

SENATE SUBSTITUTE

FOR

HOUSE BILL NO. 71

AN ACT

To repeal sections 84.010, 84.220, 86.200, and 86.213, RSMo, and to enact in lieu thereof ten new sections relating to the St. Louis police force, with penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 84.010, 84.220, 86.200, and 86.213, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 84.343, 84.344, 84.345, 84.346, 84.347, 84.348, 84.349, 86.200, 86.213, and 86.371, to read as follows:

84.343. For purposes of this section, the following terms shall mean:

(1) "Ammunition", any cartridge, shell, or projectile designed for use in a firearm;

(2) "Licensed dealer", a person who is licensed under 18 U.S.C. Section 923 to engage in the business of dealing in firearms;

(3) "Materially false information", any information that portrays an illegal transaction as legal or a legal transaction as illegal;

(4) "Private seller", a person who sells or offers for sale any firearm, as defined in section 571.010, or ammunition.

2. Any officer, employee, or representative of a municipal police force established under section 84.346 who knowingly

1 solicits, persuades, encourages or entices a licensed dealer or
2 private seller of firearms or ammunition to transfer a firearm or
3 ammunition under circumstances which the officer, employee, or
4 representative knows would violate the laws of this state or the
5 United States is guilty of a class D felony.

6 3. Any officer, employee, or representative of said police
7 force who provides to a licensed dealer or private seller of
8 firearms or ammunition what the officer, employee, or
9 representative knows to be materially false information with
10 intent to deceive the dealer or seller about the legality of a
11 transfer of a firearm or ammunition is guilty of a class D
12 felony.

13 4. Any officer, employee, or representative of said police
14 force who willfully procures another to engage in conduct
15 prohibited by this section shall be held accountable as a
16 principal.

17 84.344. 1. An officer or employee of a municipal police
18 force established under section 84.346 shall not:

19 (1) Be a candidate for partisan political office;

20 (2) Use official authority or influence for the purpose of
21 interfering with or affecting the results of an election or a
22 nomination for office;

23 (3) Directly or indirectly coerce contributions from
24 subordinates in support of a political party or candidate;

25 (4) Permit solicitation for political purpose in any
26 building or room occupied for the discharge of the official
27 duties of said force;

28 (5) Solicit any person to vote for or against any candidate

1 for public office or be connected with other political work of
2 similar character on behalf of any political organization, party,
3 or candidate while on duty or while wearing the official uniform
4 of the force; or

5 (6) Affix any sign, bumper sticker, or other device to any
6 property or vehicle under the control of said force which either
7 supports or opposes any ballot measure or political candidate.

8 2. An officer or employee of said force who shall willfully
9 or through culpable negligence violate any of the provisions of
10 this section may be punished by a fine of not less than fifty
11 dollars and not exceeding five hundred dollars, or by
12 imprisonment for a time not exceeding six months, or by both fine
13 and imprisonment.

14 84.345. Subject to the provisions of sections 84.346 to
15 84.348, any city not within a county may establish a municipal
16 police force for the purposes of:

17 (1) Preserving the public peace, welfare, and order;

18 (2) Preventing crime and arresting suspected offenders;

19 (3) Enforcing the laws of the state and ordinances of the
20 city;

21 (4) Exercising all powers available to a police force under
22 generally applicable state law; and

23 (5) Regulating and licensing all private watchmen, private
24 detectives, and private policemen serving or acting as such in
25 said city.

26
27 Any person who acts as a private watchman, private detective, or
28 private policeman in said cities without having obtained a

1 written license from said cities is guilty of a class A
2 misdemeanor.

3 84.346. 1. Notwithstanding any provisions of chapter 84 to
4 the contrary, any city not within a county may establish a
5 municipal police force on or after January 1, 2012, according to
6 the procedures and requirements of this section. The purpose of
7 these procedures and requirements is to provide for an orderly
8 and appropriate transition in the governance of the police force
9 and provide for an equitable employment transition for
10 commissioned and civilian personnel.

11 2. Before the establishment of a municipal police force by
12 a city pursuant to sections 84.345 to 84.348, the board of police
13 commissioners shall convey, assign, and otherwise transfer to the
14 city title and ownership of all indebtedness and assets,
15 including, but not limited to, all funds and real and personal
16 property held in the name of or controlled by the board of police
17 commissioners created pursuant to sections 84.020 and 84.030.
18 The board of police commissioners shall execute all documents
19 reasonably required to accomplish such transfer of ownership and
20 obligations.

21 3. Upon the completion of the transfer described in
22 subsection 2 of this section, the city shall appropriate the
23 necessary funds for the maintenance of the municipal police
24 force, however, in no event shall the city be required to
25 appropriate funds for pensions or retirement plans for any fiscal
26 year in excess of any limitation imposed by section 21, article
27 X, of the Missouri Constitution. Such city may appropriate, by
28 ordinance, a sum in excess of such limitation for any fiscal

1 year. Nothing in sections 84.345 to 84.348 shall be construed as
2 requiring a new activity or service, or an increase in the level
3 of any activity or service, beyond that required by existing law
4 if the city elects to establish a police force pursuant to
5 sections 84.345 to 84.348.

6 4. Before a city not within a county may establish a
7 municipal police force pursuant to this section, the city shall
8 adopt an ordinance accepting responsibility, ownership, and
9 liability as successor-in-interest for contractual obligations,
10 indebtedness, and other lawful obligations of the board of police
11 commissioners.

12 5. A city not within a county that establishes a municipal
13 police force shall initially employ, without a reduction in rank,
14 salary, or benefits, all commissioned and civilian personnel of
15 the board of police commissioners created pursuant to sections
16 84.010 to 84.340 that were employed by the board immediately
17 prior to the date the municipal police force was established.
18 The city shall also recognize all accrued years of service that
19 such commissioned and civilian personnel had with the board of
20 police commissioners. Such personnel shall be entitled to the
21 same holidays, vacation, and sick leave they were entitled to as
22 employees of the board of police commissioners.

23 6. Except for commissioned and civilian personnel of the
24 board of police commissioners who were employed by the board
25 immediately prior to the date the municipal police force was
26 established, a city creating a municipal police force pursuant to
27 subsection 1 of this section may enforce any rule, law, or
28 regulations concerning the residence of commissioned and civilian

1 personnel of the police force. Commissioned and civilian
2 personnel who were previously employed by the board shall
3 continue to be subject to the residency rules promulgated by the
4 board as of August 28, 2011.

5 7. The commissioned and civilian personnel who retire from
6 service with the board of police commissioners before the
7 establishment of a municipal police force pursuant to subsection
8 1 of this section shall continue to be entitled to the same
9 pension benefits provided under chapter 86 and the same benefits
10 set forth in subsection 6 of this section.

11 8. If the city not within a county elects to establish a
12 municipal police force pursuant to this section, the city shall
13 establish a separate division for the operation of its municipal
14 police force. The city may adopt new civil service commission
15 rules and regulations appropriate for the unique operation of a
16 municipal police force, however, until such time as the city
17 adopts such rules and regulations, the commissioned personnel
18 shall continue to be governed by the board of police
19 commissioner's rules and regulations in effect immediately prior
20 to the establishment of the municipal police force, with the
21 police chief acting in place of the board of police commissioners
22 for purposes of applying the rules and regulations.

23 Notwithstanding any provision of this section to the contrary,
24 existing civil service commission rules and regulations governing
25 the appeal of disciplinary decisions to the civil service
26 commission shall apply to all commissioned and civilian
27 personnel. A hearing officer may be appointed by the civil
28 service commission to hear any such appeals, but the civil

1 service commission shall make the final findings of fact,
2 conclusions of law, and decision which shall be subject to any
3 right of appeal under chapter 536.

4 9. A city not within a county that establishes and
5 maintains a municipal police force under this section:

6 (1) Shall provide or contract for life insurance coverage
7 and for insurance benefits providing health, medical, and
8 disability coverage for commissioned and civilian personnel of
9 the municipal police force to the same extent as was required by
10 the board of police commissioners under section 84.160;

11 (2) Shall provide or contract for health, medical, and life
12 insurance coverage for any commissioned or civilian personnel who
13 retired from service with the board of police commissioners or
14 who were employed by the board of police commissioners and
15 retired from the municipal police force of a city not within a
16 county;

17 (3) Shall make available health, medical, and life
18 insurance coverage for purchase to the spouses or dependents of
19 commissioned and civilian personnel who retire from service with
20 the board of police commissioners or the municipal police force
21 and deceased commissioned and civilian personnel who receive
22 pension benefits pursuant to sections 86.200 to 86.364 at the
23 rate that such dependent's or spouse's coverage would cost under
24 the appropriate plan if the deceased were living; and

25 (4) May pay an additional shift differential compensation
26 to commissioned and civilian personnel for evening and night
27 tours of duty in an amount not to exceed ten percent of the
28 officer's base hourly rate.

1 10. A city not within a county shall, by ordinance,
2 establish a transition committee of no more than five members for
3 the purpose of: coordinating and implementing the transition of
4 authority, operations, assets, and obligations from the board of
5 police commissioners to the city; winding down the affairs of the
6 board; and making nonbinding recommendations for the transition
7 of the police force from the board to the city. The ordinance
8 shall provide for the powers, duties, and duration of the
9 committee. Once the ordinance is enacted, the city shall provide
10 written notice to the board of police commissioners and the
11 governor of the state of Missouri. Within thirty days of such
12 notice, the governor shall appoint two members to the committee,
13 one of whom shall be a member of a statewide law enforcement
14 association that represents at least five thousand law
15 enforcement officers. The mayor of the city shall select the
16 remaining members of the committee. The committee shall elect a
17 chairman by majority vote.

18 84.347. 1. Except as required for the board of police
19 commissioners to conclude its affairs and pursue legal claims and
20 defenses, upon the establishment of a municipal police force, the
21 terms of office of the commissioners of the board of police
22 created under sections 84.020 and 84.030 shall expire, and the
23 provisions of sections 84.020 to 84.340 shall not apply to the
24 city or its municipal police force as of such date. The board
25 shall continue to operate, if necessary, to wind down the board's
26 affairs until the transfer of ownership and obligations pursuant
27 to subsection 2 of section 84.346 has been completed. During
28 such time, the board of police commissioners shall designate and

1 authorize its secretary to act on behalf of the board for
2 purposes of performing the board's duties and any other actions
3 incident to the transfer and winding down of the board's affairs.

4 2. For all claims, lawsuits, and other actions arising
5 against a board of police commissioners before the board ceases
6 to exist as a result of the transfer provided under subsection 2
7 of section 84.346, the state shall not continue to provide legal
8 representation as set forth in section 105.726, and the state
9 legal expense fund shall not continue to provide reimbursement
10 for such claims pursuant to section 105.726.

11 3. Notwithstanding any other provision of law, rule, or
12 regulation to the contrary, a city that establishes a municipal
13 police force pursuant to sections 84.345 to 84.358 shall not be
14 restricted or limited in any way in the selection of a police
15 chief or chief of the division created under subsection 8 of
16 section 84.346.

17 4. It shall be the duty of the sheriff for any city not
18 within a county, whenever called upon by the police chief of the
19 municipal police force, to act under the police chief's control
20 for the preservation of the public peace and quiet; and, whenever
21 the exigency or circumstances may, in the police chief's
22 judgment, warrant it, said police chief shall have the power to
23 assume the control and command of all conservators of the peace
24 of the city, whether sheriff, constable, policemen or others, and
25 they shall act under the orders of the said police chief and not
26 otherwise.

27 5. Venue for any action against the city or an employee of
28 its municipal police force involving the municipal police force

1 shall be in the twenty-second judicial circuit.

2 84.348. Any police pension system created under chapter 86
3 for the benefit of a police force established under sections
4 84.010 to 84.343 shall continue to be governed by chapter 86, and
5 shall apply to any police force established under section 84.346.
6 Other than any provision that makes chapter 86 applicable to a
7 municipal police force established under section 84.346, nothing
8 in sections 84.345 to 84.348 shall be construed as limiting or
9 changing the rights or benefits provided under chapter 86.

10 84.349. Notwithstanding the provisions of section 1.140 to
11 the contrary, the provisions of sections 84.345 to 84.348 of this
12 act shall be nonseverable, and if any provision is for any reason
13 held to be invalid, such decision shall invalidate all of the
14 remaining provisions of sections 84.345 to 84.348 of this act.

15 86.200. The following words and phrases as used in sections
16 86.200 to 86.366, unless a different meaning is plainly required
17 by the context, shall have the following meanings:

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

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

25 (3) "Average final compensation":

26 (a) With respect to a member who earns no creditable
27 service on or after October 1, 2001, the average earnable
28 compensation of the member during the member's last three years

1 of creditable service as a police officer, or if the member has
2 had less than three years of creditable service, the average
3 earnable compensation of the member's entire period of creditable
4 service;

5 (b) With respect to a member who is not participating in
6 the DROP pursuant to section 86.251 on October 1, 2001, who did
7 not participate in the DROP at any time before such date, and who
8 earns any creditable service on or after October 1, 2001, the
9 average earnable compensation of the member during the member's
10 last two years of creditable service as a policeman, or if the
11 member has had less than two years of creditable service, then
12 the average earnable compensation of the member's entire period
13 of creditable service;

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

28 (d) With respect to a member who is participating in the

1 DROPP pursuant to section 86.251 on October 1, 2001, or whose
2 participation in the DROPP ended before such date, who returns to
3 active participation in the system pursuant to section 86.251,
4 and who terminates employment as a police officer after earning
5 at least two years of creditable service after such return, the
6 member's benefit attributable to all of such member's creditable
7 service shall be determined using the member's average final
8 compensation as defined in paragraph (b) of this subdivision;

9 (e) With respect to a member who is participating in the
10 DROPP pursuant to section 86.251 on October 1, 2001, or whose
11 participation in DROPP ended before such date, who returns to
12 active participation in the system pursuant to section 86.251,
13 and whose employment as a police officer terminates due to death
14 or disability after such return, the member's benefit
15 attributable to all of such member's creditable service shall be
16 determined using the member's average final compensation as
17 defined in paragraph (b) of this subdivision; and

18 (f) With respect to the surviving spouse or surviving
19 dependent child of a member who earns any creditable service on
20 or after October 1, 2001, the average earnable compensation of
21 the member during the member's last two years of creditable
22 service as a police officer or, if the member has had less than
23 two years of creditable service, the average earnable
24 compensation of the member's entire period of creditable service;

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

27 (5) "Board of police commissioners", any board of police
28 commissioners, police commissioners and any other officials or

1 boards now or hereafter authorized by law to employ and manage a
2 permanent police force in such cities;

3 (6) "Board of trustees", the board provided in sections
4 86.200 to 86.366 to administer the retirement system;

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

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

9 (9) "Earnable compensation", the annual salary which a
10 member would earn during one year on the basis of the member's
11 rank or position as specified in the applicable salary matrix [in
12 section 84.160,] plus any additional compensation for academic
13 work [as provided in subsection 7 of section 84.160, plus] and
14 shift differential [as provided in subdivision (4) of subsection
15 8 of section 84.160] that may be provided by any official or
16 board now or hereafter authorized by law to employ and manage a
17 permanent police force in such cities. Such amount shall include
18 the member's deferrals to a deferred compensation plan pursuant
19 to Section 457 of the Internal Revenue Code or to a cafeteria
20 plan pursuant to Section 125 of the Internal Revenue Code or,
21 effective October 1, 2001, to a transportation fringe benefit
22 program pursuant to Section 132(f)(4) of the Internal Revenue
23 Code. Earnable compensation shall not include a member's
24 additional compensation for overtime, standby time, court time,
25 nonuniform time or unused vacation time. Notwithstanding the
26 foregoing, the earnable compensation taken into account under the
27 plan established pursuant to sections 86.200 to 86.366 with
28 respect to a member who is a noneligible participant, as defined

1 in this subdivision, for any plan year beginning on or after
2 October 1, 1996, shall not exceed the amount of compensation that
3 may be taken into account under Section 401(a)(17) of the
4 Internal Revenue Code, as adjusted for increases in the cost of
5 living, for such plan year. For purposes of this subdivision, a
6 "noneligible participant" is an individual who first becomes a
7 member on or after the first day of the first plan year beginning
8 after the earlier of:

9 (a) The last day of the plan year that includes August 28,
10 1995; or

11 (b) December 31, 1995;

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

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

17 (12) "Member", a member of the retirement system as defined
18 by sections 86.200 to 86.366;

19 (13) "Members' interest", interest on accumulated
20 contributions at such rate as may be set from time to time by the
21 board of trustees;

22 (14) "Membership service", service as a policeman rendered
23 since last becoming a member, except in the case of a member who
24 has served in the armed forces of the United States and has
25 subsequently been reinstated as a policeman, in which case
26 "membership service" means service as a policeman rendered since
27 last becoming a member prior to entering such armed service;

28 (15) "Plan year" or "limitation year", the twelve

1 consecutive-month period beginning each October first and ending
2 each September thirtieth;

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

6 (17) "Prior service", all service as a policeman rendered
7 prior to the date the system becomes operative or prior to
8 membership service which is creditable in accordance with the
9 provisions of sections 86.200 to 86.366;

10 (18) "Reserve officer", any member of the police reserve
11 force of such cities, armed or unarmed, who works less than full
12 time, without compensation, and who, by his or her assigned
13 function or as implied by his or her uniform, performs duties
14 associated with those of a police officer and who currently
15 receives a service retirement as provided by sections 86.200 to
16 86.366;

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

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

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

26 86.213. 1. The general administration and the
27 responsibility for the proper operation of the retirement system
28 and for making effective the provisions of sections 86.200 to

1 86.366 are hereby vested in a board of trustees of [ten] nine
2 persons. The board shall be constituted as follows:

3 (1) [The president of the board of police commissioners of
4 the city, ex officio. If the president is absent from any
5 meeting of the board of trustees for any cause whatsoever, the
6 president may be represented by any member of the board of police
7 commissioners who in such case shall have full power to act as a
8 member of the board of trustees;

9 (2)] The comptroller of the city, ex officio. If the
10 comptroller is absent from any meeting of the board of trustees
11 for any cause whatsoever, the comptroller may be represented by
12 either the deputy comptroller or the first assistant comptroller
13 who in such case shall have full power to act as a member of the
14 said board of trustees;

15 [(3)] (2) Three members to be appointed by the mayor of the
16 city to serve for a term of two years;

17 [(4)] (3) Three members to be elected by the members of the
18 retirement system of the city for a term of three years;
19 provided, however, that the term of office of the first three
20 members so elected shall begin immediately upon their election
21 and one such member's term shall expire one year from the date
22 the retirement system becomes operative, another such member's
23 term shall expire two years from the date the retirement system
24 becomes operative and the other such member's term shall expire
25 three years from the date the retirement system becomes
26 operative; provided, further, that such members shall be members
27 of the system and hold office only while members of the system;

28 [(5)] (4) Two members who shall be retired members of the

1 retirement system to be elected by the retired members of the
2 retirement system for a term of three years; except that, the
3 term of office of the first two members so elected shall begin
4 immediately upon their election and one such member's term shall
5 expire two years from the date of election and the other such
6 member's term shall expire three years from the date of election.

7 2. Any member elected chairman of the board of trustees may
8 serve without term limitations.

9 3. Each commissioned elected trustee shall be granted
10 travel time by the St. Louis metropolitan police department to
11 attend any and all functions that have been authorized by the
12 board of trustees of the police retirement system of St. Louis.
13 Travel time, with compensation, for a trustee shall not exceed
14 thirty days in any board fiscal year.

15 86.371. In the event that the state or any state official
16 is ordered to provide state funds to any city not within a county
17 to satisfy pension obligations to any member of the system
18 provided for in sections 86.200 to 86.366, the amount of state
19 funds ordered shall constitute a first lien on the funds of such
20 city. The state is authorized to certify such amount to the state
21 treasurer and the director of the department of revenue. The
22 state treasurer and the director of the department of revenue
23 shall withhold all moneys due the city not within a county from
24 the state until such amount, together with regular interest, is
25 satisfied.

26 [84.010. In all cities of this state that now
27 have, or may hereafter attain, a population of seven
28 hundred thousand inhabitants or over, the common
29 council or municipal assembly, as the case may be, of
30 such cities may pass ordinances for preserving order,
31 securing property and persons from violence, danger or

1 destruction, protecting public and private property,
2 and for promoting the interests and insuring the good
3 government of the cities; but no ordinances heretofore
4 passed, or that may hereafter be passed, by the common
5 council or municipal assembly of the cities, shall, in
6 any manner, conflict or interfere with the powers or
7 the exercise of the powers of the boards of police
8 commissioners of the cities as created by section
9 84.020, nor shall the cities or any officer or agent of
10 the corporation of the cities, or the mayor thereof, in
11 any manner impede, obstruct, hinder or interfere with
12 the boards of police or any officer, or agent or
13 servant thereof or thereunder, except that in any case
14 of emergency imminently imperiling the lives, health or
15 safety of the inhabitants of the city, the mayor may
16 call upon and direct the chief of police of the city to
17 provide such number of officers and patrolmen to meet
18 the emergency as the mayor determines to be necessary
19 and the chief of police shall continue to act under the
20 direction of the mayor until the emergency has ceased,
21 or until the board of police commissioners takes charge
22 of such matter.]

23
24 [84.220. Any officer or servant of the mayor or
25 common council or municipal assembly of the said
26 cities, or other persons whatsoever, who shall forcibly
27 resist or obstruct the execution or enforcement of any
28 of the provisions of sections 84.010 to 84.340 or
29 relating to the same, or who shall disburse any money
30 in violation thereof, or who shall hinder or obstruct
31 the organization or maintenance of said board of
32 police, or the police force therein provided to be
33 organized and maintained, or who shall maintain or
34 control any police force other than the one therein
35 provided for, or who shall delay or hinder the due
36 enforcement of sections 84.010 to 84.340 by failing or
37 neglecting to perform the duties by said sections
38 imposed upon him, shall be liable to a penalty of one
39 thousand dollars for each and every offense,
40 recoverable by the boards by action at law in the name
41 of the state, and shall forever thereafter be
42 disqualified from holding or exercising any office or
43 employment whatsoever under the mayor or common council
44 or municipal assembly of said cities, or under sections
45 84.010 to 84.340; provided, however, that nothing in
46 this section shall be construed to interfere with the
47 punishment, under any existing or any future laws of
48 this state, of any criminal offense which shall be
49 committed by the said parties in or about the
50 resistance, obstruction, hindrance, conspiracy,
51 combination or disbursement aforesaid.]