. For any period of time when a member is paid on a frequency other than monthly, the member's salary for such period shall be deemed to be the monthly equivalent of the member's annual rate of compensation for such period;

[(9)**] (10)** "Fiscal year", for the retirement system, the fiscal year of the cities;

[(10)**] (11)** "Internal Revenue Code", the United States Internal Revenue Code of 1986, as amended;

[(11)**] (12)** "Medical board", not less than one nor more than three physicians appointed by the retirement board to arrange for and conduct medical examinations as directed by the retirement board;

[(12)**] (13)** "Member", a member of the police retirement system as described in section 86.1090;

[(13)**] (14)** "Pension", annual payments for life, payable monthly, **[**beginning with the date of retirement or other applicable commencement date and ending with death**] at the times described in section 86.1030**;

[(14)**] (15)** "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.900 to 86.1280 and by the members of the police retirement system;

[(15)**] (16)** "Police officer", an officer or member of the police department of the cities employed for compensation by the boards of police commissioners of the cities for police duty who holds a rank or position for which an annual salary range is provided in section 84.480 or 84.510; in case of dispute as to whether any person is a police officer qualified for membership in the retirement system, the decision of the board of police commissioners shall be final;

[(16)**] (17)** "Retirement board" or "board", the board provided in section 86.920 to administer the retirement system;

[(17)**] (18)** "Retirement system", the police retirement system of the cities as defined in section 86.910;

[(18)**] (19)** "Surviving spouse", when determining whether a person is entitled to benefits under sections 86.900 to 86.1280 by reason of surviving a member, shall include only:

(a) A person who was married to a member at the time of the member's death in the line of duty or from an occupational disease arising out of and in the course of the member's employment and who had not, after the member's death and prior to August 28, 2000, remarried;

(b) With respect to a member who retired or died prior to August 28, 1997, a spouse who survives such member, whose marriage to such member occurred at least two years before the member's retirement or at least two years before the member's death while in service, and who had not remarried anyone other than the member prior to August 28, 2000;

(c) With respect to a member who retired or died while in service after August 28, 1997, and before August 28, 2000, a spouse who survives such member, was married to such member at the time of such member's retirement or of such member's death while in service, and had not, after the member's death and prior to August 28, 2000, remarried; and

(d) With respect to a member who retires or dies in service after August 28, 2000, a spouse who survives a member and was married to such member at the time of such member's retirement or death while in service.

86.1030. **1.** All benefits and all necessary administrative expenses of the retirement system shall be paid from the funds of the retirement system.

2. The base pension of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a base pension under sections 86.900 to 86.1280 shall commence as of the first day of the month next following such retirement or termination with no proration of such pension for the month in which such retirement or termination occurs. The supplemental retirement benefits of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a supplemental retirement benefit provided in subsection 1 of section 86.1230 shall

commence as of the first day of the month next following such retirement or termination with no proration of such supplemental retirement benefit for the month in which such retirement or termination occurs.

3. Upon the death of a member who is receiving a base pension under sections 86.900 to 86.1280 leaving a surviving spouse, as defined in section 86.900, entitled to benefits, payment of the member's base pension including all cost-of-living adjustments thereto, prorated for that portion of the month of such death in which such member was living, shall be made to such surviving spouse, and the benefit for which such spouse is entitled under section 86.1240 shall be prorated and paid to such spouse for the remainder of such month.

4. Upon the death of a member who is receiving a base pension under sections 86.900 to 86.1280 leaving no surviving spouse, as defined in section 86.900, entitled to benefits, payment of the member's base pension including all cost-of-living adjustments thereto, prorated for that portion of the month of such death in which such member was living, shall be made in equal shares to or for the benefit of the children, if any, of such member as are entitled to share in spousal benefits as described in subsection 2 of section 86.1250. If no such children shall survive such member, such prorated benefit for the month of such member's death shall be paid to the beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit. If no beneficiary is named, then no payment shall be made of such prorated benefit for the month of such member's death.

5. Upon the death of a surviving spouse who is receiving a base pension under section 86.1240, payment of such spouse's base pension including all cost-of-living adjustments thereto, prorated for that portion of the month of such death in which such spouse was living, shall be made in equal shares to or for the benefit of the children, if any, of the member of whom such spouse is the surviving spouse as are entitled to share in spousal benefits described in subsection 2 of section 86.1250. If no such children shall survive such spouse, such prorated benefit for the month of such spouse's death shall be paid to the beneficiary named by such surviving spouse in a writing filed with the retirement system prior to such spouse's death for the purpose of receiving such benefit. If no beneficiary is named, then no payment shall be made of such prorated benefit for the month of such spouse's death.

6. Upon the death of a member who is receiving a supplemental benefit under section 86.1230 and who leaves a surviving spouse, as defined in section 86.900, entitled to benefits, the entire supplemental benefit for the month of such death shall be paid to such

surviving spouse without proration, and the surviving spouse shall receive no additional supplemental benefit for such month.

7. Upon the death of a member who is receiving a supplemental benefit under section 86.1230 and who leaves no surviving spouse, as defined in section 86.900, entitled to benefits, or upon the death of a surviving spouse who is receiving a supplemental benefit under section 86.1230, such supplemental benefit shall terminate upon such death. No benefit shall be payable for any period after the most recent monthly payment of such benefit prior to such death.

8. Upon the death of a member in service who leaves a surviving spouse, as defined in section 86.900, entitled to benefits, the base pension of such surviving spouse shall commence as of the first day of the month next following such death with no proration of such pension for the month in which such death occurs.

9. Upon the death of a member in service who leaves no surviving spouse, as defined in section 86.900, entitled to benefits, any benefit payable to surviving children of such member under subsection 2 of section 86.1250 shall commence as of the first day of the month next following such death with no proration of such benefit for the month in which such death occurs. If there are no such surviving children entitled to such benefit, then such member's accumulated contributions shall be paid to the beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit, or if no beneficiary is named, then to such member's estate.

10. Upon the death of a member in service or after retirement, any benefit payable to the surviving children of such member under subsection 1 of section 86.1250 shall commence as of the first day of the month next following such death with no proration of such benefit for the month in which such death occurs.

11. All payments of any benefit shall be paid on the last business day of each month for that month. For any benefit under sections 86.900 to 86.1280, the retirement system shall withhold payment of such benefit until all requisite documentation has been filed with the retirement system evidencing the entitlement of payee to such payment.

12. If no benefits are otherwise payable to a surviving spouse or child of a deceased member or otherwise as provided in this section, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse or child of such member or otherwise as provided in this section, shall be paid in one lump sum to the member's beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit, or if no beneficiary is named, then to such member's estate. Such payment shall

constitute full and final payment of any and all claims for benefits under the retirement system.

86.1100. 1. The retirement board shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of service. In no case shall more than one year of service be creditable for all service rendered in one calendar year. The retirement board shall not allow credit as service for any period **[**of more than thirty consecutive days**]** during which the member was absent without compensation, except as provided in **[**subsection 3 of section**] sections 86.1110 and** 86.1140.

2. **Except as provided in subsection 3 of section 86.1110,** creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by such member since such member last became a member.

3. Creditable service also includes any prior service credit to which a member may be entitled by virtue of an authorized purchase of such credit or as otherwise provided in sections 86.900 to 86.1280.

4. Creditable service shall not include any time a member was suspended from service without compensation. No contribution is required from either the member under section 86.1010 or from the city under section 86.1000 for such time.

5. Any member who has completed thirty years of creditable service may continue in service by permission of the board of police commissioners. Contributions shall not be required of, and no service shall be credited to, any member for more than thirty years of service.

86.1110. 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. Except as provided in subsection 3 of this section, a member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial **[**value**] cost** of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. **[**The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related

factors used in performing the most recent regular actuarial valuation of the retirement system.**]** Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse, or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is retired by the board of police commissioners for reason of disability as provided in sections 86.900 to 86.1280.

3. Notwithstanding any other provision of sections 86.900 to 86.1280, a member who is on leave of absence for military service during any portion of which leave the United States is in a state of declared war, or a compulsory draft is in effect for any of the military branches of the United States, or any units of the military reserves of the United States, including the National Guard, are mobilized for combat military operations, and who becomes entitled to reemployment rights and other employment benefits under Title 38, Chapter 43 of the U.S. Code, relating to employment and reemployment rights of members of the uniformed services by meeting the requirements for such rights and benefits under Section 4312 of said chapter, or the corresponding provisions of any subsequent applicable **[**U.S.**]** **federal** statute, shall be entitled to service credit for the time spent in such military service for all purposes of sections 86.900 to 86.1280 and such member shall not be required to pay any member contributions for such time. If it becomes necessary for the years of such service to be included in the calculation of such member's compensation for any purpose, such member shall be deemed to have received the same compensation throughout such period of service as the member's base annual salary immediately prior to the commencement of such leave of absence.

86.1120. Members who terminate membership with five years or more of creditable service and later return to membership may be given credit toward retirement for prior creditable service, subject to the condition that such member deposit in the pension fund a sum equal to the **[**accumulated contributions which had been paid to such member upon the prior termination.

Such repayment of withdrawn contributions shall be accompanied by an additional payment of interest equal to the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions had been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes**] member's portion of the actuarial cost to restore such service. The member's portion of the actuarial cost is determined on the ratio of the member's contribution rate to the total of the member and employer contribution rates at the time the member elects to purchase the creditable service**.

86.1140. 1. Should any member be granted leave of absence by the board of police commissioners, such member shall not, because of such absence, cease to be a member.

2. If a member is on leave of absence by authority of the board of police commissioners for thirty consecutive days or less, **and returns from such leave prior to August 28, 2011,** such member shall receive creditable service for such time.

3. Except as provided in subsection 3 of section 86.1110, if a member is on leave of absence **[**for more than thirty consecutive days**]** without compensation, such member shall not receive service credits for such time unless such member shall**[**, within one year after returning from such absence, pay into the retirement system an amount equal to the member's contribution percentage at the time such absence began times an assumed salary figure for the period of such absence, computed by assuming that such member received a salary during such absence at the rate of the base annual salary the member was receiving immediately prior to such absence**] return to active service and purchase such creditable service at the actuarial cost. The actuarial cost shall be determined at the time the member makes such purchase**.

86.1150. 1. Any member may retire when such member has completed twenty-five or more years of creditable service and, except as otherwise provided in section 86.1100, shall retire when such member has completed thirty years of creditable service. Upon such retirement such member shall receive a base pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service. Such pension shall not exceed seventy-five percent of the member's final compensation.

2. Every member not having thirty years of service must retire at sixty years of age except that on recommendation of the chief of police, the board of police commissioners may permit such member who is sixty years of age or over to remain in service until such member reaches the age of sixty-five years. Such member shall continue to make contributions and receive credit for service until reaching sixty-five years of age, until retirement, or until completion of thirty years of creditable service, whichever occurs first. If such member shall reach sixty-five years of age or shall retire prior to completion of twenty-five years of service, the base pension of such member shall be calculated under subsection 3 of this section.

3. Except as provided in section 86.1100 or in subsection 2 of this section, any member in service who shall have attained sixty years of age and at that time shall have completed at least ten but less than thirty years of creditable service shall retire and shall receive a base pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation as defined in section 86.900 multiplied by the number of years of such member's total creditable service.

4. Subject to the provisions of subsection 5 of this section, whenever the service of a member is terminated for any reason prior to death or retirement and the member has fifteen or more years of creditable service, the member may elect not to withdraw such member's accumulated contributions and shall become entitled to a base pension **[**beginning at**]** **commencing on the first day of the month following the attainment of** the age of fifty-five, if then living, equal to:

(1) For a member whose service so terminates prior to August 28, 2001, two percent of such member's final compensation multiplied by the number of years of such member's creditable service; or

(2) For a member whose service so terminates on or after August 28, 2001, two and one-half percent of such member's final compensation multiplied by the number of years of such member's creditable service.

5. Notwithstanding any other provisions of sections 86.900 to 86.1280, any member who is convicted of a felony prior to separation from active service shall not be entitled to any benefit from this retirement system except the return of such member's accumulated contributions.

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 to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement; provided, that if the surviving spouse of any member who retired prior to August 28, 2000, shall not have remarried prior to August 28, 2000, but remarries thereafter, such surviving spouse shall thereafter receive benefits under subsection 2 of this section, and provided further, that no benefits shall be payable under this section to the surviving spouse of any member who retired prior to August 28, 2000, if such surviving spouse was at any time remarried after the member's death and prior to August 28, 2000. All benefits payable to a surviving spouse under this section 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. Any such surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section 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 section 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 which would be received by a surviving spouse if living.

4. Any member who is receiving benefits from the retirement system and who either was retired under the provisions of subdivision (1) of subsection 1 of section 86.1150, or who retired before August 28, 2001, under the provisions of section 86.1180 or section 86.1200, shall, upon

application to the retirement board, be retained as a consultant. 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, an equalizing supplemental compensation of ten 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 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 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 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, 2007, 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 or 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.

86.1240. 1. Upon receipt of the proper proofs of death of a member in service for any reason whatsoever, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection **[**7**] 6** of this section, a base pension equal to forty percent of the final compensation of such member, subject to adjustments, if any, as provided in section 86.1220.

2. (1) Upon receipt of the proper proofs of death of a member who was retired or terminated service after August 28, 1999, and died after **[**commencement of benefits to such member**] having become entitled to benefits** from this retirement system, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection **[**7**] 6** of this section, a base pension equal to eighty percent of the pension being received by such member, including cost-of-living adjustments to such pension but excluding

supplemental retirement benefits, at the time of such member's death, subject to subsequent adjustments, if any, as provided in section 86.1220. The pension provided by this subdivision shall terminate upon remarriage by the surviving spouse prior to August 28, 2000.

(2) (a) Upon receipt of the proper proof of death of a member who retired or terminated service on or before August 28, 1999, and who died after August 28, 1999, and after **[**commencement of benefits to such member**] having become entitled to benefits** from this retirement system, such member's surviving spouse, if any, shall be entitled to a base pension equal to forty percent of the final compensation of such member.

(b) Such a surviving spouse shall, upon application to the retirement board, be appointed by the retirement board as a consultant and be compensated in an amount equal to the benefits such spouse would receive under subdivision (1) of this subsection if the member had retired or terminated service after August 28, 1999.

(c) The benefits provided by this subdivision shall terminate upon remarriage by the surviving spouse prior to August 28, 2000.

3. In the case of any member who, prior to August 28, 2000, died in service or retired, the surviving spouse who would qualify for benefits under subsection 1 or 2 of this section but for remarriage, and who has not remarried prior to August 28, 2000, but remarries thereafter, shall upon application be appointed by the retirement board as a consultant. For services as such consultant, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received under sections 86.900 to 86.1280 in the absence of such remarriage.

4. **[**For purposes of this section, commencement of benefits shall begin, for any benefit, at such time as all requirements of sections 86.900 to 86.1280 have been met entitling the member to a payment of such benefit at the next following payment date with the amount thereof established, regardless of whether the member has received the initial payment of such benefit.

5.**]** Upon the death of any member who is in service after August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, the surviving spouse's benefit provided under this section, without including any supplemental retirement benefits paid such surviving spouse by this retirement system, shall be six hundred dollars per month. For any member who died, retired or terminated service on or before August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, the surviving spouse shall upon application to the retirement board be appointed by the retirement board as a consultant. For services as such consultant, the surviving spouse shall, beginning the later of August 28, 2000, or the time the appointment is made under this subsection, be compensated in an amount which without including supplemental retirement

benefits provided by this system shall be six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly.

[6.**] 5.** A surviving spouse who is entitled to benefits under the provisions of subsection 1 of this section as a result of the death on or before August 28, 2009, of a member in service who is receiving benefits under sections 86.900 to 86.1280 and who does not qualify under the provisions of subsection **[**5**] 4** of this section shall, upon application to the retirement board, be appointed as a consultant, and for such services such surviving spouse shall be compensated in an amount which, without including any supplemental retirement benefits provided by sections 86.900 to 86.1280, shall be six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such surviving spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly. As used in this subsection, "surviving spouse" 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.

[7.**] 6.** Any beneficiary of benefits under sections 86.900 to 86.1280 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member.

86.1250. 1. (1) Upon the death of a member in service or after retirement **[**and commencement of benefits**]**, such member's child or children under the age of eighteen years at the time of the member's death shall be paid fifty dollars per month each until he or she shall attain the age of eighteen years; however, each such child who is or becomes a full-time student at an accredited educational institution shall continue to receive payments under this section for so long as such child shall remain such a full-time student or shall be in a summer or other vacation period scheduled by the institution with intent by such child, demonstrated to the satisfaction of the retirement board, to return to such full-time student status upon the resumption of the institution's classes following such vacation period, but in no event shall such payments

be continued after such child shall attain the age of twenty-one years except as hereinafter provided.

(2) Any child eighteen years of age or older, who is physically or mentally incapacitated from wage earning, so long as such incapacity exists as certified by a member of the medical board, shall be entitled to the same benefits as a child under the age of eighteen. For purposes of this section, a determination of whether a child of a member is physically or mentally incapacitated from wage earning so that the child is entitled to benefits under this section shall be made at the time of the member's death. If a child becomes incapacitated after the member's death, or if a child's incapacity existing at the member's death is removed and such child later becomes incapacitated again, such child shall not be entitled to benefits as an incapacitated child under the provisions of this section. A child shall be deemed incapacitated only for so long as the incapacity existing at the time of the member's death continues.

(3) Notwithstanding any other law to the contrary, amounts payable under subdivision (1) or (2) of this subsection shall not be subject to offset or reduction by amounts paid or payable under any workers' compensation or similar law.

2. Upon or after the death of a member in service or after retirement **[**and commencement of**] with entitlement to** benefits, if there is no surviving spouse or if a surviving spouse dies, the total amount, including any amounts receivable as consulting compensation, but not including any supplemental benefits under section 86.1230, which would be received by a qualified surviving spouse or which is being received by the surviving spouse at the date of death of such surviving spouse shall be added to the amounts received by and shall be divided among the children of such member under the age of eighteen years and the incapacitated children in equal shares. As each such child attains the age of eighteen years or has such incapacity removed, such total amount shall then be divided among the remaining such children, until there is no remaining child of such member under the age of eighteen years or incapacitated, at which time all benefits for children of such member under this subsection shall cease.

3. Upon the death of a member in service or after retirement **[**and commencement of benefits**]**, a funeral benefit of one thousand dollars shall be paid to the person or entity who provided or paid for the funeral services for such member.

[4. If no benefits are otherwise payable to a surviving spouse or child of a deceased member, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse or child of such member, shall be paid in one lump sum to the member's named beneficiary or, if none, to the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

5. For purposes of this section, commencement of benefits shall begin, for any benefit, at such time as all requirements of sections 86.900 to 86.1280 have been met entitling the member to a payment of such benefit at the next following payment date with the amount established, regardless of whether the member has received the initial payment of such benefit.**]**

86.1310. The following words and phrases as used in sections 86.1310 to 86.1640 shall have the following meanings unless a different meaning is plainly required by the context:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and paid to the retirement board, together with all amounts paid to the retirement board by a member or by a member's beneficiary for the purchase of prior service credits or any other purpose permitted under sections 86.1310 to 86.1640, in all cases with interest**, if any,** thereon at a rate determined from time to time for such purpose by the retirement board;

(2) **"Actuarial cost", the present value of a future payment or series of payments as calculated by applying the actuarial assumptions established according to subsection 8 of section 86.1630;**

(3) "Beneficiary", any person entitled, either currently or conditionally, to receive pension or other benefits provided in sections 86.1310 to 86.1640;

[(3)**] (4)** "Board of police commissioners", the board composed of police commissioners authorized by law to employ and manage an organized police force in the cities;

[(4)**] (5)** "City" or "cities", any city which now has or may hereafter have a population of more than three hundred thousand and less than seven hundred thousand inhabitants, or any city that has made an election under section 86.1320 to continue a civilian employees' retirement system theretofore maintained under sections 86.1310 to 86.1640;

[(5)**] (6)** "Compensation", the basic wage or salary paid a member for any period, excluding bonuses, overtime pay, expense allowances, and other extraordinary compensation; except that, notwithstanding such provision, compensation for any year for any member shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of the Internal Revenue Code as applicable to such year;

[(6)**] (7)** "Consultant", unless otherwise specifically defined, means a person retained by the retirement system as a special consultant on the problems of retirement, aging and related matters who, upon request of the retirement board, shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be needed by the board;

[(7)**] (8)** "Creditable service", service qualifying as a determinant of a member's pension or other benefit under sections 86.1310 to 86.1640 by meeting the requirements specified in such sections, or section 105.691;

[(8)**] (9)** "Employee", any regularly appointed civilian employee of the police department of the city as specified in sections 86.1310 to 86.1640 who is**:**

(a) Appointed prior to August 28, 2011, and is not eligible to receive a pension from the police retirement system of said city;

(b) Appointed on or after August 28, 2011, and is not eligible to receive a pension from the police retirement system of such city or from any other retirement or pension system of such city;

[(9)**] (10)** "Final compensation", the average annual compensation of a member during the member's service if less than two years, or the twenty-four months of service for which the member received the highest salary whether consecutive or otherwise. For any period of time when a member is paid on a frequency other than monthly, the member's salary for such period shall be deemed to be the monthly equivalent of the member's annual rate of compensation for such period;

[(10)**] (11)** "Internal Revenue Code", the United States Internal Revenue Code of 1986, as amended;

[(11)**] (12)** "Medical board", not less than one nor more than three physicians appointed by the retirement board to arrange for and conduct medical examinations as directed by the retirement board;

[(12)**] (13)** "Member", a member of the civilian employees' retirement system as described in section 86.1480;

[(13)**] (14)** "Pension", annual payments for life, payable monthly, **[**beginning with the date of retirement or other applicable commencement date and ending with death**] at the times described in section 86.1420**;

[(14)**] (15)** "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.1310 to 86.1640 and by the members of the civilian employees' retirement system;

[(15)**] (16)** "Retirement", termination of a member's status as an employee of the police department of the city at a time when the member or the member's beneficiary is immediately entitled to one or more benefits under sections 86.1310 to 86.1640;

[(16)**] (17)** "Retirement board" or "board", the board provided in section 86.1330 to administer the retirement system;

[(17)**] (18)** "Retirement system", the civilian employees' retirement system of the police department of the cities as defined in section 86.1320;

[(18)**] (19)** "Surviving spouse", when determining whether a person is entitled to benefits under sections 86.1310 to 86.1640 by reason of surviving a member, shall include only:

(a) The person who was married to the member at the time of the member's death in service prior to August 28, 2001, and who had not remarried prior to August 28, 2001;

(b) The person who was married to the member at the time of the member's death in service on or after August 28, 2001;

(c) In the case of any member who both retired and died prior to August 28, 2001, the person who was married to the member at the time of the member's death and who had not remarried prior to August 28, 2001;

(d) In the case of any member who retired prior to August 28, 2001, and died on or after that date, the person who was married to the member at the time of the member's death; or

(e) In the case of any member who retired on or after August 28, 2001, the person who was married to the member at both the time of the member's retirement and the time of the member's death.

86.1420. **1.** All benefits and all necessary administrative expenses of the retirement system shall be paid from the funds of the retirement system.

2. The base pension of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a base pension under sections 86.1310 to 86.1640 shall commence as of the first day of the month next following such retirement or termination with no proration of such pension for the month in which such retirement or termination occurs. The supplemental retirement benefit of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a supplemental retirement benefit provided in subsection 1 of section 86.1600 shall commence as of the first day of the month next following such retirement or termination with no proration of such supplemental retirement benefit for the month in which such retirement or termination occurs.

3. Upon the death of a member in service who leaves a surviving spouse, as defined in section 86.1310, entitled to benefits, any base pension which such surviving spouse shall elect under subdivision (2) of subsection 1 of section 86.1610 or under paragraph (b) of subdivision (3) of subsection 1 of section 86.1610 shall commence the later of the first day of the month next following such death or the first day of the month following the date which would have been the member's earliest possible retirement date permitted under subsection 2 of section 86.1540 with no proration of such pension for the month prior to such commencement date. Any base pension which such surviving spouse shall elect under paragraph (c) of subdivision (3) of subsection 1 of section 86.1610 shall commence the first day of the month next following such death with no proration of such pension for the month prior to such commencement date.

4. Upon the death of a member who is receiving a base pension under sections 86.1310 to 86.1640 leaving a surviving spouse, as defined in section 86.1310, entitled to benefits, the pension of such surviving spouse shall commence on the first day of the month next following such death with no proration for the month in which such death occurs.

5. All payments of any benefit shall be paid on the first business day of each month for that month. For any benefit under sections 86.1310 to 86.1640, the retirement system shall withhold payment of such benefit until all requisite documentation has been filed with the retirement system evidencing the entitlement of the payee to such payment. The final payment due to a retired member shall be the payment due on the first day of the month in which such member's death occurs. The final payment due to any surviving spouse shall be the payment due on the first day of the month in which such surviving spouse dies or otherwise ceases to be entitled to benefits under sections 86.1310 to 86.1640.

6. If no benefits are otherwise payable to a surviving spouse of a deceased member or otherwise as provided in this section, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse of such member or otherwise as provided in this section, shall be paid in one lump sum to the member's beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit, and if no beneficiary is named, then to such member's estate. Such payment shall constitute full and final payment of any and all claims for benefits under the retirement system, except as provided in section 86.1620.

86.1480. 1. Every person who becomes an employee, as defined in subdivision **[**(8)**] (9)** of section 86.1310, after August 28, 2001, shall become a member of the retirement system defined in sections 86.1310 to 86.1640 as a condition of such employment.

2. Every person who was a member of the retirement system on or before August 28, 2001, shall remain a member.

3. Every person who was an employee, as defined in subdivision **[**(8)**] (9)** of section 86.1310, on August 28, 2001, but was not a member, shall become a member as a condition of employment upon the completion of six months' continuous employment.

86.1490. 1. **The retirement board shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of service. In no case shall more than one year of service be creditable for all service rendered in one calendar year. The retirement board shall not allow credit as service for any period during which the member was absent without compensation, except as provided in subsection 3 of this section and subsection 3 of section 86.1500.**

2. Except as provided in subsection 3 of section 86.1500, creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by such member **[**for which such member received compensation**]** since such member last became a member.

3. Except as provided in subsection 3 of section 86.1500, if a member is on leave of absence without compensation, such member shall not receive service credits for such time unless such member shall return to active service and purchase such creditable service at the actuarial cost. The actuarial cost shall be determined at the time the member makes such purchase.

[2.**] 4.** Creditable service also includes any prior service credit to which a member may be entitled by virtue of an authorized purchase of such credit or as otherwise provided in sections 86.1310 to 86.1640.

[3.**] 5.** Creditable service shall not include any time a member was suspended from service without compensation. No contribution is required from either the member under section 86.1400 or from the city under section 86.1390 for such time.

86.1500. 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. Except as provided in subsection 3 of this section, a member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial **[**value**] cost** of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. **[**The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system.**]** Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded

annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is determined by the retirement board to be totally and permanently disabled as provided in section 86.1560.

3. Notwithstanding any other provision of sections 86.1310 to 86.1640, a member who is on leave of absence for military service during any portion of which leave the United States is in a state of declared war, or a compulsory draft is in effect for any of the military branches of the United States, or any units of the military reserves of the United States, including the National Guard, are mobilized for combat military operations, and who becomes entitled to reemployment rights and other employment benefits under Title 38, Chapter 43 of the U.S. Code, relating to employment and reemployment rights of members of the uniformed services by meeting the requirements for such rights and benefits under Section 4312 of said chapter, or the corresponding provisions of any subsequent applicable **[**U.S.**] federal** statute, shall be entitled to service credit for the time spent in such military service for all purposes of sections 86.1310 to 86.1640 and such member shall not be required to pay any member contributions for such time. If it becomes necessary for the years of such service to be included in the calculation of such member's compensation for any purpose, such member shall be deemed to have received the same compensation throughout such period of service as the member's base annual salary immediately prior to the commencement of such leave of absence.

86.1510. Members who terminate membership with three years or more of creditable service and later return to membership may be given credit toward retirement for prior creditable service, subject to the condition that such member deposit in the pension fund a sum equal to the **[**accumulated contributions which had been paid to such member upon the prior termination. Such repayment of withdrawn contributions shall be accompanied by an additional payment of interest equal to the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions had been withdrawn to the date of repayment thereof, determined in accordance

with such rules for valuation and accounting as may be adopted by the retirement board for such purposes**] member's portion of the actuarial cost to restore such service. The member's portion of the actuarial cost is determined on the ratio of the member's contribution rate to the total of the member and employer contribution rates at the time the member elects to purchase the creditable service**.

86.1540. 1. (1) Upon retirement on or after a member's normal retirement date, such member shall receive a base pension in the amount of two percent of such member's final compensation times the number of years, including fractions thereof, of such member's creditable service.

(2) Such member may elect to receive a different base pension under an election permitted under this section or section 86.1580.

2. Members may elect early retirement as follows:

(1) Beginning at age fifty-five, if the member has completed at least ten years of creditable service or at any later age after the member has completed at least ten years of creditable service. Unless subdivision (3) of this subsection shall be applicable, the benefit as computed under subsection 1 of this section shall be reduced by one-half of one percent for each **full** month the **[**effective date**] initial payment** is prior to the first day of the month following that in which such member will attain age sixty;

(2) Beginning at age sixty, if the member has completed at least five but not more than ten years of creditable service or at any later age after the member has completed at least five years of creditable service. Unless subdivision (3) of this subsection shall be applicable, the benefit as computed under subsection 1 of this section shall be reduced by one-half of one percent for each **full** month the **[**effective date**] initial payment** is prior to the first day of the month following that in which such member will attain age sixty-five; or

(3) At any time after the member's total of age and years of creditable service equals or exceeds eighty, in which event the benefit shall be as computed under subsection 1 of this section without any reduction. If an election for early retirement results in a reduced benefit under subdivision (1) or (2) of this subsection, such reduced benefit shall become the member's base pension, subject to all other adjustments described in this section.

3. (1) A member who is married at the time of retirement may by a written election, with the written consent of such member's spouse, elect an optional benefit calculated as follows: such optional benefit shall be a monthly pension in the initial amount which shall be actuarially equivalent to the actuarial value of the pension described in subdivision (1) of subsection 1 of this section for such member at the date of retirement (including the value of survivorship rights of a surviving spouse, where applicable, under section 86.1610), upon the basis that the initial annuity for the member's spouse, if such spouse survives the member, shall be the same as the

amount being paid the member on such annuity at the member's death, and, subject to cost-of-living adjustments thereafter declared on the spouse's base pension under section 86.1590, shall be paid to such surviving spouse for the lifetime of such spouse without regard to remarriage. If a member who makes an election of an optional benefit under this subsection has also elected an early retirement under either subdivision (1) or (2) of subsection 2 of this section, any reduction in benefit required for such early retirement election shall be calculated before calculating the initial amount of the optional benefit under this subsection.

(2) If a member who makes the election permitted by this subsection also makes an election permitted under section 86.1580, such optional benefit shall be reduced as provided in subdivision (3) of subsection 2 of section 86.1580.

(3) If a member makes the election permitted by this subsection, the amount calculated for such optional benefit under either subdivision (1) or (2) of this subsection shall be the base pension for such member and for such member's spouse for all purposes of sections 86.1310 to 86.1640.

(4) An election for an optional benefit under this subsection shall be void if the member dies within thirty days after filing such election with the retirement system or if the member dies before the due date of the first payment of such member's pension.

4. Subject to the provisions of subsection **[**7**] 6** of this section, whenever the service of a member is terminated after August 28, 1999, for any reason prior to death or retirement and the member has five or more years of creditable service, the member may elect not to withdraw such member's accumulated contributions and shall become entitled to receive a pension upon such member's normal retirement date under subdivision (1) of subsection 1 of this section or may elect to receive a pension commencing upon or after any date, prior to his or her normal retirement date, upon which early retirement would have been permitted under subsection 2 of this section if such member had remained a civilian employee of such police department, except that in calculating any qualification under subsection 2 of this section, such member shall not be entitled to count any year of creditable service in excess of such member's total years of creditable service at the time of such member's termination of employment. The amount of any pension commenced upon the basis of a date permitted under subsection 2 of this section shall be computed on the basis of the member's final compensation and number of years of creditable service, subject to such adjustments as may be applicable under the subdivision of subsection 2 of this section upon which such member relies in electing **[**the commencement of**]** such member's pension and subject to any other adjustments that such member may elect under this section. The amount of the initial pension calculated after all applicable adjustments shall be the base pension for such member, and for such member's spouse if such member shall elect the optional benefit permitted under subsection 3 of this section, for all purposes of sections 86.1310

to 86.1640. **Payment of any benefits elected under this subsection shall commence as of the first day of the month next following the applicable date with no proration of such benefit for any initial partial month.**

5. A member whose service was terminated on or before August 28, 1999, after five or more years of creditable service, and who permitted such member's accumulated contributions to remain in the pension fund, shall upon application to the retirement board be appointed as a consultant. For services as such consultant, such member shall, beginning the later of August 28, 1999, or the time of such appointment under this subsection, be entitled to elect to receive compensation in such amount and **[**commencing**]** at such time as such member would have been entitled to elect under any of the provisions of subsection 4 of this section if such member had terminated service after August 28, 1999. Such member shall be entitled to the same cost-of-living adjustments following the commencement of such compensation as if such member's compensation had been a base pension.

6. **[**All payments of any pension shall be paid on the first day of each month for that month. The first payment shall be paid on the first day of the first month in which the member's benefit can be determined and processed for payment, and shall include benefits from the date of retirement to the date of such first payment. The final payment due a retired member shall be the payment due on the first day of the month in which such member's death occurs.

7.**]** Notwithstanding any other provisions of sections 86.1310 to 86.1640, any member who is convicted of a felony prior to separation from active service shall not be entitled to any benefit from this retirement system except the return of such member's accumulated contributions.

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

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

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

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

2. **[**The final payment due a member receiving a disability pension shall be the payment due on the first day of the month in which such member's death occurs. Such member's

surviving spouse, if any, shall be entitled to such benefits as may be provided under section 86.1610.

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

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

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

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

[4.**] 3.** The retirement board in its sole judgment shall determine whether the status of total and permanent disability exists. Its determination shall be binding and conclusive. The retirement board shall rely upon the findings of a medical board of three physicians, and shall procure the written recommendation of at least one member thereof in each case considered by the retirement board. The medical board shall be appointed by the retirement board and expense for such examinations as are required shall be paid from funds of the retirement system.

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

86.1600. 1. Any member who retires subsequent to August 28, 1997, and on or before August 28, 2007, with entitlement to a pension under sections 86.1310 to 86.1640, and any member who retires subsequent to August 28, 2007, with entitlement to a pension under sections 86.1310 to 86.1640 and who either has at least fifteen years of creditable service or is retired under subsection 1 of section 86.1560, shall receive **[**each month**]**, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.1310 to 86.1640, 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, 1997, 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 86.1590, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.1310 to 86.1640, 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 86.1310 to 86.1640, 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. 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 supplemental retirement benefit or any supplemental compensation under this section for any member.

4. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse who is entitled to a benefit under sections 86.1310 to 86.1640, who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement; provided, that no benefits shall be payable under this section to the surviving spouse of any member who died while in active service after August 28, 2007, unless such death occurred in the line of duty or course of employment or as the result of an injury or illness incurred in the line of duty or course of employment or unless such member had at least fifteen years of creditable service. The surviving spouse of a member who died in service after August 28, 2007, whose death occurred in the line of duty or course of employment or as the result of an injury or illness incurred in the line of duty or course of employment shall be entitled to benefits under subsection 1 of this section without regard to such member's years of creditable service. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.1310 to 86.1640. Any qualifying surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment

under this section 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 section prior to such member's death.

5. 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, supplemental retirement benefit payments under subsection 1 of this section and supplemental compensation payments as a consultant under subsection 2 of 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.

86.1610. 1. Upon receipt of the proper proofs of death of a member in service for any reason whatsoever, the following amounts shall be payable subject to subsection 4 of this section, and if a pension shall be elected, the initial amount thereof shall be the base pension for such surviving spouse:

(1) If the member has less than five years of creditable service, the member's surviving spouse shall be paid, in one lump sum, the amount of the member's accumulated contributions. If there is no surviving spouse, the member's accumulated contributions shall be paid **[**to the member's designated beneficiary, or if none, to the executor or administrator of the member's estate, and such payment shall be full and final settlement for all amounts due from the retirement system with respect to such member except as provided in subsection 1 of section 86.1620**] as provided in subsection 6 of section 86.1420**;

(2) If the member has at least five but fewer than twenty years of creditable service, the member's surviving spouse may elect the lump sum settlement in subdivision (1) of this subsection or a pension. Such pension shall be fifty percent of the member's accrued pension at date of death as computed in subdivision (1) of subsection 1 of section 86.1540, commencing **[**on the later of the day after the member's death, or the date which would have been the member's earliest possible retirement date permitted under subsection 2 of section 86.1540**] as provided in subsection 3 of section 86.1420**;

(3) If the member has at least twenty years of creditable service, the member's surviving spouse may elect any one of:

(a) The lump sum settlement in subdivision (1) of this subsection;

(b) The pension as computed in subdivision (2) of this subsection; or

(c) A pension in the monthly amount determined on a joint and survivor's basis from the actuarial value of the member's accrued annuity at date of death;

(4) Any death of a retired member occurring before the first payment of the retirement pension shall be deemed to be a death prior to retirement;

(5) For the surviving spouse of a member who died in service after August 28, 2001, benefits payable under subsection 1 of this section shall continue for the lifetime of such surviving spouse without regard to remarriage.

2. Upon death of a member after retirement who has not elected the optional annuity permitted under subsection 3 of section 86.1540, the surviving spouse shall receive a base pension payable for life, equaling fifty percent of the member's base pension, as of the member's retirement date, subject to the following:

(1) No surviving spouse of a member who retires after August 28, 2001, shall be entitled to receive any benefits under sections 86.1310 to 86.1640 unless such spouse was married to the member at the time of the member's retirement; and

(2) Any surviving spouse who was married to such a member at the time of the member's retirement shall be entitled to all benefits for surviving spouses under sections 86.1310 to 86.1640 for the life of such surviving spouse without regard to remarriage.

3. In the case of any member who, prior to August 28, 2001, died in service or retired, the surviving spouse who would qualify for benefits under subsection 1 or 2 of this section but for remarriage, and has not remarried prior to August 28, 2001, but remarries thereafter, shall upon application be appointed by the retirement board as a consultant. For services as such consultant, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received under sections 86.1310 to 86.1640 in the absence of such remarriage.

4. Any beneficiary of benefits under sections 86.1310 to 86.1640 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member, except that any surviving spouse for whom an election has been made for an optional benefit under subsection 3 of section 86.1540 shall be entitled to every optional benefit for which such surviving spouse has so contracted.

[5. The final payment due any surviving beneficiary shall be the payment due on the first day of the month in which such beneficiary dies or otherwise ceases to be entitled to benefits under this section.

6. If there is no surviving spouse, payment of the member's accumulated contributions less the amount of any prior payments from the retirement system to the member or to any beneficiary of the member shall be made to the member's designated beneficiary or, if none, to the personal representative of the member's estate.**]**

86.1620. 1. **[**(1)**]** Upon the death after August 28, 2003, of a member in service, or upon the death of a member who was in service on or after August 28, 2003, and who dies after having been retired and pensioned, there shall be paid, in addition to all other benefits, a funeral benefit of one thousand dollars to the person or entity who provided or paid for the funeral services for such member.

[(2)**] 2.** Any member who was retired on or before August 28, 2003, and is receiving retirement benefits from the retirement system, upon application to the retirement board, shall be appointed by the retirement board as a consultant for the remainder of such member's life. Upon the death of such member, there shall be paid, in addition to all other benefits, a funeral benefit of one thousand dollars to the person or entity who provided or paid for the funeral services for such member.

[2. If no benefits are otherwise payable to a surviving spouse of a deceased member, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse of such member, shall be paid in one lump sum to the member's named beneficiary or, if none, to the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.**]**

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