

SENATE SUBSTITUTE  
FOR  
SENATE COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 116

AN ACT

To repeal sections 21.760, 29.090, 29.180, 29.190, 29.200, 29.210, 29.230, 29.235, 29.250, 29.260, 29.270, 29.275, 29.340, 50.055, 50.057, 50.622, 50.1030, 56.809, 70.605, 86.900, 86.990, 86.1000, 86.1010, 86.1030, 86.1100, 86.1110, 86.1150, 86.1180, 86.1210, 86.1220, 86.1230, 86.1240, 86.1250, 86.1270, 86.1310, 86.1380, 86.1420, 86.1500, 86.1530, 86.1540, 86.1580, 86.1590, 86.1610, 86.1630, 103.025, 104.190, 104.480, 169.020, and 238.272, RSMo, and to enact in lieu thereof fifty new sections relating to public accounts, with penalty provisions and an emergency clause for a certain section.

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

1           Section A. Sections 21.760, 29.090, 29.180, 29.190, 29.200,  
2 29.210, 29.230, 29.235, 29.250, 29.260, 29.270, 29.275, 29.340,  
3 50.055, 50.057, 50.622, 50.1030, 56.809, 70.605, 86.900, 86.990,  
4 86.1000, 86.1010, 86.1030, 86.1100, 86.1110, 86.1150, 86.1180,  
5 86.1210, 86.1220, 86.1230, 86.1240, 86.1250, 86.1270, 86.1310,  
6 86.1380, 86.1420, 86.1500, 86.1530, 86.1540, 86.1580, 86.1590,  
7 86.1610, 86.1630, 103.025, 104.190, 104.480, 169.020, and  
8 238.272, RSMo, is repealed and fifty new sections enacted in lieu  
9 thereof, to be known as sections 29.005, 29.185, 29.190, 29.200,  
10 29.210, 29.216, 29.221, 29.230, 29.235, 29.250, 29.260, 29.351,  
11 50.055, 50.057, 50.622, 50.1030, 56.809, 70.605, 86.900, 86.990,

1 86.1000, 86.1010, 86.1030, 86.1100, 86.1110, 86.1150, 86.1151,  
2 86.1180, 86.1210, 86.1220, 86.1230, 86.1231, 86.1240, 86.1250,  
3 86.1270, 86.1310, 86.1380, 86.1420, 86.1500, 86.1530, 86.1540,  
4 86.1580, 86.1590, 86.1610, 86.1630, 103.025, 104.190, 104.480,  
5 169.020, 208.1050, and 238.272, to read as follows:

6 29.005. As used in this chapter, the following terms mean:

7 (1) "Accounting system", the total structure of records and  
8 procedures which discover, record, classify, and report  
9 information on the financial position and operating results of a  
10 governmental unit or any of its funds, balanced account groups,  
11 and organizational components;

12 (2) "Audit", an independent, objective assessment of the  
13 stewardship, performance, or cost of government policies,  
14 programs, or operations, depending upon the type and scope of the  
15 audit. All audits shall conform to the standards established by  
16 the comptroller general of the United States for audits of  
17 government entities, organizations, programs, activities, and  
18 functions as presented in the publication Government Auditing  
19 Standards;

20 (3) "Federal agency", any department, agency, or  
21 instrumentality of the federal government and any federally owned  
22 or controlled corporation;

23 (4) "Financial audits", audits providing an independent  
24 assessment of whether an entity's reported financial information  
25 is presented fairly in accordance with recognized criteria.  
26 Financial audits shall consist of the following:

27 (a) Financial statement audits that shall:

28 a. Provide or disclaim an opinion about whether an entity's

1 financial statements are presented fairly in all material  
2 respects in conformity with accounting principles generally  
3 accepted in the United States or with another applicable  
4 financial reporting framework; or

5 b. Report on internal control deficiencies and on  
6 compliance with provisions of laws, regulations, contracts, and  
7 grant agreements, as those controls and provisions relate to  
8 financial transactions, systems, and processes; or

9 (b) Other financial audits of various scopes which may  
10 include, but not be limited to:

11 a. Reporting on specified elements, accounts, or items of a  
12 financial statement; and

13 b. Auditing compliance with requirements related to federal  
14 award expenditures and other governmental financial assistance in  
15 conjunction with a financial statement audit;

16 (5) "Internal control", the plans, policies, methods, and  
17 procedures used to meet an entity's or organization's mission,  
18 goals, and objectives. Internal control shall include the  
19 processes and procedures for planning, organizing, directing, and  
20 controlling operations, as well as management's system for  
21 measuring, reporting, and monitoring performance;

22 (6) "Performance audits", audits that provide findings or  
23 conclusions based on an evaluation of sufficient, appropriate  
24 evidence against identified criteria. Performance audit  
25 objectives shall include, but not be limited to, the following:

26 (a) Effectiveness and results. This objective may measure  
27 the extent to which an entity, organization, activity, program,  
28 or function is achieving its goals and objectives;

1 (b) Economy and efficiency. This objective shall assess  
2 the costs and resources used to achieve results of an entity,  
3 organization, activity, program, or function;

4 (c) Internal control. This objective shall assess one or  
5 more components of an entity's internal control system, which is  
6 designed to provide reasonable assurance of achieving effective  
7 and efficient operations, reliable financial and performance  
8 reporting, or compliance with applicable legal requirements; and

9 (d) Compliance. This objective shall assess compliance  
10 with criteria established by provisions of laws, regulations,  
11 contracts, and grant agreements or by other requirements that  
12 could affect the acquisition, protection, use, and disposition of  
13 an entity's resources and the quantity, quality, timeliness, and  
14 cost of services the entity produces and delivers;

15 (7) "State agency", any department, institution, board,  
16 commission, committee, division, bureau, officer, or official  
17 which shall include any institution of higher education, mental  
18 or specialty hospital, community college, or circuit court and  
19 divisions of the circuit court.

20 29.185. When conducting an audit under this chapter, the  
21 audit objectives as defined in the standards established by the  
22 comptroller general of the United States shall determine the type  
23 of audit to be conducted which may include financial and  
24 performance audits. Neither the audit type nor the audit  
25 objectives shall be mutually exclusive. An audit may include  
26 either financial or performance audit objectives or one or more  
27 objectives from both types of audits. A performance audit may  
28 include one primary objective, such as economy and efficiency, or

1 a combination of objectives, such as internal control and  
2 compliance.

3 29.190. The state auditor shall [prescribe the form of  
4 books, receipts, vouchers and documents required to separate and  
5 verify each transaction, and forms of reports and statements  
6 required for the administration of such officer, or for the  
7 information of the public. He shall also] prescribe a uniform  
8 method and plan of publishing the county financial statement each  
9 year for the information of the public. Such statement or  
10 statements shall set forth the true financial condition of the  
11 county, the revenues and receipts, expenditures and disbursements  
12 for the year as compared with the budget for the year, the bonded  
13 debt and other liabilities at the close of the year, the total  
14 salaries, fees and all other emoluments received by all county  
15 officers, and such other information as shall be prescribed by  
16 the state auditor. The form of such statements shall follow the  
17 recognized governmental reporting practices.

18 29.200. [The state auditor shall postaudit the accounts of  
19 all state agencies and audit the treasury at least once annually.  
20 Once every two years, and when he deems it necessary, proper or  
21 expedient, the state auditor shall examine and postaudit the  
22 accounts of all appointive officers of the state and of  
23 institutions supported in whole or in part by the state. He  
24 shall audit any executive department or agency of the state upon  
25 the request of the governor.] 1. Except as provided under  
26 subsection 2 of this section, all audits conducted under this  
27 chapter may be made at the discretion of the auditor without  
28 advance notice to the organization being audited. An audit also

1 shall be conducted upon the request of the governor as provided  
2 under section 26.060, and the expenses for any such audit  
3 conducted upon the request of the governor shall be paid as  
4 provided in section 26.090.

5 2. The auditor, on his or her initiative and as often as he  
6 or she deems necessary, to the extent deemed practicable and  
7 consistent with the overall responsibility as contained in this  
8 chapter, shall make or cause to be made audits of all or any part  
9 of the activities of the state agencies.

10 3. The auditor shall make, or cause to be made, audits of  
11 all or any parts of political subdivisions and other entities as  
12 authorized in this chapter or any other law of this state.

13 4. In selecting audit areas and in evaluating current audit  
14 activity, the auditor may, at his or her discretion, consider and  
15 utilize, in whole or in part, the relevant audit coverage and  
16 applicable reports of the audit staffs of the various state  
17 agencies, independent contractors, and federal agencies.

18 5. The auditor shall be authorized to contract with federal  
19 audit agencies, or any governmental agency, on a cost  
20 reimbursement basis, to perform audits of federal grant programs  
21 administered by the state departments and institutions in  
22 accordance with agreements negotiated between the auditor and the  
23 contracting federal audit agencies or any governmental agency.

24 In instances where the grantee state agency shall subgrant such  
25 federal funds to local governments, regional councils of  
26 government, other local groups, or private or semiprivate  
27 institutions or agencies, the auditor shall have the authority to  
28 examine the books and records of these subgrantees to the extent

1 necessary to determine eligibility and proper use in accordance  
2 with state and federal laws and regulations. The auditor shall  
3 charge and collect from the contracting federal audit agencies,  
4 or any governmental agencies, the actual cost of all the audits  
5 of the grants and programs that are conducted by the auditor  
6 under the contract. Amounts collected under these arrangements  
7 shall be deposited into the state treasury and be credited to the  
8 state auditor-federal fund and shall be available to hire  
9 sufficient personnel to perform these contracted audits and to  
10 pay for related travel, supplies, and other necessary expenses.

11 6. In the auditor's reports of audits and reports of  
12 special investigations, the auditor shall make any comments,  
13 suggestions, or recommendations deemed appropriate concerning any  
14 aspect of such agency's activities and operations.

15 7. The auditor shall audit the state treasury at least once  
16 annually.

17 8. The auditor may examine the banking accounts and records  
18 of the state treasurer, state agency, or any political  
19 subdivision at any bank or financial institution provided that  
20 the bank or financial institution shall not be required to  
21 produce the requested accounts or records until the auditor,  
22 treasurer, state agency, or political subdivision reimburses the  
23 reasonable document production costs of the bank or financial  
24 institution.

25 9. The auditor may, as often as the auditor deems  
26 necessary, conduct a detailed review of the bookkeeping and  
27 accounting systems in use in the various state agencies that are  
28 supported partially or entirely by state funds. Such

1 examinations shall be for the purpose of evaluating the adequacy  
2 of systems in use by such agencies. In instances where the  
3 auditor determines that existing systems are outmoded,  
4 inefficient, or otherwise inadequate, the auditor shall recommend  
5 changes to the state agency and notify the general assembly of  
6 the recommended changes.

7 10. The auditor shall, through appropriate tests, determine  
8 the propriety of the data presented in the state comprehensive  
9 annual financial report, and shall express the auditor's opinion  
10 in accordance with generally accepted government auditing  
11 standards.

12 11. The auditor shall provide a report to the governor,  
13 attorney general, and other appropriate officials of facts in the  
14 auditor's possession which pertain to the apparent violation of  
15 penal statutes or apparent instances of malfeasance, misfeasance,  
16 or nonfeasance by an officer or employee.

17 12. At the conclusion of an audit, the auditor or the  
18 auditor's designated representative shall supply a copy of a  
19 draft report of the audit to, and discuss such draft with, the  
20 official, or that official's designated representative, whose  
21 office is subject to audit. On any audit of a state agency or  
22 political subdivision of the state, the auditee shall provide  
23 responses to any recommendations contained in the draft report  
24 within thirty days from the receipt of the draft report.

25 13. The auditor shall notify the general assembly, the  
26 governor, the director of each agency audited, and other persons  
27 as the auditor deems appropriate that an audit report has been  
28 published, its subject and title, and the locations, including

1 state libraries, at which the report is available. The auditor  
2 then shall distribute copies of the report only to those who  
3 request a report. The copies shall be available in written form  
4 or available on the official website of the auditor. The auditor  
5 may charge a reasonable fee for providing a written copy of an  
6 audit report. The auditor also shall file a copy of the audit  
7 report in the auditor's office; this copy shall be a permanent  
8 public record. Nothing in this subsection shall be construed to  
9 authorize or permit the publication of information that is  
10 otherwise prohibited by law from being disclosed.

11 14. Nothing in this chapter shall be construed to infringe  
12 upon or deprive the legislative, executive, or judicial branches  
13 of state government of any rights, powers, or duties vested in or  
14 imposed upon them by statute or the constitution of this state.

15 15. Nothing in this chapter shall be construed by the  
16 courts of this state in a manner inconsistent with Article II of  
17 the Constitution of Missouri.

18 16. The auditor shall be responsible for receiving reports  
19 of allegations of improper governmental activities as provided in  
20 section 29.221. The auditor shall adopt policies and procedures  
21 necessary to provide for the investigation or referral of such  
22 allegations.

23 17. In accordance with the state's records retention  
24 schedule, the auditor shall maintain a complete file of all audit  
25 reports and reports of other examinations, investigations,  
26 surveys, and reviews issued under the auditor's authority. Audit  
27 work papers and other evidence and related supportive material  
28 directly pertaining to the work of the auditor's office shall be

1 retained according to an agreement between the auditor and the  
2 state archives. To promote intergovernmental cooperation and  
3 avoid unnecessary duplication of audit effort, pertinent work  
4 papers and other supportive material related to issued audit  
5 reports may be, at the discretion of the auditor and unless  
6 otherwise prohibited by law, made available for inspection by  
7 duly authorized representatives of the state and federal  
8 government who desire access to, and inspection of, such records  
9 in connection with a matter officially before them, including  
10 criminal investigations. Except as provided in this section,  
11 audit work papers and related supportive material shall be kept  
12 confidential, including any interpretations, advisory opinions,  
13 or other information or materials used and relied on in  
14 performing the audit.

15       29.210. [In the year 1949 and every two years thereafter,  
16 it shall be the duty of] Whenever the state auditor [to] conducts  
17 an audit of the state highways and transportation commission and  
18 the state transportation department[.], salaries of auditors,  
19 examiners, clerks, stenographers and other employees of the state  
20 auditor making such audit and all expenses incurred in making  
21 such audit shall be paid monthly by the state highways and  
22 transportation commission and the state transportation department  
23 out of moneys appropriated to the state highways and  
24 transportation commission and the state transportation department  
25 [for that purpose], when such payrolls and expense accounts for  
26 such purposes are certified to the state highways and  
27 transportation commission and the state transportation department  
28 by the state auditor.

1     29.216. The state auditor may make, or cause to be made,  
2 audits of any public employee retirement or public employee  
3 health care system operating within the state, which shall  
4 include but not be limited to a public employee retirement or  
5 public employee health care system established under sections  
6 70.600 to 70.755 and chapters 50, 56, 103, 104, and 169.

7     29.221. 1. The auditor shall provide various means to  
8 receive reports of allegations of improper governmental  
9 activities, which shall include a telephone hotline, electronic  
10 mail, and internet access. The auditor shall periodically  
11 publicize the hotline telephone number, electronic mail address,  
12 internet website address, and any other means by which the  
13 auditor may receive reports of allegations of improper  
14 governmental activities. Individuals who make a report under  
15 this section may choose to remain anonymous until the individual  
16 affirmatively consents to having the individual's identity  
17 disclosed.

18     2. The auditor shall receive and initially review reports  
19 of allegations of improper governmental activities of state  
20 agencies, political subdivisions, or state or political  
21 subdivision officers or employees within the scope of authority  
22 set forth in this section, including misappropriation,  
23 mismanagement, waste of resources, fraud, or violations of state  
24 or federal law, rule or regulation. After conducting an initial  
25 review, the auditor may investigate those allegations the auditor  
26 deems to be credible. When the auditor believes that an  
27 allegation of improper governmental activity is outside the  
28 authority set forth in this section, the auditor shall refer the

1 allegation to the appropriate state agency responsible for the  
2 enforcement or administration of the matter for investigation.

3 When the auditor believes that an allegation of improper  
4 governmental activity involves matters set forth in this  
5 subsection, those matters shall be referred as follows:

6 (1) Allegations of criminal misconduct to either the  
7 attorney general or the prosecuting attorney for the county where  
8 the alleged misconduct occurred;

9 (2) Allegations of violations of sections 105.450 to  
10 105.496 to the Missouri ethics commission;

11 (3) Allegations of violations of chapter 115 to the  
12 appropriate election authority or the secretary of state.

13 29.230. 1. In every county which does not elect a county  
14 auditor, the state auditor shall audit, without cost to the  
15 county, at least once during the term for which any county  
16 officer is chosen, the accounts of the various county officers  
17 supported in whole or in part by public moneys. [The audit shall  
18 be made as near the expiration of the term of office as the  
19 auditing force of the state auditor will permit.]

20 2. The state auditor shall audit any political subdivision  
21 of the state, including counties having a county auditor, if  
22 requested to do so by a petition signed by the requisite percent  
23 of the qualified voters of the political subdivision. The  
24 requisite percent of qualified voters to cause such an audit to  
25 be conducted shall be determined as follows:

26 (1) If the number of qualified voters of the political  
27 subdivision determined on the basis of the votes cast in the last  
28 gubernatorial election held prior to the filing of the petition

1 is less than one thousand, twenty-five percent of the qualified  
2 voters of the political subdivision determined on the basis of  
3 the registered voters eligible to vote at the last gubernatorial  
4 election held prior to the filing of the petition;

5 (2) If the number of qualified voters of the political  
6 subdivision determined on the basis of the votes cast in the last  
7 gubernatorial election held prior to the filing of the petition  
8 is one thousand or more but less than five thousand, fifteen  
9 percent of the qualified voters of the political subdivision  
10 determined on the basis of the votes cast in the last  
11 gubernatorial election held prior to the filing of the petition,  
12 provided that the number of qualified voters signing such  
13 petition is not less than two hundred;

14 (3) If the number of qualified voters of the political  
15 subdivision determined on the basis of the votes cast in the last  
16 gubernatorial election held prior to the filing of the petition  
17 is five thousand or more but less than fifty thousand, ten  
18 percent of the qualified voters of the political subdivision  
19 determined on the basis of the votes cast in the last  
20 gubernatorial election held prior to the filing of the petition,  
21 provided that the number of qualified voters signing such  
22 petition is not less than seven hundred fifty;

23 (4) If the number of qualified voters of the political  
24 subdivision determined on the basis of the votes cast in the last  
25 gubernatorial election held prior to the filing of the petition  
26 is fifty thousand or more, five percent of the qualified voters  
27 of the political subdivision determined on the basis of the votes  
28 cast in the last gubernatorial election held prior to the filing

1 of the petition, provided that the number of qualified voters  
2 signing such petition is not less than five thousand. The  
3 political subdivision shall pay the actual cost of audit. The  
4 petition that requests an audit of a political subdivision shall  
5 state on its face the estimated cost of the audit and that it  
6 will be paid by the political subdivision being audited. The  
7 estimated cost of the audit shall be provided by the state  
8 auditor within sixty days of such request. The costs of the  
9 audit may be billed and paid on an interim basis with individual  
10 billing periods to be set at the state auditor's discretion.  
11 Moneys held by the state on behalf of a political subdivision may  
12 be used to offset unpaid billings for audit costs of the  
13 political subdivision. All moneys received by the state in  
14 payment of the costs of petition audits shall be deposited in the  
15 state treasury and credited to the "Petition Audit Revolving  
16 Trust Fund" which is hereby created with the state treasurer as  
17 custodian. The general assembly may appropriate additional  
18 moneys to the fund as it deems necessary. The state auditor  
19 shall administer the fund and approve all disbursements, upon  
20 appropriation, from the fund to apply to the costs of performing  
21 petition audits. The provisions of section 33.080 to the  
22 contrary notwithstanding, money in the fund shall not be  
23 transferred and placed to the credit of general revenue until the  
24 amount in the fund at the end of any biennium exceeds one million  
25 dollars. The amount in the fund which shall lapse is the amount  
26 which exceeds one million dollars. No political subdivision  
27 shall be audited by petition more than once in any three calendar  
28 or fiscal years.

1           29.235. 1. [All audits shall conform to the standards for  
2 auditing of governmental organizations, programs, activities and  
3 functions established by the comptroller general of the United  
4 States. The audit objectives as defined in the standards shall  
5 determine the type of audit to be conducted.

6           2. The state auditor and any person appointed by him for  
7 that purpose may administer oaths and cause to be summoned before  
8 them any person whose testimony is desired or necessary in any  
9 examination, and may require the person to produce necessary  
10 papers, documents and writings.] The auditor and the auditor's  
11 authorized agents are authorized to:

12           (1) Examine all books, accounts, records, reports,  
13 vouchers, of any state agency, or entity subject to audit,  
14 insofar as they are necessary to conduct an audit under this  
15 chapter, provided that the auditor complies with state and  
16 federal financial privacy requirements prior to accessing  
17 financial records including provisions presented in chapter 408  
18 and provided that the auditor or other public entity reimburses  
19 the reasonable documentation and production costs relating to  
20 compliance with examination by the auditor or auditor's  
21 authorized agents that pertain to:

22           (a) Amounts received under a grant or contract from the  
23 federal government or the state or its political subdivisions;

24           (b) Amounts received, disbursed, or otherwise handled on  
25 behalf of the federal government or the state;

26           (2) Examine and inspect all property, equipment, and  
27 facilities in the possession of any state agency, political  
28 subdivision, or quasi-governmental entity that were furnished or

1 otherwise provided through grant, contract, or any other type of  
2 funding by the state of Missouri or the federal government; and

3 (3) Review state tax returns, except such review shall be  
4 limited to matters of official business, and the auditor's report  
5 shall not violate the confidentiality provisions of tax laws.  
6 Notwithstanding confidentiality provisions of tax laws to the  
7 contrary, the auditor may use or disclose information related to  
8 overdue tax debts in support of the auditor's statutory mission.

9 2. All contracts or agreements entered into as a result of  
10 the award of a grant by state agencies or political subdivisions  
11 shall include, as a necessary part, a clause describing the  
12 auditor's access as provided under this section.

13 3. The auditor may obtain the services of certified public  
14 accountants, qualified management consultants, or other  
15 professional persons and experts as the auditor deems necessary  
16 or desirable to carry out the duties and functions assigned under  
17 this chapter. Unless otherwise authorized by law, no state  
18 agency shall enter into any contract for auditing services  
19 without consultation with, and the prior written approval of, the  
20 auditor.

21 4. (1) For the purposes of this chapter, the auditor or  
22 the auditor's authorized representatives shall have the power to  
23 subpoena witnesses, to take testimony under oath, to cause the  
24 deposition of witnesses residing within or without the state to  
25 be taken in a manner prescribed by law, and to assemble records  
26 and documents, by subpoena or otherwise. The subpoena power  
27 granted by this section shall be exercised only at the specific  
28 written direction of the auditor or the auditor's chief deputy.

1 (2) If any person refuses to comply with a subpoena, the  
2 auditor shall seek to enforce the subpoena before a court of  
3 competent jurisdiction to require the attendance and testimony of  
4 witnesses and the production of books, papers, correspondence,  
5 memoranda, contracts, agreements, and other records. Such court  
6 may issue an order requiring such person to appear before the  
7 auditor or officers designated by the auditor to produce records  
8 or to give testimony relating to the matter under investigation  
9 or in question. Any failure to comply with such order of the  
10 court may be punished by such court as contempt.

11 29.250. [If any such officer or officers shall refuse] 1.  
12 Any person who willfully makes or causes to be made, to the state  
13 auditor or the auditor's designated representatives, any false,  
14 misleading, or unfounded report for the purpose of interfering  
15 with the performance of any audit, special review, or  
16 investigation, or to hinder or obstruct the auditor or the  
17 auditor's designated representatives in the performance of  
18 duties, shall be guilty of a class A misdemeanor.

19 2. Any person or entity affected by this chapter who shall  
20 refuse or fail to comply with the provisions of this chapter  
21 shall be deemed guilty of a class A misdemeanor. Refusing or  
22 failing to comply with the provisions of this chapter shall  
23 include but not be limited to any person or entity failing to  
24 submit their books, papers and concerns to the inspection of the  
25 state auditor, or any of [his] the auditor's examiners, or if  
26 anyone connected with the official duties of the state, county,  
27 institution, or political subdivision of the state, shall refuse  
28 to submit to be examined upon oath[, touching the officers of

1 such county or political subdivision, ]\_.

2 3. The state auditor shall report [the fact] any violation  
3 of subsection 1 or 2 of this section to the prosecuting attorney,  
4 who shall institute such action or proceedings against such  
5 [officer or officers] person or entity as [he] the prosecutor may  
6 deem proper.

7 29.260. [Nothing done in sections 29.010 to 29.360] The  
8 provisions of this chapter shall not preclude any officer or  
9 officers in charge of the offices and institutions mentioned in  
10 [said sections] this chapter from having proper recourse in the  
11 courts of law in this state.

12 [21.760.] 29.351. 1. During the regular legislative  
13 session which convenes in an odd-numbered year, the general  
14 assembly shall, by concurrent resolution, employ an independent  
15 certified public accountant or certified public accounting firm  
16 to conduct an audit examination of the accounts, functions,  
17 programs, and management of the state auditor's office. The  
18 audit examination shall be made in accordance with generally  
19 accepted auditing standards, including such reviews and  
20 inspections of books, records and other underlying data and  
21 documents as are necessary to enable the independent certified  
22 public accountant performing the audit to reach an informed  
23 opinion on the condition and performance of the accounts,  
24 functions, programs, and management of the state auditor's  
25 office. Upon completion of the audit, the independent certified  
26 public accountant shall make a written report of his findings and  
27 conclusions, and shall supply each member of the general  
28 assembly, the governor, and the state auditor with a copy of the

1 report. The cost of the audit and report shall be paid out of  
2 the joint contingent fund of the general assembly.

3 2. The commissioner of administration shall bid these  
4 services, at the direction of the general assembly, pursuant to  
5 state purchasing laws.

6 50.055. The accounts of [counties] any county of the second  
7 class, or the accounts of any officer or office of such county,  
8 may be audited at any time, if the county commission determines  
9 such an audit desirable or necessary, [ every odd-numbered year  
10 within six months after the determination of the preceding fiscal  
11 year,] either by a certified public accountant employed by the  
12 county commission or by the state auditor, as the county  
13 commission may determine. If the audit is to be made by the  
14 state auditor, the state auditor shall be requested by the county  
15 commission to make the audit, as provided by law. Unless the  
16 audit is requested for a particular officer or office, the audit  
17 [herein provided shall] may also review the records of the  
18 receipts and disbursements and the property inventory of every  
19 officer or office of the county which receives or disburses money  
20 on behalf of the county or which holds property belonging to the  
21 county. Upon the completion of the investigation, the certified  
22 public accountant or the state auditor, as the case may be, shall  
23 render a report to the county commission [together with a  
24 statement showing, under appropriate classifications, the  
25 receipts and disbursements of the county during the period of the  
26 audit. The first audit, as provided by this section, may be made  
27 following the fiscal year of 1946, and such audit may be made  
28 every two years thereafter]. The county commission shall provide

1 for the expense of such audit if made by a certified public  
2 accountant employed by the county commission. For audits  
3 performed by the state auditor, all expenses incurred in  
4 performing the audit, including salaries of auditors, examiners,  
5 clerks, and other employees of the state auditor, shall be paid  
6 by the county or county commission and the monies are to be  
7 deposited in the petition audit revolving trust fund pursuant to  
8 section 29.230.

9 50.057. The accounts of any county of the first class not  
10 having a charter form of government, or the accounts of any  
11 officer or office of such county, may be audited at any time, if  
12 the county commission determines such an audit desirable or  
13 necessary, either by a certified public accountant employed by  
14 the county commission or by the state auditor, as the county  
15 commission may determine. If the audit is to be made by the  
16 state auditor, the state auditor shall be requested by the county  
17 commission to make the audit, as provided by law. Unless the  
18 audit is requested only for a particular officer or office, the  
19 audit shall also review the records of the receipts and  
20 disbursements and the property inventory of every officer or  
21 office of the county which receives or disburses money on behalf  
22 of the county or which holds property belonging to the county.  
23 Upon completion of the investigation, the certified public  
24 accountant or the state auditor, as the case may be, shall render  
25 a report to the county commission together with a statement  
26 showing under appropriate classifications the receipts and  
27 disbursements of the county or of the particular officer or  
28 office of the county for which the audit was requested, as the

1 case may be, during the period covered by the audit. For audits  
2 performed by the state auditor, all expenses incurred in  
3 performing the audit, including salaries of auditors, examiners,  
4 clerks, and other employees of the state auditor, shall be paid  
5 by the county or county commission and the monies are to be  
6 deposited in the petition audit revolving trust fund pursuant to  
7 section 29.230.

8 50.622. 1. Any county may amend the annual budget during  
9 any fiscal year in which the county receives additional funds,  
10 and such amount or source, including but not limited to, federal  
11 or state grants or private donations, could not be estimated when  
12 the budget was adopted. The county shall follow the same  
13 procedures as required in sections 50.525 to 50.745 for adoption  
14 of the annual budget to amend its budget during a fiscal year.

15 2. Any county may decrease the annual budget twice during  
16 any fiscal year in which the county experiences a verifiable  
17 decline in funds of two percent or more, and such amount could  
18 not be estimated or anticipated when the budget was adopted,  
19 provided that any decrease in appropriations shall not unduly  
20 affect any one officeholder. Before any reduction affecting an  
21 independently elected officeholder can occur, negotiations shall  
22 take place with all officeholders who receive funds from the  
23 affected category of funds in an attempt to cover the shortfall.  
24 The county shall follow the same procedures as required in  
25 sections 50.525 to 50.745 to decrease the annual budget, except  
26 that the notice provided for in section 50.600 shall be extended  
27 to thirty days for purposes of this subsection. Such notice  
28 shall include a published summary of the proposed reductions and

1 an explanation of the shortfall.

2 3. Any decrease in an appropriation authorized under  
3 subsection 2 of this section shall not impact any dedicated fund  
4 otherwise provided by law.

5 4. County commissioners may reduce budgets of departments  
6 under their direct supervision and responsibility at any time  
7 without the restrictions imposed by this section.

8 5. Subsections 2, 3, and 4 of this section shall expire on  
9 July 1, 2016.

10 6. Notwithstanding the provisions of this section, no  
11 charter county shall be restricted from amending its budget  
12 pursuant to the terms of its charter.

13 50.1030. 1. The general administration and the  
14 responsibility for the proper operation of the fund and the  
15 system and the investment of the funds of the system are vested  
16 in a board of directors of eleven persons. Nine directors shall  
17 be elected by a secret ballot vote of the county employee members  
18 of this state. Two directors, who have no beneficiary interest  
19 in the system, shall be appointed by the governor with the advice  
20 and consent of the senate. No more than one director at any one  
21 time shall be employed by the same elected county office.  
22 Directors shall be chosen for terms of four years from the first  
23 day of January next following their election. It shall be the  
24 responsibility of the board to establish procedures for the  
25 conduct of future elections of directors and such procedures  
26 shall be approved by a majority vote by secret ballot by members  
27 of the system. The board shall have all powers and duties that  
28 are necessary and proper to enable it, its officers, employees

1 and agents to fully and effectively carry out all the purposes of  
2 sections 50.1000 to 50.1300.

3 2. The board of directors shall elect one of their number  
4 as chairman and one of their number as vice chairman and may  
5 employ an administrator who shall serve as secretary to the  
6 board. The board shall hold regular meetings at least once each  
7 quarter. Board meetings shall be held in Jefferson City. Other  
8 meetings may be called as necessary by the chairman. Notice of  
9 such meetings shall be given in accordance with chapter 610.

10 3. The board of directors shall retain an actuary as  
11 technical advisor to the board.

12 4. The board of directors shall retain investment counsel  
13 to be an investment advisor to the board.

14 5. The ~~[state auditor]~~ board shall ~~[provide for biennial]~~  
15 arrange for annual audits of the Missouri county employees'  
16 retirement system and the operations of the board[, to be paid  
17 for out of the funds of the system] by a certified public  
18 accountant or by a firm of certified public accountants.

19 6. The board of directors shall serve without compensation  
20 for their services, but each director shall be paid out of the  
21 funds of the system for any actual and necessary expenses  
22 incurred in the performance of duties authorized by the board.

23 7. The board of directors shall be allowed administrative  
24 costs for the operation of the system to be paid out of the funds  
25 of the system.

26 8. The board shall keep a record of its proceedings which  
27 shall be open to public inspection. It shall annually prepare a  
28 report showing the financial condition of the system. The report

1 shall contain, but not be limited to, an auditor's opinion,  
2 financial statements prepared in accordance with generally  
3 accepted accounting principles, an actuary's certification along  
4 with actuarial assumptions and financial solvency tests.

5 9. The board shall conduct an annual review, to determine  
6 if, among other things, the following actions are actuarially  
7 feasible:

8 (1) An adjustment to the formula described in section  
9 50.1060, subject to the limitations of subsection 4 of section  
10 50.1060;

11 (2) An adjustment in the flat dollar pension benefit credit  
12 described in subsection 1 of section 50.1060;

13 (3) The cost-of-living increase as described in section  
14 50.1070;

15 (4) An adjustment in the matching contribution described in  
16 section 50.1230;

17 (5) An adjustment in the twenty-five year service cap on  
18 creditable service;

19 (6) An adjustment to the target replacement ratio; or

20 (7) An additional benefit or enhancement which will improve  
21 the quality of life of future retirees. Based upon the findings  
22 of the actuarial review, the board may vote to change none, one,  
23 or more than one of the above items, subject to the actuarial  
24 guidelines outlined in section 50.1031.

25 56.809. 1. The general administration and the  
26 responsibility for the proper operation of the fund are vested in  
27 a board of trustees of five persons. Trustees shall be elected  
28 by a secret ballot vote of the prosecuting attorneys and circuit

1 attorneys of this state. Trustees shall be chosen for terms of  
2 four years from the first day of January next following their  
3 election except that the members of the first board shall be  
4 appointed by the governor by and with the consent of the senate  
5 after notification in writing, respectively, by the prosecuting  
6 attorneys and circuit attorneys of eighty percent of the counties  
7 in the state, including a city not within a county, that the  
8 prosecuting attorney or circuit attorney has elected to come  
9 under the provisions of sections 56.800 to 56.840. It shall be  
10 the responsibility of the initial board to establish procedures  
11 for the conduct of future elections of trustees and such  
12 procedures shall be approved by a majority vote by secret ballot  
13 of the prosecuting attorneys and circuit attorneys in this state.  
14 The board shall have all powers and duties that are necessary and  
15 proper to enable it, its officers, employees and agents to fully  
16 and effectively carry out all the purposes of sections 56.800 to  
17 56.840.

18 2. The board of trustees shall elect one of their number as  
19 chairman and one of their number as vice chairman and may employ  
20 an administrator who shall serve as executive secretary to the  
21 board. The Missouri office of prosecution services, sections  
22 56.750 to 56.775, may, in the discretion of the board of  
23 trustees, act as administrative employees to carry out all of the  
24 purposes of sections 56.800 to 56.840. In addition, the board of  
25 trustees may appoint such other employees as may be required.  
26 The board shall hold regular meetings at least once each quarter.  
27 Other meetings may be called as necessary by the chairman or by  
28 any three members of the board. Notice of such meetings shall be

1 given in accordance with chapter 610.

2 3. The board of trustees shall appoint an actuary or firm  
3 of actuaries as technical advisor to the board of trustees.

4 4. The board of trustees shall retain investment advisors  
5 to be investment advisors to the board.

6 5. The board of trustees may retain legal counsel to advise  
7 the board and represent the system in legal proceedings.

8 6. The board shall arrange for annual audits of the records  
9 and accounts of the system by a certified public accountant or by  
10 a firm of certified public accountants. [The state auditor shall  
11 examine such audits at least once every three years and report to  
12 the board of trustees and to the governor.]

13 7. The board of trustees shall serve without compensation  
14 for their services as such; except that each trustee shall be  
15 paid from the system's funds for any necessary expenses incurred  
16 in the performance of duties authorized by the board.

17 8. The board of trustees shall be authorized to appropriate  
18 funds from the system for administrative costs in the operation  
19 of the system.

20 9. The board of trustees shall, from time to time, after  
21 receiving the advice of its actuary, adopt such mortality and  
22 other tables of experience, and a rate or rates of regular  
23 interest, as shall be necessary for the actuarial requirements of  
24 the system, and shall require its executive secretary to keep in  
25 convenient form such data as shall be necessary for actuarial  
26 investigations of the experience of the system, and such data as  
27 shall be necessary for the annual actuarial valuations of the  
28 system.

1           10. The board of trustees shall, after reasonable notice to  
2 all interested parties, hear and decide questions arising from  
3 the administration of sections 56.800 to ~~[56.835]~~ 56.840; except  
4 that within thirty days after a decision or order, any member,  
5 retirant, beneficiary or political subdivision adversely affected  
6 by that determination or order may make an appeal under the  
7 provisions of chapter 536.

8           11. The board of trustees shall arrange for adequate surety  
9 bonds covering the executive secretary and any other custodian of  
10 funds or investments of the board. When approved by the board,  
11 such bonds shall be deposited in the office of the Missouri  
12 secretary of state.

13           12. Subject to the limitations of sections 56.800 to  
14 ~~[56.835]~~ 56.840, the board of trustees shall formulate and adopt  
15 rules and regulations for the government of its own proceedings  
16 and for the administration of the retirement system.

17           13. The board of trustees shall be the trustees of the  
18 funds of the system. Subject to the provisions of any applicable  
19 federal or state laws, the board of trustees shall have full  
20 power to invest and reinvest the moneys of the system, and to  
21 hold, purchase, sell, assign, transfer or dispose of any of the  
22 securities and investments in which such moneys shall have been  
23 invested, as well as the proceeds of such investments and such  
24 moneys.

25           14. Notwithstanding any other provision of the law to the  
26 contrary, the board of trustees may delegate to its duly  
27 appointed investment advisors authority to act in place of the  
28 board of trustees in the investment and reinvestment of all or

1 part of the moneys of the system, and may also delegate to such  
2 advisors the authority to act in place of the board of trustees  
3 in the holding, purchasing, selling, assigning, transferring or  
4 disposing of any or all of the securities and investments in  
5 which such moneys shall have been invested, as well as the  
6 proceeds of such investments and such moneys. Such investment  
7 counselor shall be registered as an investment advisor with the  
8 United States Securities and Exchange Commission. In exercising  
9 or delegating its investment powers and authority, members of the  
10 board of trustees shall exercise ordinary business care and  
11 prudence under the facts and circumstances prevailing at the time  
12 of the action or decision. In so doing, the board of trustees  
13 shall consider the long-term and short-term needs of the system  
14 in carrying out its purposes, the system's present and  
15 anticipated financial requirements, the expected total return on  
16 the system's investment, the general economic conditions, income,  
17 growth, long-term net appreciation, and probable safety of funds.  
18 No member of the board of trustees shall be liable for any action  
19 taken or omitted with respect to the exercise of or delegation of  
20 these powers and authority if such member shall have discharged  
21 the duties of his or her position in good faith and with that  
22 degree of diligence, care and skill which prudent men and women  
23 would ordinarily exercise under similar circumstances in a like  
24 position.

25 15. The board shall keep a record of its proceedings which  
26 shall be open to public inspection. It shall annually prepare a  
27 report showing the financial condition of the system. The report  
28 shall contain, but not be limited to, an auditor's opinion,

1 financial statements prepared in accordance with generally  
2 accepted accounting principles, an actuary's certification along  
3 with actuarial assumptions and financial solvency tests.

4 70.605. 1. For the purpose of providing for the retirement  
5 or pensioning of the officers and employees and the widows and  
6 children of deceased officers and employees of any political  
7 subdivision of the state, there is hereby created and established  
8 a retirement system which shall be a body corporate, which shall  
9 be under the management of a board of trustees herein described,  
10 and shall be known as the "Missouri Local Government Employees'  
11 Retirement System". Such system may sue and be sued, transact  
12 business, invest funds, and hold cash, securities, and other  
13 property. All suits or proceedings directly or indirectly  
14 against the system shall be brought in Cole County. The system  
15 shall begin operations on the first day of the calendar month  
16 next following sixty days after the date the board of trustees  
17 has received certification from ten political subdivisions that  
18 they have elected to become employers.

19 2. The general administration and the responsibility for  
20 the proper operation of the system is vested in a board of  
21 trustees of seven persons: three persons to be elected as  
22 trustees by the members of the system; three persons to be  
23 elected trustees by the governing bodies of employers; and one  
24 person, to be appointed by the governor, who is not a member,  
25 retirant, or beneficiary of the system and who is not a member of  
26 the governing body of any political subdivision.

27 3. Trustees shall be chosen for terms of four years from  
28 the first day of January next following their election or

1 appointment, except that of the first board shall all be  
2 appointed by the governor by and with the consent of the senate,  
3 as follows:

4 (1) Three persons who are officers or officials of  
5 political subdivisions, one for a term of three years, one for a  
6 term of two years, and one for a term of one year; and

7 (2) Three persons who are employees of political  
8 subdivisions and who would, if the subdivision by which they are  
9 employed becomes an employer, be eligible as members, one for a  
10 term of three years, one for a term of two years, and one for a  
11 term of one year; and

12 (3) That person appointed by the governor under the  
13 provisions of subsection 2 of this section. All the members of  
14 the first board shall take office as soon as appointed by the  
15 governor, but their terms shall be computed from the first day of  
16 January next following their appointment, and only one member may  
17 be from any political subdivision or be a policeman or fireman.

18 4. Successor trustees elected or appointed as member  
19 trustees shall be members of the retirement system; provided,  
20 that not more than one member trustee shall be employed by any  
21 one employer, and not more than one member trustee shall be a  
22 policeman, and not more than one member trustee shall be a  
23 fireman.

24 5. Successor trustees elected as employer trustees shall be  
25 elected or appointed officials of employers and shall not be  
26 members of the retirement system; provided, that not more than  
27 one employer trustee shall be from any one employer.

28 6. An annual meeting of the retirement system shall be

1 called by the board in the last calendar quarter of each year in  
2 Jefferson City, or at such place as the board shall determine,  
3 for the purpose of electing trustees and to transact such other  
4 business as may be required for the proper operation of the  
5 system. Notice of such meeting shall be sent by registered mail  
6 to the clerk or secretary of each employer not less than thirty  
7 days prior to the date of such meeting. The governing body of  
8 each employer shall certify to the board the name of one delegate  
9 who shall be an officer of the employer, and the members of the  
10 employer shall certify to the board a member of the employer to  
11 represent such employer at such meeting. The delegate certified  
12 as member delegate shall be elected by secret ballot by the  
13 members of such employer, and the clerk or secretary of each  
14 employer shall be charged with the duty of conducting such  
15 election in a manner which will permit each member to vote in  
16 such election. Under such rules and regulations as the board  
17 shall adopt, approved by the delegates, the member delegates  
18 shall elect a member trustee for each such position on the board  
19 to be filled, and the officer delegates shall elect an employer  
20 trustee for each such position on the board to be filled.

21 7. In the event any member trustee ceases to be a member of  
22 the retirement system, or any employer trustee ceases to be an  
23 appointed or elected official of an employer, or becomes a member  
24 of the retirement system, or if the trustee appointed by the  
25 governor becomes a member of the retirement system or an elected  
26 or appointed official of a political subdivision, or if any  
27 trustee fails to attend three consecutive meetings of the board,  
28 unless in each case excused for cause by the remaining trustees

1 attending such meeting or meetings, he or she shall be considered  
2 as having resigned from the board and the board shall, by  
3 resolution, declare his or her office of trustee vacated. If a  
4 vacancy occurs in the office of trustee, the vacancy shall be  
5 filled for the unexpired term in the same manner as the office  
6 was previously filled; provided, however, that the remaining  
7 trustees may fill employer and member trustee vacancies on the  
8 board until the next annual meeting.

9 8. Each trustee shall be commissioned by the governor, and  
10 before entering upon the duties of his office, shall take and  
11 subscribe to an oath or affirmation to support the Constitution  
12 of the United States, and of the state of Missouri, and to demean  
13 himself faithfully in his or her office. Such oath as subscribed  
14 to shall be filed in the office of the secretary of state of this  
15 state.

16 9. Each trustee shall be entitled to one vote in the board  
17 of trustees. Four votes shall be necessary for a decision by the  
18 trustees at any meeting of the board of trustees. Four trustees,  
19 of whom at least two shall be member trustees and at least two  
20 shall be employer trustees, shall constitute a quorum at any  
21 meeting of the board. Unless otherwise expressly provided  
22 herein, a meeting need not be called or held to make any decision  
23 on a matter before the board. Each member must be sent by the  
24 executive secretary a copy of the matter to be decided with full  
25 information from the files of the board. The concurring  
26 decisions of four trustees may decide the issue by signing a  
27 document declaring their decision and sending the written  
28 instrument to the executive secretary, provided that no other

1 trustee shall send a dissenting decision to the executive  
2 secretary within fifteen days after the document and information  
3 was mailed to him or her. If any trustee is not in agreement  
4 with the four trustees, the matter is to be passed on at a  
5 regular board meeting or a special meeting called for that  
6 purpose. The board shall hold regular meetings at least once  
7 each quarter, the dates of these meetings to be designated in the  
8 rules and regulations adopted by the board. Other meetings as  
9 deemed necessary may be called by the chairman or by any four  
10 trustees acting jointly.

11 10. The board of trustees shall elect one of their number  
12 as chairman, and one of their number as vice chairman, and shall  
13 employ an executive secretary, not one of their number, who shall  
14 be the executive officer of the board. Other employees of the  
15 board shall be chosen only upon the recommendation of the  
16 executive secretary.

17 11. The board shall appoint an actuary or a firm of  
18 actuaries as technical advisor to the board on matters regarding  
19 the operation of the system on an actuarial basis. The actuary  
20 or actuaries shall perform such duties as are required of him or  
21 her under sections 70.600 to 70.755, and as are from time to time  
22 required by the board.

23 12. The board may appoint an attorney-at-law or firm of  
24 attorneys-at-law to be the legal advisor of the board and to  
25 represent the board in all legal proceedings.

26 13. The board may appoint an investment counselor to be the  
27 investment advisor of the board.

28 14. The board shall from time to time, after receiving the

1 advice of its actuary, adopt such mortality and other tables of  
2 experience, and a rate or rates of regular interest, as shall be  
3 necessary for the actuarial requirements of the system, and shall  
4 require its executive secretary to keep in convenient form such  
5 data as shall be necessary for actuarial investigations of the  
6 experience of the system, and such data as shall be necessary for  
7 the annual actuarial valuations of the system.

8 15. The board shall keep a record of its proceedings, which  
9 shall be open to public inspection. It shall prepare annually  
10 and render to each employer a report showing the financial  
11 condition of the system as of the preceding June thirtieth. The  
12 report shall contain, but shall not be limited to, a financial  
13 balance sheet; a statement of income and disbursements; a  
14 detailed statement of investments acquired and disposed of during  
15 the year, together with a detailed statement of the annual rates  
16 of investment income from all assets and from each type of  
17 investment; an actuarial balance sheet prepared by means of the  
18 last valuation of the system, and such other data as the board  
19 shall deem necessary or desirable for a proper understanding of  
20 the condition of the system.

21 16. The board of trustees shall, after reasonable notice to  
22 all interested parties, conduct administrative hearings to hear  
23 and decide questions arising from the administration of sections  
24 70.600 to 70.755; except, that such hearings may be conducted by  
25 a hearing officer who shall be appointed by the board. The  
26 hearing officer shall preside at the hearing and hear all  
27 evidence and rule on the admissibility of evidence. The hearing  
28 officer shall make recommended findings of fact and may make

1 recommended conclusions of law to the board. All final orders or  
2 determinations or other final actions by the board shall be  
3 approved in writing by at least four members of the board. Any  
4 board member approving in writing any final order, determination  
5 or other final action, who did not attend the hearing, shall do  
6 so only after certifying that he or she reviewed all exhibits and  
7 read the entire transcript of the hearing. Within thirty days  
8 after a decision or order or final action of the board, any  
9 member, retirant, beneficiary or political subdivision adversely  
10 affected by that determination or order or final action may take  
11 an appeal under the provisions of chapter 536. Jurisdiction over  
12 any dispute regarding the interpretation of sections 70.600 to  
13 70.755 and the determinations required thereunder shall lie in  
14 the circuit court of Cole County.

15 17. The board shall arrange for adequate surety bonds  
16 covering the executive secretary and any other custodian of the  
17 funds or investments of the board. When approved by the board,  
18 said bonds shall be deposited in the office of the secretary of  
19 state.

20 18. The board shall arrange for annual audits of the  
21 records and accounts of the system by a certified public  
22 accountant or by a firm of certified public accountants. [The  
23 state auditor shall examine such audits at least once every three  
24 years and report to the board and the governor.]

25 19. The headquarters of the retirement system shall be in  
26 Jefferson City.

27 20. The board of trustees shall serve as trustees without  
28 compensation for their services as such; except that each trustee

1 shall be paid for any necessary expenses incurred in attending  
2 meetings of the board or in the performance of other duties  
3 authorized by the board.

4 21. Subject to the limitations of sections 70.600 to  
5 70.755, the board shall formulate and adopt rules and regulations  
6 for the government of its own proceedings and for the  
7 administration of the retirement system.

8 86.900. The following words and phrases as used in sections  
9 86.900 to 86.1280 shall have the following meanings unless a  
10 different meaning is plainly required by the context:

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

17 (2) "Actuarial cost", the present value of a future payment  
18 or series of payments as calculated by applying the actuarial  
19 assumptions established according to subsection 8 of section  
20 86.1270;

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

24 (4) "Board of police commissioners", the board composed of  
25 police commissioners authorized by law to employ and manage an  
26 organized police force in the cities;

27 (5) "City" or "cities", any city which now has or may  
28 hereafter have a population of more than three hundred thousand

1 and less than seven hundred thousand inhabitants, or any city  
2 that has made an election under section 86.910 to continue a  
3 police retirement system maintained under sections 86.900 to  
4 86.1280;

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

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

19 (8) "Creditable service", service qualifying as a  
20 determinant of a member's pension or other benefit under sections  
21 86.900 to 86.1280 by meeting the requirements specified in said  
22 sections or section 105.691;

23 (9) "Final compensation":

24 (a) For a Tier I member as described in subdivision (13) of  
25 this section, the average annual compensation of a member during  
26 the member's service if less than two years, or the twenty-four  
27 months of service for which the member received the highest  
28 salary whether consecutive or otherwise. In computing the

1 average annual compensation of a member, [no compensation for  
2 service after the thirtieth full year of membership service shall  
3 be included.] compensation shall only be included for the periods  
4 in which the member made contributions as provided under section  
5 86.1010 except as provided in subsection 3 of section 86.110;

6 (b) For a Tier II member as described in subdivision (13)  
7 of this section, the average annual compensation of a member  
8 during the member's service if less than three years, or the  
9 thirty-six months of service for which the member received the  
10 highest salary whether consecutive or otherwise. In computing  
11 the average annual compensation of a member, compensation shall  
12 only be included for the periods in which the member made  
13 contributions as provided under section 86.1010 except as  
14 provided in subsection 3 of section 86.110;

15 (c) For any period of time when a member is paid on a  
16 frequency other than monthly, the member's salary for such period  
17 shall be deemed to be the monthly equivalent of the member's  
18 annual rate of compensation for such period;

19 (10) "Fiscal year", for the retirement system, the fiscal  
20 year of the cities;

21 (11) "Internal Revenue Code", the United States Internal  
22 Revenue Code of 1986, as amended;

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

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

28 (a) "Tier I member", any person who became a member prior

1 to August 28, 2013, and who remains a member on August 28, 2013,  
2 shall remain a Tier I member until such member's membership is  
3 terminated as described in section 86.1130;

4 (b) "Tier I surviving spouse", the surviving spouse of a  
5 Tier I member;

6 (c) "Tier II member", any person who became a member on or  
7 after August 28, 2013;

8 (d) "Tier II surviving spouse", the surviving spouse of a  
9 Tier II member;

10 (e) Any person whose membership is terminated as described  
11 in section 86.1130 and who re-enters membership on or after  
12 August 28, 2013, shall become a member under paragraph (c) of  
13 this subdivision;

14 (14) "Pension", annual payments for life, payable monthly,  
15 at the times described in section 86.1030;

16 (15) "Pension fund", the fund resulting from contributions  
17 made thereto by the cities affected by sections 86.900 to 86.1280  
18 and by the members of the police retirement system;

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

27 (17) "Retirement board" or "board", the board provided in  
28 section 86.920 to administer the retirement system;

1 (18) "Retirement system", the police retirement system of  
2 the cities as defined in section 86.910;

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

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

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

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

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

27 86.990. The retirement board shall before [January tenth]  
28 October fifteenth of each year certify to the chief financial

1 officer of such city the amount to be paid by the city under the  
2 retirement pension system for the succeeding fiscal year, as  
3 otherwise provided by sections 86.900 to 86.1280.

4 86.1000. 1. The city shall contribute to the pension fund  
5 quarter-annually or at such lesser intervals as may be agreed  
6 upon by the city and the retirement board. Such contribution  
7 shall be in addition to and separate from the appropriations made  
8 by the city for the operation of the police department. For each  
9 fiscal year of the operation of the pension system, the city's  
10 contribution to the pension fund shall be a percentage of the  
11 compensation paid to members of the pension system from which a  
12 member's deduction has been made under section 86.1010. The  
13 city's contribution shall be [such percentage as shall be agreed  
14 upon by the board of police commissioners and the city, but in no  
15 event shall such contribution be less than twelve percent] the  
16 total of the following amounts:

17 (1) Such amounts as may be necessary to meet the  
18 requirements for the annual actuarial required contributions as  
19 determined by a qualified professional actuary selected by the  
20 retirement board;

21 (2) An amount of two-hundred dollars per month for every  
22 member entitled to receive a supplemental benefit under section  
23 86.1230 or section 86.1231.

24  
25 Such total of said amounts shall be certified by the retirement  
26 board to the chief financial officer of said city as provided in  
27 section 86.990.

28 2. On or before [the tenth day of January] October

1 fifteenth of each year the retirement board shall certify to the  
2 board of police commissioners the amount of money that will  
3 [likely] be required to comply with the provisions of this  
4 section during the next succeeding fiscal year including  
5 administration expenses. The amounts so certified shall be  
6 included by the board of police commissioners in their annual  
7 budget estimate, and shall be appropriated by the cities and  
8 transferred to the pension fund during the ensuing fiscal year.

9 86.1010. Except as provided in subsection 5 of section  
10 86.1100, the board of police commissioners shall cause to be  
11 deducted from the compensation of each member [until retirement]  
12 who is accruing creditable service a percentage of such member's  
13 compensation[, which shall not be less than six percent,] as  
14 determined by the retirement board, as such member's contribution  
15 to the pension fund. The sum so deducted shall be paid by the  
16 board of police commissioners promptly after each payroll to the  
17 retirement board to be credited to the member's account. Every  
18 member shall be deemed to consent to the deductions made and  
19 provided for herein. The board of police commissioners shall  
20 certify to the retirement board on every payroll the amount  
21 deducted, and such amounts shall be paid into the pension fund  
22 and shall be credited to the individual pension account of the  
23 member from whose compensation such deduction was made.

24 86.1030. 1. All benefits and all necessary administrative  
25 expenses of the retirement system shall be paid from the funds of  
26 the retirement system.

27 2. The base pension of a member who, after August 28, 2011,  
28 retires from or otherwise terminates active service with

1 entitlement to a base pension under sections 86.900 to 86.1280  
2 shall commence as of the first day of the month next following  
3 such retirement or termination with no proration of such pension  
4 for the month in which such retirement or termination occurs.  
5 The supplemental retirement benefits of a member who, after  
6 August 28, 2011, retires from or otherwise terminates active  
7 service with entitlement to a supplemental retirement benefit  
8 provided in subsection 1 of section 86.1230 or as provided in  
9 section 86.1231 shall commence as of the first day of the month  
10 next following such retirement or termination with no proration  
11 of such supplemental retirement benefit for the month in which  
12 such retirement or termination occurs.

13 3. Upon the death of a member who is receiving a base  
14 pension under sections 86.900 to 86.1280 leaving a surviving  
15 spouse, as defined in section 86.900, entitled to benefits,  
16 payment of the member's base pension including all cost-of-living  
17 adjustments thereto, prorated for that portion of the month of  
18 such death in which such member was living, shall be made to such  
19 surviving spouse, and the benefit for which such spouse is  
20 entitled under section 86.1240 or subdivision (1) of subsection 2  
21 of section 86.1151 shall be prorated and paid to such spouse for  
22 the remainder of such month.

23 4. Upon the death of a member who is receiving a base  
24 pension under sections 86.900 to 86.1280 leaving no surviving  
25 spouse, as defined in section 86.900, entitled to benefits,  
26 payment of the member's base pension including all cost-of-living  
27 adjustments thereto, prorated for that portion of the month of  
28 such death in which such member was living, shall be made in

1 equal shares to or for the benefit of the children, if any, of  
2 such member as are entitled to share in spousal benefits as  
3 described in subsection 2 of section 86.1250. If no such  
4 children shall survive such member, such prorated benefit for the  
5 month of such member's death shall be paid to the beneficiary  
6 named by such member in a writing filed with the retirement  
7 system prior to the member's death for the purpose of receiving  
8 such benefit. If no beneficiary is named, then no payment shall  
9 be made of such prorated benefit for the month of such member's  
10 death.

11 5. Upon the death of a surviving spouse who is receiving a  
12 base pension under section 86.1240 or subdivision (1) of  
13 subsection 2 of section 86.1151, payment of such spouse's base  
14 pension including all cost-of-living adjustments thereto,  
15 prorated for that portion of the month of such death in which  
16 such spouse was living, shall be made in equal shares to or for  
17 the benefit of the children, if any, of the member of whom such  
18 spouse is the surviving spouse as are entitled to share in  
19 spousal benefits described in subsection 2 of section 86.1250.  
20 If no such children shall survive such spouse, such prorated  
21 benefit for the month of such spouse's death shall be paid to the  
22 beneficiary named by such surviving spouse in a writing filed  
23 with the retirement system prior to such spouse's death for the  
24 purpose of receiving such benefit. If no beneficiary is named,  
25 then no payment shall be made of such prorated benefit for the  
26 month of such spouse's death.

27 6. Upon the death of a Tier I member who is receiving a  
28 supplemental benefit under section 86.1230 or upon the death of a

1 Tier II member who is receiving a supplemental benefit under  
2 section 86.1231 and who leaves a surviving spouse, as defined in  
3 section 86.900, entitled to benefits, the entire supplemental  
4 benefit for the month of such death shall be paid to such  
5 surviving spouse without proration, and the surviving spouse  
6 shall receive no additional supplemental benefit for such month.

7 7. Upon the death of a Tier I member who is receiving a  
8 supplemental benefit under section 86.1230 or upon the death of a  
9 Tier II member who is receiving a supplemental benefit under  
10 section 86.1231 and who leaves no surviving spouse, as defined in  
11 section 86.900, entitled to benefits, or upon the death of a  
12 surviving spouse who is receiving a supplemental benefit under  
13 section 86.1230 or section 86.1231, such supplemental benefit  
14 shall terminate upon such death. No benefit shall be payable for  
15 any period after the most recent monthly payment of such benefit  
16 prior to such death.

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

23 9. Upon the death of a member in service who leaves no  
24 surviving spouse, as defined in section 86.900, entitled to  
25 benefits, any benefit payable to surviving children of such  
26 member under subsection 2 of section 86.1250 shall commence as of  
27 the first day of the month next following such death with no  
28 proration of such benefit for the month in which such death

1 occurs. If there are no such surviving children entitled to such  
2 benefit, then such member's accumulated contributions shall be  
3 paid to the beneficiary named by such member in a writing filed  
4 with the retirement system prior to the member's death for the  
5 purpose of receiving such benefit, or if no beneficiary is named,  
6 then to such member's estate.

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

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

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

1 final payment of any and all claims for benefits under the  
2 retirement system.

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

10 2. Except as provided in subsection 3 of section 86.1110 or  
11 subsection 2 of section 86.1140, creditable service at retirement  
12 on which the retirement allowance of a member is based consists  
13 of the membership service rendered by such member since such  
14 member last became a member provided that no creditable service  
15 shall be allowed for any period of time when a member was not  
16 making contributions.

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

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

25 5. Any member [who has completed thirty years of creditable  
26 service may continue in service by permission of the board of  
27 police commissioners] in active service with the police  
28 department on or after August 28, 2013, may accrue up to a

1 maximum of thirty-two years of creditable service. Contributions  
2 shall not be required of, and no service shall be credited to,  
3 any member for more than [thirty] thirty-two years of service.

4 86.1110. 1. Whenever a member is given a leave of absence  
5 for military service and returns to employment after discharge  
6 from the service, such member shall be entitled to creditable  
7 service for the years of employment prior to the leave of  
8 absence.

9 2. Except as provided in subsection 3 of this section, a  
10 member who served on active duty in the Armed Forces of the  
11 United States and who became a member, or returned to membership,  
12 after discharge under honorable conditions, may elect prior to  
13 retirement to purchase creditable service equivalent to such  
14 service in the Armed Forces, not to exceed two years, provided  
15 the member is not receiving and is not eligible to receive  
16 retirement credits or benefits from any other public or private  
17 retirement plan for the service to be purchased, other than a  
18 United States military service retirement system or United States  
19 Social Security benefits attributable to such military service,  
20 and an affidavit so stating is filed by the member with the  
21 retirement system. A member electing to make such purchase shall  
22 pay to the retirement system an amount equal to the actuarial  
23 cost of the additional benefits attributable to the additional  
24 service credit to be purchased, as of the date the member elects  
25 to make such purchase. Payment in full of the amount due from a  
26 member electing to purchase creditable service under this  
27 subsection shall be made over a period not to exceed five years,  
28 measured from the date of election, or prior to the commencement

1 date for payment of benefits to the member from the retirement  
2 system, whichever is earlier, including interest on unpaid  
3 balances compounded annually at the interest rate assumed from  
4 time to time for actuarial valuations of the retirement system.  
5 If payment in full including interest is not made within the  
6 prescribed period, any partial payments made by the member shall  
7 be refunded, and no creditable service attributable to such  
8 election, or as a result of any such partial payments, shall be  
9 allowed; provided that if a benefit commencement date occurs  
10 because of the death or disability of a member who has made an  
11 election under this subsection and if the member is current in  
12 payments under an approved installment plan at the time of the  
13 death or disability, such election shall be valid if the member,  
14 the surviving spouse, or other person entitled to benefit  
15 payments pays the entire balance of the remaining amount due,  
16 including interest to the date of such payment, within sixty days  
17 after the member's death or disability. The time of a disability  
18 shall be deemed to be the time when such member is retired by the  
19 board of police commissioners for reason of disability as  
20 provided in sections 86.900 to 86.1280.

21 3. Notwithstanding any other provision of sections 86.900  
22 to 86.1280, a member who is on leave of absence for military  
23 service during any portion of which leave the United States is in  
24 a state of declared war, or a compulsory draft is in effect for  
25 any of the military branches of the United States, or any units  
26 of the military reserves of the United States, including the  
27 National Guard, are mobilized for combat military operations, and  
28 who becomes entitled to reemployment rights and other employment

1 benefits under Title 38, Chapter 43 of the U.S. Code, relating to  
2 employment and reemployment rights of members of the uniformed  
3 services by meeting the requirements for such rights and benefits  
4 under Section 4312 of said chapter, or the corresponding  
5 provisions of any subsequent applicable federal statute, shall be  
6 entitled to service credit for the time spent in such military  
7 service for all purposes of sections 86.900 to 86.1280 and such  
8 member shall not be required to pay any member contributions for  
9 such time. If it becomes necessary for the years of such service  
10 to be included in the calculation of such member's compensation  
11 for any purpose, such member shall be deemed to have received the  
12 same compensation throughout such period of service as the  
13 member's base annual salary immediately prior to the commencement  
14 of such leave of absence; provided, however, that the foregoing  
15 provisions of this subsection shall apply only to such portion of  
16 such leave with respect to which the cumulative length of the  
17 absence and of all previous absences from a position of  
18 employment with the employer by reason of service in the  
19 uniformed services does not exceed five years except for such  
20 period of any such excess as meets the requirements for  
21 exceptions to such five-year limitation set forth in the  
22 aforesaid Section 4312.

23 86.1150. 1. Any Tier I member may retire when such member  
24 has completed twenty-five or more years of creditable service  
25 [and, except as otherwise provided in section 86.1100, shall  
26 retire when such member has completed thirty years of creditable  
27 service]. Upon such retirement such member shall receive a base  
28 pension equal to:

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

5 (2) For a member retiring on or after August 28, 2000, and  
6 prior to August 28, 2013, two and one-half percent of such  
7 member's final compensation, as defined in section 86.900,  
8 multiplied by the number of years of such member's total  
9 creditable service. Such pension shall not exceed seventy-five  
10 percent of the member's final compensation[.

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

23 3. Except as provided in section 86.1100 or in subsection 2  
24 of this section, ] or

25 (3) For a member retiring on or after August 28, 2013, two  
26 and one-half percent of such member's final compensation, as  
27 defined in section 86.900, multiplied by the number of years of  
28 such member's total creditable service. Such pension shall not

1 exceed eighty percent of the member's final compensation.

2 2. Any Tier I member in service who shall have attained  
3 sixty years of age and at that time shall have completed at least  
4 ten [but less than thirty] years of creditable service [shall]  
5 may retire and upon such retirement shall receive a base pension  
6 equal to:

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

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

15 [4.] 3. Subject to the provisions of subsection [5] 4 of  
16 this section, whenever the service of a Tier I member is  
17 terminated for any reason prior to death or retirement and the  
18 member has fifteen or more years of creditable service, the  
19 member may elect not to withdraw such member's accumulated  
20 contributions and shall become entitled to a base pension  
21 commencing on the first day of the month following the attainment  
22 of the age of fifty-five, if then living, equal to:

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

27 (2) For a member whose service so terminates on or after  
28 August 28, 2001, two and one-half percent of such member's final

1 compensation multiplied by the number of years of such member's  
2 creditable service.

3 [5.] 4. Notwithstanding any other provisions of sections  
4 86.900 to 86.1280, any member who is convicted of a felony prior  
5 to separation from active service shall not be entitled to any  
6 benefit from this retirement system except the return of such  
7 member's accumulated contributions.

8 86.1151. 1. Any Tier II member may retire when such member  
9 has completed twenty-seven or more years of creditable service.  
10 Upon such retirement such member shall receive a base pension  
11 equal to two and one-half percent of such member's final  
12 compensation, as defined in section 86.900, multiplied by the  
13 number of years of such member's total creditable service. Such  
14 pension shall not exceed eighty percent of the member's final  
15 compensation.

16 2. (1) A Tier II member who is married at the time of  
17 retirement may by a written election, with the written consent of  
18 such member's spouse, elect an optional benefit calculated as  
19 follows: such optional benefit shall be a monthly pension in the  
20 initial amount which shall be actuarially equivalent to the  
21 actuarial value of the pension described in subsection 1 of this  
22 section for such member at the date of retirement (including the  
23 value of survivorship rights of a surviving spouse, where  
24 applicable, under section 86.1240), upon the basis that the  
25 initial annuity for the member's spouse, if such spouse survives  
26 the member, shall be:

27 (a) The same as the amount being paid the member at the  
28 member's death, and, together with cost-of-living adjustments

1 thereafter declared on the spouse's base pension under section  
2 86.1220, shall be paid to such surviving spouse for the lifetime  
3 of such spouse; or

4 (b) Seventy-five percent of the amount being paid the  
5 member at the member's death, and, together with cost-of-living  
6 adjustments thereafter declared on the spouse's base pension  
7 under section 86.1220, shall be paid to such surviving spouse for  
8 the lifetime of such spouse.

9 (2) If a member who elects the optional benefit permitted  
10 by this subsection also makes an election permitted under section  
11 86.1210, such optional benefit shall be reduced as provided in  
12 subdivision (3) of subsection 2 of section 86.1210.

13 (3) If a member makes the election permitted by this  
14 subsection, the amount calculated for such optional benefit under  
15 either subdivision (1) or (2) of this subsection shall become the  
16 base pension for such member and for such member's spouse for all  
17 purposes of sections 86.900 to 86.1280.

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

23 3. Subject to the provisions of subsection 4 of this  
24 section, whenever the service of a Tier II member is terminated  
25 for any reason prior to death or retirement and the member has  
26 fifteen or more years of creditable service, the member may elect  
27 not to withdraw such member's accumulated contributions and shall  
28 become entitled to a base pension commencing on the first day of

1 the month following the attainment of the age of sixty, if then  
2 living, equal to two and one-half percent of such member's final  
3 compensation multiplied by the number of years of such member's  
4 creditable service.

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

10 86.1180. 1. Any member in active service who is  
11 permanently unable to perform the full and unrestricted duties of  
12 a police officer as the natural, proximate, and exclusive result  
13 of an accident occurring within the actual performance of duty at  
14 some definite time and place or through an occupational disease  
15 arising exclusively out of and in the course of his or her  
16 employment shall be retired by the board of police commissioners  
17 upon certification by one or more physicians of the medical board  
18 that the member is mentally or physically unable to perform the  
19 full and unrestricted duties of a police officer, that the  
20 inability is permanent or likely to become permanent, and that  
21 the member should be retired. The inability to perform the full  
22 and unrestricted duties of a police officer means that the member  
23 is unable to perform all the essential job functions for the  
24 position of police officer as established by the board of police  
25 commissioners.

26 2. (1) Upon such retirement on or after August 28, 2001,  
27 and prior to August 28, 2013, a member shall receive a base  
28 pension equal to seventy-five percent of his or her final

1 compensation for so long as the permanent disability shall  
2 continue, during which time such member shall for purposes of  
3 this section be referred to as a disability beneficiary. Such  
4 pension may be subject to offset or reduction under section  
5 86.1190 by amounts paid or payable under any workers'  
6 compensation law;

7 (2) Upon such retirement on or after August 28, 2013, a  
8 member shall receive a base pension equal to eighty percent of  
9 his or her final compensation for so long as the permanent  
10 disability shall continue, during which time such member shall  
11 for purposes of this section be referred to as a disability  
12 beneficiary. Such pension may be subject to offset or reduction  
13 under section 86.1190 by amounts paid or payable under any  
14 workers' compensation law.

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

27 4. If one or more members of the medical board certify to  
28 the retirement board that a disability beneficiary is able to

1 perform the full and unrestricted duties of a police officer, and  
2 if the retirement board concurs on the report, then such  
3 beneficiary's disability pension shall cease.

4 5. If upon cessation of a disability pension under  
5 subsection 4 of this section, the former disability beneficiary  
6 is restored to active service, such member shall contribute to  
7 this retirement system thereafter at the same rate as other  
8 members. Upon subsequent retirement, such member shall be  
9 credited with all his or her creditable service, including any  
10 years in which such member received a disability pension under  
11 this section.

12 6. If upon cessation of a disability pension under  
13 subsection 4 of this section, the former disability beneficiary  
14 is not restored to active service, such member shall be entitled  
15 to the retirement benefit to which such member would have been  
16 entitled if such member had terminated service at the time of  
17 such cessation of the disability pension. For the purpose of  
18 such retirement benefits, such former disability beneficiary will  
19 be credited with all his or her creditable service, including any  
20 years in which such member received a disability pension under  
21 this section.

22 86.1210. 1. Any member in active service entitled to  
23 commence a pension under subsection 1 of section 86.1150 [with  
24 twenty-six years or more of creditable service] or subsection 1  
25 of section 86.1151 may elect an optional distribution under the  
26 partial lump sum option plan provided in this section if the  
27 member:

28 (1) Notifies the retirement system in writing of the

1 member's retirement date at least ninety days in advance thereof  
2 and requests an explanation of the member's rights under this  
3 section; and

4 (2) Notifies the retirement system of the member's election  
5 hereunder at least thirty days in advance of the member's  
6 retirement date.

7  
8 Following receipt of an initial notice of a member's retirement  
9 date and request for an explanation under this section, the  
10 retirement system shall, at least sixty days in advance of such  
11 retirement date, provide the member a written explanation of the  
12 member's rights under this section and an estimate of the amount  
13 by which the member's regular monthly base pension would be  
14 reduced in the event of the member's election of any of the  
15 options available to the member under this section.

16 2. (1) A member entitled to make an election under this  
17 section may elect to receive a lump sum distribution with the  
18 member's initial monthly pension payment under subsection 1 of  
19 section 86.1150 or subsection 1 of section 86.1151, subject to  
20 all the terms of this section. The member may elect the amount  
21 of the member's lump sum distribution from one, but not more than  
22 one, of the following options for which the member qualifies:

23 (a) A member having [twenty-six or more years of creditable  
24 service] one or more years of creditable service after the  
25 member's eligible retirement date may elect a lump sum amount  
26 equal to twelve times the initial monthly base pension the member  
27 would receive if no election were made under this section;

28 (b) A member having [twenty-seven] two or more years of

1     creditable service after the member's eligible retirement date  
2     may elect a lump sum amount equal to twenty-four times the  
3     initial monthly base pension the member would receive if no  
4     election were made under this section; or

5             (c) A member having ~~[twenty-eight]~~ three or more years of  
6     creditable service after the member's eligible retirement date  
7     may elect a lump sum amount equal to thirty-six times the initial  
8     monthly base pension the member would receive if no election were  
9     made under this section.

10  
11     For purposes of this section, "eligible retirement date" for a  
12     member shall mean the earliest date on which the member could  
13     elect to retire and be entitled to receive a pension under  
14     subsection 1 of section 86.1150 or subsection 1 of section  
15     86.1151.

16             (2) When a member makes an election to receive a lump sum  
17     distribution under this section, the base pension which the  
18     member would have received in the absence of the election shall  
19     be reduced on an actuarially equivalent basis to reflect the  
20     payment of the lump sum distribution, and the reduced base  
21     pension shall be the member's base pension thereafter for all  
22     purposes relating to base pension amounts under sections 86.900  
23     to 86.1280, unless the member has also elected an optional  
24     benefit permitted under subdivision (1) of subsection 2 of  
25     section 86.1151;

26             (3) If a member electing a lump sum distribution under this  
27     section has elected the optional benefit permitted under  
28     subdivision (1) of subsection 2 of section 86.1151, the

1 calculation of the member's pension shall be made in the  
2 following order:

3 (a) The amount of the member's normal pension under  
4 subsection 1 of section 86.1151 shall be reduced to the  
5 actuarially equivalent amount to produce the optional form of  
6 benefit described in subdivision (1) of subsection 2 of section  
7 86.1151, and

8 (b) The amount of reduced pension as determined under  
9 paragraph (a) of this subdivision shall be further reduced as  
10 required to produce an actuarially equivalent benefit in the form  
11 of the lump sum distribution option elected under this section  
12 which will include the lump sum benefit and the optional benefit  
13 elected under subdivision (1) of subsection 2 of section 86.1151,  
14 and, subject to cost-of-living adjustments thereafter declared on  
15 the spouse's base pension under section 86.1220, shall be paid to  
16 such surviving spouse for the lifetime of such spouse.

17 3. An election under this section to receive a lump sum  
18 distribution and reduced monthly base pension shall be void if  
19 the member dies before retirement, and in such case amounts due a  
20 surviving spouse or other beneficiary of the member shall be  
21 determined without regard to such election.

22 86.1220. 1. Provided that the retirement system shall  
23 remain actuarially sound, each of the following persons may  
24 receive [each year], in addition to such person's base pension, a  
25 cost-of-living adjustment in an amount not to exceed three  
26 percent of such person's base pension during any one year:

27 (1) Every Tier I member who is retired and receiving a base  
28 pension from the retirement system; and

1           (2) Every Tier I surviving spouse who is receiving a base  
2 pension from the retirement system[; and

3           (3) Every child who, under subsection 2 of section 86.1250,  
4 is receiving the benefit, or a portion thereof, which would be  
5 payable to a surviving spouse of the member who was such child's  
6 parent].

7           2. Provided that the retirement system shall remain  
8 actuarially sound, each of the following persons may receive, in  
9 addition to such person's base pension, a cost-of-living  
10 adjustment in an amount not to exceed three percent of such  
11 person's base pension during any one year as follows:

12           (1) Every Tier II member who retired with at least thirty-  
13 two years of creditable service shall be eligible in the year  
14 following retirement; and

15           (2) Every Tier II member who retired under subsection 1 of  
16 section 86.1151 with less than thirty-two years of creditable  
17 service shall be eligible in the year following the year in which  
18 they would have attained thirty-two years of creditable service  
19 had such member remained in active service; and

20           (3) Every Tier II member who retired under section ] shall  
21 be eligible in the year following retirement; and

22           (4) Every Tier II member who retired under section 86.1200  
23 shall be eligible in the earlier of the year following the fifth  
24 year after retirement or the year following the year in which  
25 they would have attained thirty-two years of creditable service  
26 had such member remained in active service; and

27           (5) Every Tier II member who retired under subsection 3 of  
28 section 86.1151 shall be eligible in the year following the fifth

1 year after retirement; and

2 (6) (a) Every Tier II surviving spouse of a member who, at  
3 the member's death, was receiving benefits including cost-of-  
4 living adjustments shall be eligible in the year following the  
5 most recent year when the decedent received a cost-of-living  
6 adjustment; and

7 (b) Every Tier II surviving spouse of a member who, at the  
8 member's death, was receiving benefits but who was not yet  
9 eligible for cost-of-living adjustments shall be eligible in the  
10 year when the decedent member would have become eligible had such  
11 decedent survived; and

12 (c) Every Tier II surviving spouse entitled to the benefit  
13 provided in subsection 1 of section 86.1260 shall be eligible in  
14 the year following the year of the member's death; and

15 (d) Every Tier II surviving spouse of a member who died  
16 with less than twenty-seven years of creditable service, entitled  
17 to benefits provided in subsection 1 of section 86.1240, and who  
18 is not eligible for the benefit provided in subsection 1 of  
19 section 86.1260, shall be eligible in the year following the  
20 fifth year after the member's death; and

21 (e) Every Tier II surviving spouse of a member who died  
22 with twenty-seven or more years of creditable service, entitled  
23 to benefits provided in subsection 1 of section 86.1240, and who  
24 is not eligible for the benefit provided in subsection 1 of  
25 section 86.1260, shall be eligible the later of the year  
26 following the year of the member's death or the year following  
27 the year in which the member would have attained thirty-two years  
28 of creditable service had such member remained in active service.

1       3. Provided that the retirement system shall remain  
2 actuarially sound, every child who, under subsection 2 of section  
3 86.1250, is receiving the benefit, or a portion thereof, which  
4 would be payable to a surviving spouse of the member who was such  
5 child's parent, may receive each year such cost-of-living  
6 adjustment on such benefit as would have been payable on such  
7 benefit, or portion thereof, to such surviving spouse if living.

8       4. Upon the death of a Tier I member who has been retired  
9 and receiving a pension and who dies after September 28, 1987,  
10 the surviving spouse of such member entitled to receive a base  
11 pension under section 86.1240 or children of such member entitled  
12 to receive a base pension under subsection 2 of section 86.1250  
13 shall receive an immediate percentage cost-of-living adjustment  
14 to their respective base pension equal to the total percentage  
15 cost-of-living adjustments received during such member's lifetime  
16 under this section, except that the adjustment provided by this  
17 subsection shall not be made to a base pension calculated under  
18 either subdivision (1) or paragraph (b) of subdivision (2) of  
19 subsection 2 of section 86.1240, either for a surviving spouse or  
20 for a child or children entitled to a base pension measured by  
21 the pension to which a qualified surviving spouse would be  
22 entitled, wherein such base pension is determined by a percentage  
23 of the amount being received by the deceased member at death.

24       5. Upon the death of a Tier II member who has been retired  
25 and receiving a pension, the surviving spouse of such member  
26 entitled to receive a base pension under section 86.1240 or  
27 children of such member entitled to receive a base pension under  
28 subsection 2 of section 86.1250 shall receive an immediate

1 percentage cost-of-living adjustment to their respective base  
2 pension equal to the total percentage cost-of-living adjustments  
3 received during such member's lifetime under this section, except  
4 that the adjustment provided by this subsection shall not apply  
5 for any surviving spouse, or for a child or children entitled to  
6 benefits which would be received by a qualified surviving spouse,  
7 receiving a benefit pursuant to an election made under  
8 subdivision (1) of subsection 2 of section 86.1151.

9 [3.] 6. For purposes of this section, the term "base  
10 pension" shall mean:

11 (1) For a member, the pension computed under the provisions  
12 of the law as of the date of retirement without regard to  
13 cost-of-living adjustments, as adjusted, if applicable, for any  
14 election made under subdivision (1) of subsection 2 of section  
15 86.1151 or section 86.1210, but in all events not including any  
16 supplemental benefit under section 86.1230 or section 86.1231;

17 (2) For a surviving spouse, the base pension calculated for  
18 such spouse in accordance with the provisions of section 86.1240  
19 or subdivision (3) of subsection 2 of section 86.1151, including  
20 any compensation as a consultant to which such surviving spouse  
21 is entitled under said section in lieu of a pension thereunder,  
22 but not including any supplemental benefit under section 86.1230  
23 or section 86.1231; and

24 (3) For a member's surviving child who is entitled to  
25 receive part or all of the pension which would be received by the  
26 surviving spouse, if living, the base pension calculated for such  
27 surviving spouse in accordance with the provisions of section  
28 86.1240 or subdivision (3) of subsection 2 of section 86.1151,

1 including any compensation as a consultant to which such spouse  
2 would be entitled under said section, if living, divided by the  
3 number of surviving children entitled to share in such pension  
4 under subsection 2 of section 86.1250.

5 [4.] 7. The cost-of-living adjustment shall be an increase  
6 or decrease computed on the base pension amount by the retirement  
7 board in an amount that the board, in its discretion, determines  
8 to be satisfactory, but in no event shall the adjustment be more  
9 than three percent or reduce the pension to an amount less than  
10 the base pension. In determining and granting the cost-of-living  
11 adjustments, the retirement board shall adopt such rules and  
12 regulations as may be necessary to effectuate the purposes of  
13 this section, including provisions for the manner of computation  
14 of such adjustments and the effective dates thereof. The  
15 retirement board shall provide for such adjustments to be  
16 determined once each year and granted on a date or dates to be  
17 chosen by the board, and may apply such adjustments in full to  
18 eligible members as provided in subsections 1 and 2 of this  
19 section who have retired during the year prior to such  
20 adjustments but who have not been retired for one full year and  
21 to the surviving spouse or applicable children of a member who  
22 has died during the year prior to such adjustments.

23 [5.] 8. The determination of whether the retirement system  
24 will remain actuarially sound shall be made at the time any  
25 cost-of-living adjustment is granted. If at any time the  
26 retirement system ceases to be actuarially sound, pension  
27 payments shall continue as adjusted by increases theretofore  
28 granted. A member of the retirement board shall have no personal

1 liability for granting increases under this section if that  
2 retirement board member in good faith relied and acted upon  
3 advice of a qualified actuary that the retirement system would  
4 remain actuarially sound.

5 [6.] 9. If any benefit under subsection 1 of section  
6 86.1250 on August 27, 2005, would be reduced by application of  
7 this section, such benefit shall continue thereafter without  
8 reduction, but any benefit so continued shall terminate at the  
9 time prescribed in subsection 1 of section 86.1250.

10 86.1230. 1. Any Tier I member who retires subsequent to  
11 August 28, 1991, with entitlement to a pension under sections  
12 86.900 to 86.1280, shall receive, in addition to such member's  
13 base pension and cost-of-living adjustments thereto under section  
14 86.1220, and in addition to any other compensation or benefit to  
15 which such member may be entitled under sections 86.900 to  
16 86.1280, a supplemental retirement benefit of fifty dollars per  
17 month. The amount of such supplemental retirement benefit may be  
18 adjusted by cost-of-living adjustments determined by the  
19 retirement board not more frequently than annually.

20 2. Any Tier I member who was retired on or before August  
21 28, 1991, and is receiving retirement benefits from the  
22 retirement system shall, upon application to the retirement  
23 board, be retained as a consultant, and for such services such  
24 member shall receive, in addition to such member's base pension  
25 and cost-of-living adjustments thereto under section 86.1220, and  
26 in addition to any other compensation or benefit to which such  
27 member may be entitled under sections 86.900 to 86.1280, a  
28 supplemental compensation in the amount of fifty dollars per

1 month. This appointment as a consultant shall in no way affect  
2 any member's eligibility for retirement benefits under the  
3 provisions of sections 86.900 to 86.1280, or in any way have the  
4 effect of reducing retirement benefits otherwise payable to such  
5 member. The amount of such supplemental compensation under this  
6 subsection may be adjusted by cost-of-living adjustments  
7 determined by the retirement board not more frequently than  
8 annually.

9 3. For purposes of subsections 1 and 2 of this section, the  
10 term "member" shall include a surviving spouse entitled to a  
11 benefit under sections 86.900 to 86.1280 who shall be deemed to  
12 have retired for purposes of this section on the date of  
13 retirement of the member of whom such person is the surviving  
14 spouse or on the date of death of such member if such member died  
15 prior to retirement; provided, that if the surviving spouse of  
16 any member who retired prior to August 28, 2000, shall not have  
17 remarried prior to August 28, 2000, but remarries thereafter,  
18 such surviving spouse shall thereafter receive benefits under  
19 subsection 2 of this section, and provided further, that no  
20 benefits shall be payable under this section to the surviving  
21 spouse of any member who retired prior to August 28, 2000, if  
22 such surviving spouse was at any time remarried after the  
23 member's death and prior to August 28, 2000. All benefits  
24 payable to a surviving spouse under this section shall be in  
25 addition to all other benefits to which such surviving spouse may  
26 be entitled under other provisions of sections 86.900 to 86.1280.  
27 Any such surviving spouse of a member who dies while entitled to  
28 payments under this section shall succeed to the full amount of

1 payment under this section to which such member was entitled at  
2 the time of such member's death, including any cost-of-living  
3 adjustments received by such member in the payment under this  
4 section prior to such member's death. In all events, the term  
5 "member" shall not include any children of the member who would  
6 be entitled to receive part or all of the pension which would be  
7 received by a surviving spouse if living.

8 4. Any member who is receiving benefits from the retirement  
9 system and who either was retired under the provisions of  
10 subdivision (1) of subsection 1 of section 86.1150, or who  
11 retired before August 28, 2001, under the provisions of section  
12 86.1180 or section 86.1200, shall, upon application to the  
13 retirement board, be retained as a consultant. For such services  
14 such member shall receive each month in addition to such member's  
15 base pension and cost-of-living adjustments thereto under section  
16 86.1220, and in addition to any other compensation or benefit to  
17 which such member may be entitled under sections 86.900 to  
18 86.1280, an equalizing supplemental compensation of ten dollars  
19 per month. This appointment as a consultant shall in no way  
20 affect any member's eligibility for retirement benefits under the  
21 provisions of sections 86.900 to 86.1280, or in any way have the  
22 effect of reducing retirement benefits otherwise payable to such  
23 member. The amount of equalizing supplemental compensation under  
24 this subsection may be adjusted by cost-of-living adjustments,  
25 determined by the retirement board not more frequently than  
26 annually, but in no event shall the aggregate of such equalizing  
27 supplemental compensation together with all such cost-of-living  
28 adjustments thereto exceed twenty-five percent of the member's

1 base pension. Each cost-of-living adjustment to compensation  
2 under this subsection shall be determined independently of any  
3 cost-of-living adjustment to any other benefit under sections  
4 86.900 to 86.1280. For the purposes of this subsection, the term  
5 "member" shall include a surviving spouse entitled to benefits  
6 under the provisions of sections 86.900 to 86.1280, and who is  
7 the surviving spouse of a member who qualified, or would have  
8 qualified if living, for compensation under this subsection.  
9 Such surviving spouse shall, upon application to the retirement  
10 board, be retained as a consultant, and for such services shall  
11 be compensated in an amount equal to the compensation which would  
12 have been received by the member under this subsection, if  
13 living. Any such surviving spouse of a member who dies while  
14 entitled to payments under this subsection shall succeed to the  
15 full amount of payment under this subsection to which such member  
16 was entitled at the time of such member's death, including any  
17 cost-of-living adjustments received by such member in the payment  
18 under this subsection prior to such member's death. In all  
19 events, the term "member" shall not include any children of the  
20 member who would be entitled to receive part or all of the  
21 pension that would be received by a surviving spouse, if living.

22 5. A surviving spouse who is entitled to benefits under the  
23 provisions of subsection 1 of section 86.1240 as a result of the  
24 death prior to August 28, 2007, of a member in service, and who  
25 is receiving benefits from the retirement system, shall, upon  
26 application to the retirement board, be retained as a consultant,  
27 and for such services such surviving spouse shall receive each  
28 month an equalizing supplemental compensation of ten dollars per

1 month. A surviving spouse entitled to benefits under the  
2 provisions of subsection 1 of section 86.1240 as a result of the  
3 death of a member in service on or after August 28, 2007, shall  
4 receive each month an equalizing supplemental benefit of ten  
5 dollars per month. All benefits payable to a surviving spouse  
6 under this subsection shall be in addition to all other benefits  
7 to which such surviving spouse may be entitled under other  
8 provisions of sections 86.900 to 86.1280 and shall in no way have  
9 the effect of reducing benefits otherwise payable to such  
10 surviving spouse. The amount of equalizing supplemental benefit  
11 or equalizing supplemental compensation under this subsection may  
12 be adjusted by cost-of-living adjustments, determined by the  
13 retirement board not more frequently than annually, but in no  
14 event shall the aggregate of such equalizing supplemental benefit  
15 or compensation together with all such cost-of-living adjustments  
16 thereto exceed twenty-five percent of the base pension of the  
17 surviving spouse. Each cost-of-living adjustment to an  
18 equalizing supplemental benefit or compensation under this  
19 subsection shall be determined independently of any  
20 cost-of-living adjustment to any other benefit under sections  
21 86.900 to 86.1280. In all events the term "surviving spouse" as  
22 used in this subsection shall not include any children of the  
23 member who would be entitled to receive part or all of the  
24 pension that would be received by a surviving spouse, if living.

25 6. In determining and granting the cost-of-living  
26 adjustments under this section, the retirement board shall adopt  
27 such rules and regulations as may be necessary to effectuate the  
28 purposes of this section, including provisions for the manner of

1 computation of such adjustments and the effective dates thereof.  
2 The retirement board shall provide for such adjustments to be  
3 determined once each year and granted on a date or dates to be  
4 chosen by the board. The retirement board shall not be required  
5 to prorate the initial adjustment to any benefit or compensation  
6 under this section for any member.

7 7. The determination of whether the retirement system will  
8 remain actuarially sound shall be made at the time any  
9 cost-of-living adjustment under this section is granted. If at  
10 any time the retirement system ceases to be actuarially sound,  
11 any benefit or compensation payments provided under this section  
12 shall continue as adjusted by increases or decreases theretofore  
13 granted. A member of the retirement board shall have no personal  
14 liability for granting increases under this section if that  
15 retirement board member in good faith relied and acted upon  
16 advice of a qualified actuary that the retirement system would  
17 remain actuarially sound.

18 86.1231. Any Tier II member who retires with entitlement to  
19 a pension under sections 86.900 to 86.1280, shall receive, in  
20 addition to such member's base pension and cost-of-living  
21 adjustments thereto under section 86.1220, and in addition to any  
22 other compensation or benefit to which such member may be  
23 entitled under sections 86.900 to 86.1280, a supplemental  
24 retirement benefit of two hundred dollars per month. For  
25 purposes of this section, the term "member" shall include a  
26 surviving spouse entitled to a benefit under sections 86.900 to  
27 86.1280 as a Tier II surviving spouse. All benefits payable to a  
28 surviving spouse under this section shall be in addition to all

1 other benefits to which such surviving spouse may be entitled  
2 under other provisions of sections 86.900 to 86.1280. Any such  
3 surviving spouse of a member who dies while entitled to payments  
4 under this section shall succeed to the full amount of payment  
5 under this section to which such member was entitled at the time  
6 of such member's death. In all events, the term "member" shall  
7 not include any children of the member who would be entitled to  
8 receive part or all of the pension which would be received by a  
9 surviving spouse, if living.

10 86.1240. 1. Upon receipt of the proper proofs of death of  
11 a member in service for any reason whatsoever, there shall be  
12 paid to such member's surviving spouse, if any, in addition to  
13 all other benefits but subject to subsection 6 of this section, a  
14 base pension equal to forty percent of the final compensation of  
15 such member, subject to adjustments, if any, as provided in  
16 section 86.1220.

17 2. (1) Upon receipt of the proper proofs of death of a  
18 Tier I member who was retired or terminated service after August  
19 28, 1999, and died after having become entitled to benefits from  
20 this retirement system, there shall be paid to such member's  
21 surviving spouse, if any, in addition to all other benefits but  
22 subject to subsection 6 of this section, a base pension equal to  
23 eighty percent of the pension being received by such member,  
24 including cost-of-living adjustments to such pension but  
25 excluding supplemental retirement benefits, at the time of such  
26 member's death, subject to subsequent adjustments, if any, as  
27 provided in section 86.1220. The pension provided by this  
28 subdivision shall terminate upon remarriage by the surviving

1 spouse prior to August 28, 2000.

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

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

15 (c) The benefits provided by this subdivision shall  
16 terminate upon remarriage by the surviving spouse prior to August  
17 28, 2000.

18 (3) Upon receipt of the proper proof of death of a Tier II  
19 member after retirement who has not elected the optional annuity  
20 permitted under subdivision (1) of subsection 2 of section  
21 86.1151, such member's surviving spouse, shall be entitled to a  
22 base pension payable for life equaling fifty percent of the  
23 member's base pension.

24 3. In the case of any member who, prior to August 28, 2000,  
25 died in service or retired, the surviving spouse who would  
26 qualify for benefits under subsection 1 or 2 of this section but  
27 for remarriage, and who has not remarried prior to August 28,  
28 2000, but remarries thereafter, shall upon application be

1 appointed by the retirement board as a consultant. For services  
2 as such consultant, such surviving spouse shall be compensated in  
3 an amount equal to the benefits such spouse would have received  
4 under sections 86.900 to 86.1280 in the absence of such  
5 remarriage.

6 4. Upon the death of any member who is in service after  
7 August 28, 2000, and who either had at least twenty-five years of  
8 creditable service or was retired or died as a result of an  
9 injury or illness occurring in the line of duty or course of  
10 employment under section 86.1180, the surviving spouse's benefit  
11 provided under this section, without including any supplemental  
12 retirement benefits paid such surviving spouse by this retirement  
13 system, shall be six hundred dollars per month. For any member  
14 who died, retired or terminated service on or before August 28,  
15 2000, and who either had at least twenty-five years of creditable  
16 service or was retired or died as a result of an injury or  
17 illness occurring in the line of duty or course of employment  
18 under section 86.1180, the surviving spouse shall upon  
19 application to the retirement board be appointed by the  
20 retirement board as a consultant. For services as such  
21 consultant, the surviving spouse shall, beginning the later of  
22 August 28, 2000, or the time the appointment is made under this  
23 subsection, be compensated in an amount which without including  
24 supplemental retirement benefits provided by this system shall be  
25 six hundred dollars monthly. A pension benefit under this  
26 subsection shall be paid in lieu of any base pension as increased  
27 by cost-of-living adjustments granted under section 86.1220. The  
28 benefit under this subsection shall not be subject to

1 cost-of-living adjustments, but shall be terminated and replaced  
2 by the base pension and cost-of-living adjustments to which such  
3 spouse would otherwise be entitled at such time as the total base  
4 pension and such adjustments exceed six hundred dollars monthly.

5 5. A surviving spouse who is entitled to benefits under the  
6 provisions of subsection 1 of this section as a result of the  
7 death on or before August 28, 2009, of a member in service who is  
8 receiving benefits under sections 86.900 to 86.1280 and who does  
9 not qualify under the provisions of subsection 4 of this section  
10 shall, upon application to the retirement board, be appointed as  
11 a consultant, and for such services such surviving spouse shall  
12 be compensated in an amount which, without including any  
13 supplemental retirement benefits provided by sections 86.900 to  
14 86.1280, shall be six hundred dollars monthly. A pension benefit  
15 under this subsection shall be paid in lieu of any base pension  
16 as increased by cost-of-living adjustments granted under section  
17 86.1220. The benefit under this subsection shall not be subject  
18 to cost-of-living adjustments, but shall be terminated and  
19 replaced by the base pension and cost-of-living adjustments to  
20 which such surviving spouse would otherwise be entitled at such  
21 time as the total base pension and such adjustments exceed six  
22 hundred dollars monthly. As used in this subsection, "surviving  
23 spouse" shall not include any children of the member who would be  
24 entitled to receive part or all of the pension that would be  
25 received by a surviving spouse, if living.

26 6. Any beneficiary of benefits under sections 86.900 to  
27 86.1280 who becomes the surviving spouse of more than one member  
28 shall be paid all benefits due a surviving spouse of that member

1 whose entitlements produce the largest surviving spouse benefits  
2 for such beneficiary but shall not be paid surviving spouse  
3 benefits as the surviving spouse of more than one member.

4 86.1250. 1. (1) Upon the death of a member in service or  
5 after retirement, such member's child or children under the age  
6 of eighteen years at the time of the member's death shall be paid  
7 fifty dollars per month each until he or she shall attain the age  
8 of eighteen years; however, each such child who is or becomes a  
9 full-time student at an accredited educational institution shall  
10 continue to receive payments under this section for so long as  
11 such child shall remain such a full-time student or shall be in a  
12 summer or other vacation period scheduled by the institution with  
13 intent by such child, demonstrated to the satisfaction of the  
14 retirement board, to return to such full-time student status upon  
15 the resumption of the institution's classes following such  
16 vacation period, but in no event shall such payments be continued  
17 after such child shall attain the age of twenty-one years except  
18 as hereinafter provided.

19 (2) Any child eighteen years of age or older, who is  
20 physically or mentally incapacitated from wage earning, so long  
21 as such incapacity exists as certified by a member of the medical  
22 board, shall be entitled to the same benefits as a child under  
23 the age of eighteen. For purposes of this section, a  
24 determination of whether a child of a member is physically or  
25 mentally incapacitated from wage earning so that the child is  
26 entitled to benefits under this section shall be made at the time  
27 of the member's death. If a child becomes incapacitated after  
28 the member's death, or if a child's incapacity existing at the

1 member's death is removed and such child later becomes  
2 incapacitated again, such child shall not be entitled to benefits  
3 as an incapacitated child under the provisions of this section.  
4 A child shall be deemed incapacitated only for so long as the  
5 incapacity existing at the time of the member's death continues.

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

10 2. Upon or after the death of a member in service or after  
11 retirement with entitlement to benefits, if there is no surviving  
12 spouse or if a surviving spouse dies, the total amount, including  
13 any amounts receivable as consulting compensation, but not  
14 including any supplemental benefits under section 86.1230 for a  
15 Tier I member or section 86.1231 for a Tier II member, which  
16 would be received by a qualified surviving spouse or which is  
17 being received by the surviving spouse at the date of death of  
18 such surviving spouse shall be added to the amounts received by  
19 and shall be divided among the children of such member under the  
20 age of eighteen years and the incapacitated children in equal  
21 shares. As each such child attains the age of eighteen years or  
22 has such incapacity removed, such total amount shall then be  
23 divided among the remaining such children, until there is no  
24 remaining child of such member under the age of eighteen years or  
25 incapacitated, at which time all benefits for children of such  
26 member under this subsection shall cease.

27 3. Upon the death of a member in service or after  
28 retirement, a funeral benefit of one thousand dollars shall be

1 paid to the person or entity who provided or paid for the funeral  
2 services for such member.

3 86.1270. 1. A retirement plan under sections 86.900 to  
4 86.1280 is a qualified plan under the provisions of applicable  
5 federal law. The benefits and conditions of a retirement plan  
6 under sections 86.900 to 86.1280 shall always be adjusted to  
7 ensure that the tax-exempt status is maintained.

8 2. The retirement board shall administer the retirement  
9 system in a manner as to retain at all times qualified status  
10 under Section 401(a) of the Internal Revenue Code.

11 3. The retirement board shall hold in trust the assets of  
12 the retirement system for the exclusive benefit of the members  
13 and their beneficiaries and for defraying reasonable  
14 administrative expenses of the system. No part of such assets  
15 shall, at any time prior to the satisfaction of all liabilities  
16 with respect to members and their beneficiaries, be used for or  
17 diverted to any purpose other than such exclusive benefit or to  
18 any purpose inconsistent with sections 86.900 to 86.1280.

19 4. A member's benefit shall be one hundred percent vested  
20 and nonforfeitable upon the member's attainment of normal  
21 retirement age, which shall be the earlier of:

22 (1) Completion of twenty-five years of service for Tier I  
23 members and twenty-seven years of service for Tier II members;

24 (2) Age sixty [if the] for any Tier I member who has  
25 completed at least ten years of creditable service or age sixty  
26 for any Tier II member who has completed at least fifteen years  
27 of creditable service;

28 (3) Age seventy without regard to years of service; or

1           (4) To the extent funded, upon the termination of the  
2 system established under sections 86.900 to 86.1280 or any  
3 partial termination which affects the members or any complete  
4 discontinuance of contributions by the city to the system.

5  
6 Amounts representing forfeited nonvested benefits of terminated  
7 members shall not be used to increase benefits payable from the  
8 system but may be used to reduce contributions for future plan  
9 years.

10           5. Distribution of benefits shall begin not later than  
11 April first of the year following the later of the calendar year  
12 during which the member becomes seventy and one-half years of age  
13 or the calendar year in which the member retires, and shall  
14 otherwise conform to Section 401(a)(9) of the Internal Revenue  
15 Code.

16           6. A member or beneficiary of a member shall not accrue a  
17 service retirement annuity, disability retirement annuity, death  
18 benefit, whether death occurs in the line of duty or otherwise,  
19 or any other benefit under sections 86.900 to 86.1280 in excess  
20 of the benefit limits applicable to the fund under Section 415 of  
21 the Internal Revenue Code. The retirement board shall reduce the  
22 amount of any benefit that exceeds those limits by the amount of  
23 the excess. If the total benefits under the retirement system  
24 and the benefits and contributions to which any member is  
25 entitled under any other qualified plan or plans maintained by  
26 the board of police commissioners that employs the member would  
27 otherwise exceed the applicable limits under Section 415 of the  
28 Internal Revenue Code, the benefits the member would otherwise

1 receive from the retirement system shall be reduced to the extent  
2 necessary to enable the benefits to comply with Section 415 of  
3 the Internal Revenue Code.

4 7. The total salary taken into account for any purpose for  
5 any member of the retirement system shall not exceed two hundred  
6 thousand dollars per year, subject to periodic adjustments in  
7 accordance with guidelines provided by the United States  
8 Secretary of the Treasury, and shall not exceed such other limits  
9 as may be applicable at any given time under Section 401(a)(17)  
10 of the Internal Revenue Code.

11 8. If the amount of any benefit is to be determined on the  
12 basis of actuarial assumptions that are not otherwise  
13 specifically set forth for that purpose in sections 86.900 to  
14 86.1280, the actuarial assumptions to be used are those earnings  
15 and mortality assumptions being used on the date of the  
16 determination by the retirement system's actuary and approved by  
17 the retirement board. The actuarial assumptions being used at  
18 any particular time shall be attached as an addendum to a copy of  
19 the retirement system's statute that is maintained by the  
20 retirement board and shall be treated for all purposes as a part  
21 of sections 86.900 to 86.1280. The actuarial assumptions may be  
22 changed by the retirement system's actuary annually if approved  
23 by the retirement board, but a change in actuarial assumptions  
24 shall not result in any decrease in benefits accrued as of the  
25 effective date of the change.

26 9. Any member or beneficiary who is entitled to receive any  
27 distribution that is an eligible rollover distribution, as  
28 defined by Section 402(c)(4) of the Internal Revenue Code, is

1 entitled to have that distribution transferred directly to  
2 another eligible retirement plan of the member's or beneficiary's  
3 choice upon providing direction to the secretary of this  
4 retirement system regarding the transfer in accordance with  
5 procedures established by the retirement board.

6 10. For all distributions made after December 31, 2001:

7 (1) For the purposes of subsection 9 of this section, an  
8 eligible retirement plan shall also mean an annuity contract  
9 described in Section 403(b) of the Internal Revenue Code and an  
10 eligible plan under Section 457(b) of the Internal Revenue Code  
11 which is maintained by the state, political subdivision of a  
12 state, or any agency or instrumentality of a state or political  
13 subdivision of a state and which agrees to separately account for  
14 amounts transferred into such plan from the retirement system.  
15 The definition of eligible retirement plan shall also apply in  
16 the case of a distribution to a surviving spouse or to a spouse  
17 or former spouse who is the alternate payee under a qualified  
18 domestic relations order, as defined in Section 414(p) of the  
19 Internal Revenue Code; and

20 (2) For purposes of subsection 9 of this section, a portion  
21 of a distribution shall not fail to be an eligible rollover  
22 distribution merely because the portion consists of after-tax  
23 employee contributions which are not includable in gross income.  
24 However, such portion may be paid only to an individual  
25 retirement account or annuity described in Section 408(a) or  
26 408(b) of the Internal Revenue Code, or to a qualified defined  
27 contribution plan described in Section 401(a) or 403(a) of the  
28 Internal Revenue Code that agrees to separately account for

1 amounts so transferred, including separately accounting for the  
2 portion of such distribution that is includable in gross income  
3 and the portion of such distribution that is not so includable.

4 86.1310. The following words and phrases as used in  
5 sections 86.1310 to 86.1640 shall have the following meanings  
6 unless a different meaning is plainly required by the context:

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

15 (2) "Actuarial cost", the present value of a future payment  
16 or series of payments as calculated by applying the actuarial  
17 assumptions established according to subsection 8 of section  
18 86.1630;

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

22 (4) "Board of police commissioners", the board composed of  
23 police commissioners authorized by law to employ and manage an  
24 organized police force in the cities;

25 (5) "City" or "cities", any city which now has or may  
26 hereafter have a population of more than three hundred thousand  
27 and less than seven hundred thousand inhabitants, or any city  
28 that has made an election under section 86.1320 to continue a

1 civilian employees' retirement system theretofore maintained  
2 under sections 86.1310 to 86.1640;

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

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

16 (8) "Creditable service", service qualifying as a  
17 determinant of a member's pension or other benefit under sections  
18 86.1310 to 86.1640 by meeting the requirements specified in such  
19 sections, or section 105.691;

20 (9) "Employee", any regularly appointed civilian employee  
21 of the police department of the city as specified in sections  
22 86.1310 to 86.1640 who is:

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

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

1 such city;

2 (10) "Final compensation" [ , ] :

3 (a) For a Tier I member as described in subdivision (13) of  
4 this section, the average annual compensation of a member during  
5 the member's service if less than two years, or the twenty-four  
6 months of service for which the member received the highest  
7 salary whether consecutive or otherwise [ . ] :

8 (b) For a Tier II member as described in subdivision (13)  
9 of this section, the average annual compensation of a member  
10 during the member's service if less than three years, or the  
11 thirty-six months of service for which the member received the  
12 highest salary whether consecutive or otherwise;

13 (c) For any period of time when a member is paid on a  
14 frequency other than monthly, the member's salary for such period  
15 shall be deemed to be the monthly equivalent of the member's  
16 annual rate of compensation for such period;

17 (11) "Internal Revenue Code", the United States Internal  
18 Revenue Code of 1986, as amended;

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

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

24 (a) "Tier I member", any person who became a member prior  
25 to August 28, 2013, and who remains a member on August 28, 2013,  
26 shall remain a Tier I member until such member's membership is  
27 terminated as described in section 86.1520;

28 (b) "Tier I surviving spouse", the surviving spouse of a

1 Tier I member;

2 (c) "Tier II member", any person who became a member on or  
3 after August 28, 2013;

4 (d) "Tier II surviving spouse", the surviving spouse of a  
5 Tier II member;

6 (e) Any person whose membership is terminated as described  
7 in section 86.1520 and who re-enters membership on or after  
8 August 28, 2013, shall become a member under paragraph (c) of  
9 this subdivision;

10 (14) "Pension", annual payments for life, payable monthly,  
11 at the times described in section 86.1420;

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

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

20 (17) "Retirement board" or "board", the board provided in  
21 section 86.1330 to administer the retirement system;

22 (18) "Retirement system", the civilian employees'  
23 retirement system of the police department of the cities as  
24 defined in section 86.1320;

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

28 (a) The person who was married to the member at the time of

1 the member's death in service prior to August 28, 2001, and who  
2 had not remarried prior to August 28, 2001;

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

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

9 (d) In the case of any member who retired prior to August  
10 28, 2001, and died on or after that date, the person who was  
11 married to the member at the time of the member's death; or

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

16 86.1380. The retirement board shall before [January tenth]  
17 October fifteenth of each year certify to the chief financial  
18 officer of such city the amount to be paid by the city to the  
19 retirement pension system for the succeeding fiscal year, as  
20 otherwise provided by sections 86.1310 to 86.1640.

21 86.1420. 1. All benefits and all necessary administrative  
22 expenses of the retirement system shall be paid from the funds of  
23 the retirement system.

24 2. The base pension of a member who, after August 28, 2011,  
25 retires from or otherwise terminates active service with  
26 entitlement to a base pension under sections 86.1310 to 86.1640  
27 shall commence as of the first day of the month next following  
28 such retirement or termination with no proration of such pension

1 for the month in which such retirement or termination occurs.  
2 The supplemental retirement benefit of a member who, after August  
3 28, 2011, retires from or otherwise terminates active service  
4 with entitlement to a supplemental retirement benefit provided in  
5 subsection 1 of section 86.1600 shall commence as of the first  
6 day of the month next following such retirement or termination  
7 with no proration of such supplemental retirement benefit for the  
8 month in which such retirement or termination occurs.

9 3. Upon the death of a member in service who leaves a  
10 surviving spouse, as defined in section 86.1310, entitled to  
11 benefits, any base pension which such surviving spouse shall  
12 elect under subdivision (2) of subsection 1 of section 86.1610 or  
13 under paragraph (b) of subdivision (3) of subsection 1 of section  
14 86.1610 shall commence the later of the first day of the month  
15 next following such death or the first day of the month following  
16 the date which would have been the member's earliest possible  
17 retirement date permitted under ~~[subsection]~~ subsections 2 or 3  
18 of section 86.1540 with no proration of such pension for the  
19 month prior to such commencement date. Any base pension which  
20 such surviving spouse shall elect under paragraph (c) of  
21 subdivision (3) of subsection 1 of section 86.1610 shall commence  
22 the first day of the month next following such death with no  
23 proration of such pension for the month prior to such  
24 commencement date.

25 4. Upon the death of a member who is receiving a base  
26 pension under sections 86.1310 to 86.1640 leaving a surviving  
27 spouse, as defined in section 86.1310, entitled to benefits, the  
28 pension of such surviving spouse shall commence on the first day

1 of the month next following such death with no proration for the  
2 month in which such death occurs.

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

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

26 86.1500. 1. Whenever a member is given a leave of absence  
27 for military service and returns to employment after discharge  
28 from the service, such member shall be entitled to creditable

1 service for the years of employment prior to the leave of  
2 absence.

3 2. Except as provided in subsection 3 of this section, a  
4 member who served on active duty in the Armed Forces of the  
5 United States and who became a member, or returned to membership,  
6 after discharge under honorable conditions, may elect prior to  
7 retirement to purchase creditable service equivalent to such  
8 service in the Armed Forces, not to exceed two years, provided  
9 the member is not receiving and is not eligible to receive  
10 retirement credits or benefits from any other public or private  
11 retirement plan for the service to be purchased, other than a  
12 United States military service retirement system or United States  
13 Social Security benefits attributable to such military service,  
14 and an affidavit so stating is filed by the member with the  
15 retirement system. A member electing to make such purchase shall  
16 pay to the retirement system an amount equal to the actuarial  
17 cost of the additional benefits attributable to the additional  
18 service credit to be purchased, as of the date the member elects  
19 to make such purchase. Payment in full of the amount due from a  
20 member electing to purchase creditable service under this  
21 subsection shall be made over a period not to exceed five years,  
22 measured from the date of election, or prior to the commencement  
23 date for payment of benefits to the member from the retirement  
24 system, whichever is earlier, including interest on unpaid  
25 balances compounded annually at the interest rate assumed from  
26 time to time for actuarial valuations of the retirement system.  
27 If payment in full including interest is not made within the  
28 prescribed period, any partial payments made by the member shall

1 be refunded, and no creditable service attributable to such  
2 election, or as a result of any such partial payments, shall be  
3 allowed; provided that if a benefit commencement date occurs  
4 because of the death or disability of a member who has made an  
5 election under this subsection and if the member is current in  
6 payments under an approved installment plan at the time of the  
7 death or disability, such election shall be valid if the member,  
8 the surviving spouse or other person entitled to benefit payments  
9 pays the entire balance of the remaining amount due, including  
10 interest to the date of such payment, within sixty days after the  
11 member's death or disability. The time of a disability shall be  
12 deemed to be the time when such member is determined by the  
13 retirement board to be totally and permanently disabled as  
14 provided in section 86.1560.

15 3. Notwithstanding any other provision of sections 86.1310  
16 to 86.1640, a member who is on leave of absence for military  
17 service during any portion of which leave the United States is in  
18 a state of declared war, or a compulsory draft is in effect for  
19 any of the military branches of the United States, or any units  
20 of the military reserves of the United States, including the  
21 National Guard, are mobilized for combat military operations, and  
22 who becomes entitled to reemployment rights and other employment  
23 benefits under Title 38, Chapter 43 of the U.S. Code, relating to  
24 employment and reemployment rights of members of the uniformed  
25 services by meeting the requirements for such rights and benefits  
26 under Section 4312 of said chapter, or the corresponding  
27 provisions of any subsequent applicable federal statute, shall be  
28 entitled to service credit for the time spent in such military

1 service for all purposes of sections 86.1310 to 86.1640 and such  
2 member shall not be required to pay any member contributions for  
3 such time. If it becomes necessary for the years of such service  
4 to be included in the calculation of such member's compensation  
5 for any purpose, such member shall be deemed to have received the  
6 same compensation throughout such period of service as the  
7 member's base annual salary immediately prior to the commencement  
8 of such leave of absence; provided, however, that the foregoing  
9 provisions of this subsection shall apply only to such portion of  
10 such leave with respect to which the cumulative length of the  
11 absence and of all previous absences from a position of  
12 employment with the employer by reason of service in the  
13 uniformed services does not exceed five years except for such  
14 period of any such excess as meets the requirements for  
15 exceptions to such five-year limitation set forth in the  
16 aforesaid Section 4312.

17 86.1530. The normal retirement date of a member shall be  
18 the later of:

19 (1) Tier I member - the date such member attains the age of  
20 sixty-five years, or the tenth anniversary of such member's  
21 employment; or

22 (2) Tier II member - the date such member attains the age  
23 of sixty-seven years, or the twentieth anniversary of such  
24 member's employment.

25 86.1540. 1. (1) Upon retirement on or after a member's  
26 normal retirement date, such member shall receive a base pension  
27 in the amount of two percent of such member's final compensation  
28 times the number of years, including fractions thereof, of such

1 member's creditable service.

2 (2) Such member may elect to receive a different base  
3 pension under an election permitted under this section or section  
4 86.1580.

5 2. Tier I members may elect early retirement as follows:

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

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

24 (3) At any time after the member's total of age and years  
25 of creditable service equals or exceeds eighty, in which event  
26 the benefit shall be as computed under subsection 1 of this  
27 section without any reduction. If an election for early  
28 retirement results in a reduced benefit under subdivision (1) or

1 (2) of this subsection, such reduced benefit shall become the  
2 member's base pension, subject to all other adjustments described  
3 in this section.

4 3. Tier II members may elect early retirement as follows:

5 (1) Beginning at age sixty-two, if the member has completed  
6 at least five years of creditable service, the benefit as  
7 computed under subsection 1 of this section shall be reduced by  
8 one-half of one percent for each full month the initial payment  
9 is prior to the first day of the month following that in which  
10 such member will attain age sixty-seven; or

11 (2) At any time after the member has completed at least  
12 twenty years of creditable service and is at least sixty-two  
13 years of age, in which event the benefit shall be as computed  
14 under subsection 1 of this section without any reduction; or

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

23 4. (1) A member who is married at the time of retirement  
24 may by a written election, with the written consent of such  
25 member's spouse, elect an optional benefit calculated as follows:  
26 such optional benefit shall be a monthly pension in the initial  
27 amount which shall be actuarially equivalent to the actuarial  
28 value of the pension described in subdivision (1) of subsection 1

1 of this section for such member at the date of retirement  
2 (including the value of survivorship rights of a surviving  
3 spouse, where applicable, under section 86.1610), upon the basis  
4 that the initial annuity for the member's spouse, if such spouse  
5 survives the member, shall be the same as the amount being paid  
6 the member on such annuity at the member's death, and, subject to  
7 cost-of-living adjustments thereafter declared on the spouse's  
8 base pension under section 86.1590, shall be paid to such  
9 surviving spouse for the lifetime of such spouse without regard  
10 to remarriage. If a member who makes an election of an optional  
11 benefit under this subsection has also elected an early  
12 retirement under either subdivision (1) or (2) of subsection 2 of  
13 this section or subdivision (1) of subsection 3 of this section,  
14 any reduction in benefit required for such early retirement  
15 election shall be calculated before calculating the initial  
16 amount of the optional benefit under this subsection.

17 (2) If a member who makes the election permitted by this  
18 subsection also makes an election permitted under section  
19 86.1580, such optional benefit shall be reduced as provided in  
20 subdivision (3) of subsection 2 of section 86.1580.

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

26 (4) An election for an optional benefit under this  
27 subsection shall be void if the member dies within thirty days  
28 after filing such election with the retirement system or if the

1 member dies before the due date of the first payment of such  
2 member's pension.

3 [4.] 5. Subject to the provisions of subsection [6] 7 of  
4 this section, whenever the service of a member is terminated  
5 after August 28, 1999, for any reason prior to death or  
6 retirement and the member has five or more years of creditable  
7 service, the member may elect not to withdraw such member's  
8 accumulated contributions and shall become entitled to receive a  
9 pension upon such member's normal retirement date under  
10 subdivision (1) of subsection 1 of this section or may elect to  
11 receive a pension commencing upon or after any date, prior to his  
12 or her normal retirement date, upon which early retirement would  
13 have been permitted under subsection 2 of this section for Tier I  
14 members or subsection 3 of this section for Tier II members if  
15 such member had remained a civilian employee of such police  
16 department, except that in calculating any qualification under  
17 [subsection] subsections 2 or 3 of this section, such member  
18 shall not be entitled to count any year of creditable service in  
19 excess of such member's total years of creditable service at the  
20 time of such member's termination of employment. The amount of  
21 any pension commenced upon the basis of a date permitted under  
22 [subsection] subsections 2 or 3 of this section shall be computed  
23 on the basis of the member's final compensation and number of  
24 years of creditable service, subject to such adjustments as may  
25 be applicable under the subdivision of [subsection] subsections 2  
26 or 3 of this section upon which such member relies in electing  
27 such member's pension and subject to any other adjustments that  
28 such member may elect under this section. The amount of the

1 initial pension calculated after all applicable adjustments shall  
2 be the base pension for such member, and for such member's spouse  
3 if such member shall elect the optional benefit permitted under  
4 subsection ~~[3]~~ 4 of this section, for all purposes of sections  
5 86.1310 to 86.1640. Payment of any benefits elected under this  
6 subsection shall commence as of the first day of the month next  
7 following the applicable date with no proration of such benefit  
8 for any initial partial month.

9 ~~[5.]~~ 6. A member whose service was terminated on or before  
10 August 28, 1999, after five or more years of creditable service,  
11 and who permitted such member's accumulated contributions to  
12 remain in the pension fund, shall upon application to the  
13 retirement board be appointed as a consultant. For services as  
14 such consultant, such member shall, beginning the later of August  
15 28, 1999, or the time of such appointment under this subsection,  
16 be entitled to elect to receive compensation in such amount and  
17 at such time as such member would have been entitled to elect  
18 under any of the provisions of subsection ~~[4]~~ 5 of this section  
19 if such member had terminated service after August 28, 1999.  
20 Such member shall be entitled to the same cost-of-living  
21 adjustments following the commencement of such compensation as if  
22 such member's compensation had been a base pension.

23 ~~[6.]~~ 7. Notwithstanding any other provisions of sections  
24 86.1310 to 86.1640, any member who is convicted of a felony prior  
25 to separation from active service shall not be entitled to any  
26 benefit from this retirement system except the return of such  
27 member's accumulated contributions.

28 86.1580. 1. Any member in active service entitled to

1 commence a pension under section 86.1540 may elect an optional  
2 distribution under the partial lump sum option plan provided in  
3 this section if the member:

4 (1) Notifies the retirement system in writing of the  
5 member's retirement date at least ninety days in advance thereof  
6 and requests an explanation of the member's rights under this  
7 section; and

8 (2) Notifies the retirement system of the member's election  
9 hereunder at least thirty days in advance of the retirement date.

10  
11 Following receipt of an initial notice of a member's retirement  
12 date and request for an explanation, the retirement system shall,  
13 at least sixty days in advance of such retirement date, provide  
14 the member a written explanation of such member's rights under  
15 this section and an estimate of the amount by which the member's  
16 regular monthly base pension would be reduced in the event of the  
17 member's election of any of the options available to the member  
18 under this section.

19 2. (1) A member entitled to make an election under this  
20 section may elect to receive a lump sum distribution with the  
21 member's initial monthly pension payment under section 86.1540,  
22 subject to all the terms of this section. The member may elect  
23 the amount of the member's lump sum distribution from one, but  
24 not more than one, of the following options for which the member  
25 qualifies:

26 (a) A member having one or more years of creditable service  
27 after the member's eligible retirement date may elect a lump sum  
28 amount equal to twelve times the initial monthly base pension the

1 member would receive if no election were made under this section;

2 (b) A member having two or more years of creditable service  
3 after the member's eligible retirement date may elect a lump sum  
4 amount equal to twenty-four times the initial monthly base  
5 pension the member would receive if no election were made under  
6 this section; or

7 (c) A member having three or more years of creditable  
8 service after the member's eligible retirement date may elect a  
9 lump sum amount equal to thirty-six times the initial monthly  
10 base pension the member would receive if no election were made  
11 under this section.

12  
13 For purposes of this section, "eligible retirement date" for a  
14 member shall mean the earliest date on which the member could  
15 elect to retire and be entitled to receive a pension under  
16 section 86.1540.

17 (2) When a member makes an election to receive a lump sum  
18 distribution under this section, the base pension that the member  
19 would have received in the absence of an election shall be  
20 reduced on an actuarially equivalent basis to reflect the payment  
21 of the lump sum distribution, and the reduced base pension shall  
22 be the member's base pension thereafter for all purposes relating  
23 to base pension amounts under sections 86.1310 to 86.1640, unless  
24 the member has also elected an optional benefit permitted under  
25 subsection **[3] 4** of section 86.1540.

26 (3) If a member electing a lump sum distribution under this  
27 section has elected the optional benefit permitted under  
28 subsection **[3] 4** of section 86.1540, the calculation of the

1 member's pension shall be made in the following order:

2 (a) The amount of the member's normal pension under  
3 subdivision (1) of subsection 1 of section 86.1540 shall be  
4 reduced if applicable by any reductions required under  
5 ~~[subsection]~~ subsections 2 or 3 of section 86.1540;

6 (b) The amount of the pension as determined under paragraph  
7 (a) of this subdivision shall be reduced to the actuarially  
8 equivalent amount to produce the optional form of benefit  
9 described in subdivision (1) of subsection ~~[3]~~ 4 of section  
10 86.1540;

11 (c) The amount of reduced pension as determined under  
12 paragraph (b) of this subdivision shall be further reduced as  
13 required to produce an actuarially equivalent benefit in the form  
14 of the lump sum distribution option elected under this section  
15 and a remaining monthly annuity which shall be paid on the basis  
16 that the initial annuity for the member's spouse, if such spouse  
17 survives the member, shall be the same as the amount being paid  
18 the member on this annuity at the member's death, and, subject to  
19 cost-of-living adjustments thereafter declared on the spouse's  
20 base pension under section 86.1590, shall be paid to such  
21 surviving spouse for the lifetime of such spouse without regard  
22 to remarriage.

23 3. An election under this section to receive a lump sum  
24 distribution and reduced monthly base pension shall be void if  
25 the member dies before retirement, in which case amounts due a  
26 surviving spouse or other beneficiary of the member shall be  
27 determined without regard to such election.

28 86.1590. 1. Provided that the retirement system shall

1 remain actuarially sound, each of the following persons may  
2 receive each year, in addition to such person's base pension, a  
3 cost-of-living adjustment in an amount not to exceed three  
4 percent of such person's base pension during any one year:

5 (1) Every member who is retired and receiving a base  
6 pension from this retirement system; and

7 (2) Every surviving spouse who is receiving a base pension  
8 from this retirement system.

9 2. Upon the death of a member who has been retired and  
10 receiving a pension, and who dies after August 28, 2001, the  
11 surviving spouse of such member entitled to receive a base  
12 pension under section 86.1610 shall receive an immediate  
13 percentage cost-of-living adjustment to his or her base pension  
14 equal to the total percentage cost-of-living adjustments received  
15 during such member's lifetime under this section, but such  
16 adjustment shall not be deemed to change the base pension amount  
17 to which subsequent cost-of-living adjustments may be made.

18 3. For purposes of this section, the term "base pension"  
19 shall mean:

20 (1) For a member, the pension computed under the provisions  
21 of the law as of the date of retirement without regard to  
22 cost-of-living adjustments, as adjusted if applicable, for any  
23 optional elections made under sections 86.1540 and 86.1580, but  
24 in all events not including any supplemental benefit under  
25 section 86.1600;

26 (2) For a surviving spouse whose pension is prescribed by  
27 section 86.1610, the base pension calculated for such spouse in  
28 accordance with the provisions of section 86.1610, including any

1 compensation as a consultant to which such surviving spouse is  
2 entitled under said section in lieu of a pension, but not  
3 including any supplemental benefit under section 86.1600;

4 (3) For a surviving spouse entitled to the continuation of  
5 an optional benefit elected under subsection [3] 4 of section  
6 86.1540, the base pension determined in accordance with  
7 subdivision (3) of subsection [3] 4 of section 86.1540.

8 4. The cost-of-living adjustment shall be an increase or  
9 decrease computed on the base pension amount by the retirement  
10 board in an amount that the board, in its discretion, determines  
11 to be satisfactory, but in no event shall the adjustment be more  
12 than three percent or reduce the pension to an amount less than  
13 the base pension. In determining and granting the cost-of-living  
14 adjustments, the retirement board shall adopt such rules and  
15 regulations as may be necessary to effectuate the purposes of  
16 this section, including provisions for the manner of computation  
17 of such adjustments and the effective dates thereof. The  
18 retirement board shall provide for such adjustments to be  
19 determined once each year and granted on a date or dates to be  
20 chosen by the board, and may apply such adjustments in full to  
21 members who have retired during the year prior to such  
22 adjustments but who have not been retired for one full year and  
23 to the surviving spouse of a member who has died during the year  
24 prior to such adjustments.

25 5. The determination of whether the retirement system will  
26 remain actuarially sound shall be made at the time any  
27 cost-of-living adjustment is granted. If at any time the  
28 retirement system ceases to be actuarially sound, pension

1 payments shall continue as adjusted by increases theretofore  
2 granted. A member of the retirement board shall have no personal  
3 liability for granting increases under this section if that  
4 retirement board member in good faith relied and acted upon  
5 advice of a qualified actuary that the retirement system would  
6 remain actuarially sound.

7 86.1610. 1. Upon receipt of the proper proofs of death of  
8 a member in service for any reason whatsoever, the following  
9 amounts shall be payable subject to subsection 4 of this section,  
10 and if a pension shall be elected, the initial amount thereof  
11 shall be the base pension for such surviving spouse:

12 (1) If the member has less than five years of creditable  
13 service, the member's surviving spouse shall be paid, in one lump  
14 sum, the amount of the member's accumulated contributions. If  
15 there is no surviving spouse, the member's accumulated  
16 contributions shall be paid as provided in subsection 6 of  
17 section 86.1420;

18 (2) If the member has at least five but fewer than twenty  
19 years of creditable service, the member's surviving spouse may  
20 elect the lump sum settlement in subdivision (1) of this  
21 subsection or a pension. Such pension shall be fifty percent of  
22 the member's accrued pension at date of death as computed in  
23 subdivision (1) of subsection 1 of section 86.1540, commencing as  
24 provided in subsection 3 of section 86.1420;

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

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

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

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

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

9 (5) For the surviving spouse of a member who died in  
10 service after August 28, 2001, benefits payable under subsection  
11 1 of this section shall continue for the lifetime of such  
12 surviving spouse without regard to remarriage.

13 2. Upon death of a member after retirement who has not  
14 elected the optional annuity permitted under subsection ~~3~~ 4 of  
15 section 86.1540, the surviving spouse shall receive a base  
16 pension payable for life, equaling fifty percent of the member's  
17 base pension, as of the member's retirement date, subject to the  
18 following:

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

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

28 3. In the case of any member who, prior to August 28, 2001,

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

10 4. Any beneficiary of benefits under sections 86.1310 to  
11 86.1640 who becomes the surviving spouse of more than one member  
12 shall be paid all benefits due a surviving spouse of that member  
13 whose entitlements produce the largest surviving spouse benefits  
14 for such beneficiary but shall not be paid surviving spouse  
15 benefits as the surviving spouse of more than one member, except  
16 that any surviving spouse for whom an election has been made for  
17 an optional benefit under subsection **[3]** 4 of section 86.1540  
18 shall be entitled to every optional benefit for which such  
19 surviving spouse has so contracted.

20 86.1630. 1. A retirement plan under sections 86.1310 to  
21 86.1640 is a qualified plan under the provisions of applicable  
22 federal law. The benefits and conditions of a retirement plan  
23 under sections 86.1310 to 86.1640 shall always be adjusted to  
24 ensure that the tax-exempt status is maintained.

25 2. The retirement board shall administer this retirement  
26 system in such manner as to retain at all times qualified status  
27 under Section 401(a) of the Internal Revenue Code.

28 3. The retirement board shall hold in trust the assets of

1 the retirement system for the exclusive benefit of the members  
2 and their beneficiaries and for defraying reasonable  
3 administrative expenses of the system. No part of such assets  
4 shall, at any time prior to the satisfaction of all liabilities  
5 with respect to members and their beneficiaries, be used for or  
6 diverted to any purpose other than such exclusive benefit or to  
7 any purpose inconsistent with sections 86.1310 to 86.1640.

8 4. A member's benefit shall be one hundred percent vested  
9 and nonforfeitable upon the member's attainment of normal  
10 retirement age, which shall be the earlier of:

11 (1) The attaining of the age of sixty-five or the member's  
12 tenth anniversary of employment, whichever is later for any Tier  
13 I member, or the attaining of the age of sixty-seven or the  
14 member's twentieth anniversary of employment, whichever is later  
15 for any Tier II member;

16 (2) For any Tier I member when the total sum of age and  
17 years of creditable service equals or exceeds eighty, or for any  
18 Tier II member when the total sum of age and years of creditable  
19 service equals or exceeds eighty-five; or

20 (3) To the extent funded, upon the termination of the  
21 system established under sections 86.1310 to 86.1640 or any  
22 partial termination which affects the member or any complete  
23 discontinuance of contributions by the city to the system.

24  
25 Amounts representing forfeited nonvested benefits of terminated  
26 members shall not be used to increase benefits payable from the  
27 system but may be used to reduce contributions for future plan  
28 years.

1           5. Distribution of benefits shall begin not later than  
2 April first of the year following the later of the calendar year  
3 during which the member becomes seventy and one-half years of age  
4 or the calendar year in which the member retires, and shall  
5 otherwise conform to Section 401(a)(9) of the Internal Revenue  
6 Code.

7           6. A member or beneficiary of a member shall not accrue a  
8 service retirement annuity, disability retirement annuity, death  
9 benefit, whether death occurs in the line of duty or otherwise,  
10 or any other benefit under sections 86.1310 to 86.1640 in excess  
11 of the benefit limits applicable to the fund under Section 415 of  
12 the Internal Revenue Code. The retirement board shall reduce the  
13 amount of any benefit that exceeds the limits of this section by  
14 the amount of the excess. If the total benefits under the  
15 retirement system and the benefits and contributions to which any  
16 member is entitled under any other qualified plan or plans  
17 maintained by the board of police commissioners that employs the  
18 member would otherwise exceed the applicable limits under Section  
19 415 of the Internal Revenue Code, the benefits the member would  
20 otherwise receive from the retirement system are reduced to the  
21 extent necessary to enable the benefits to comply with Section  
22 415 of the Internal Revenue Code.

23           7. The total salary taken into account for any purpose for  
24 any member of the retirement system shall not exceed two hundred  
25 thousand dollars per year, subject to periodic adjustments in  
26 accordance with guidelines provided by the United States  
27 Secretary of the Treasury and may not exceed such other limits as  
28 may be applicable at any given time under Section 401(a)(17) of

1 the Internal Revenue Code.

2 8. If the amount of any benefit is determined on the basis  
3 of actuarial assumptions that are not specifically set forth for  
4 that purpose in sections 86.1310 to 86.1640, the actuarial  
5 assumptions to be used are those earnings and mortality  
6 assumptions used on the date of the determination by the  
7 retirement system's actuary and approved by the retirement board.  
8 The actuarial assumptions used at any particular time shall be  
9 attached as an addendum to a copy of the retirement system's  
10 statute maintained by the retirement board and shall be treated  
11 for all purposes as part of sections 86.1310 to 86.1640. The  
12 actuarial assumptions may be changed by the retirement system's  
13 actuary annually if approved by the retirement board, but a  
14 change in actuarial assumptions shall not result in any decrease  
15 in benefits accrued as of the effective date of the change.

16 9. Any member or beneficiary who is entitled to receive any  
17 distribution that is an eligible rollover distribution, as  
18 defined by Section 402(c)(4) of the Internal Revenue Code, is  
19 entitled to have that distribution transferred directly to  
20 another eligible retirement plan of the member's or beneficiary's  
21 choice upon providing direction to the secretary of the  
22 retirement system regarding the transfer in accordance with  
23 procedures established by the retirement board.

24 10. For all distributions made after December 31, 2001:

25 (1) For the purposes of subsection 9 of this section, an  
26 eligible retirement plan shall also mean an annuity described in  
27 Section 403(b) of the Internal Revenue Code and an eligible plan  
28 under Section 457(b) of the Internal Revenue Code that is

1 maintained by a state, political subdivision of a state, or any  
2 agency or instrumentality of a state or political subdivision of  
3 a state and which agrees to separately account for amounts  
4 transferred into such plan from the retirement system. The  
5 definition for eligible retirement plan shall also apply in the  
6 case of a distribution to a surviving spouse or to a spouse or  
7 former spouse who is the alternate payee under a qualified  
8 domestic relations order, as defined in Section 414(p) of the  
9 Internal Revenue Code; and

10 (2) For the purposes of subsection 9 of this section, a  
11 portion of a distribution shall not fail to be an eligible  
12 rollover distribution merely because the portion consists of  
13 after-tax employee contributions which are not includable in  
14 gross income. However, such portion may be paid only to an  
15 individual retirement account or annuity described in Section  
16 408(a) or 408(b) of the Internal Revenue Code, or to a qualified  
17 defined contribution plan described in Section 401(a) or 403(a)  
18 of the Internal Revenue Code that agrees to separately account  
19 for amounts so transferred, including separately accounting for  
20 the portion of such distribution that is includable in gross  
21 income and the portion of such distribution that is not so  
22 includable.

23 103.025. The board shall arrange for annual audits of the  
24 records and accounts of the plan by a certified public accountant  
25 or firm of certified public accountants. [The state auditor  
26 shall examine such audits at least once every three years and  
27 report to the board and the governor.]

28 104.190. 1. The board shall keep a complete record of all

1 its proceedings, which shall be open at all reasonable hours to  
2 the inspection of any member. A statement covering the  
3 operations of the system for the year, including income and  
4 disbursements, and the financial condition of the system at the  
5 end of the year, showing the actuarial valuation and appraisal of  
6 its assets and liabilities, as of July first, shall each year be  
7 delivered to the governor of Missouri and be made readily  
8 available to the members.

9 2. A system of member employment records necessary for the  
10 calculation of retirement benefits shall be kept separate and  
11 apart from the customary employee employment records.

12 3. The principal office of the system shall be located in  
13 Jefferson City. The system shall have a seal bearing the  
14 inscription "Transportation Department Employees' and Highway  
15 Patrol Retirement System", which shall be in the custody of its  
16 executive director. The courts of this state shall take judicial  
17 notice of the seal; and all copies of records, books, and written  
18 instruments which are kept in the office of the system and are  
19 certified by the executive director under said seal shall be  
20 proved or admitted in any court or proceeding as provided by  
21 section 109.130.

22 4. The board shall arrange for annual audits of the records  
23 and accounts of the system by a certified public accountant or by  
24 a firm of certified public accountants. [The state auditor shall  
25 examine such audits at least once every three years and report to  
26 the board and the governor.]

27 104.480. 1. The board shall keep a complete record of all  
28 its proceedings, which shall be open at all reasonable hours to

1 the inspection of any member.

2 2. A statement covering the operations of the system for  
3 the year, including income and disbursements, and of the  
4 financial condition of the system at the end of the year, showing  
5 the actuarial valuation and appraisal of its assets and  
6 liabilities, as of July first, shall each year be delivered to  
7 the governor of Missouri and be made readily available to the  
8 members.

9 3. The principal office of the system shall be in Jefferson  
10 City. The system shall have a seal bearing the inscription  
11 "Missouri State Employees' Retirement System", which shall be in  
12 the custody of its director. The courts of this state shall take  
13 judicial notice of the seal; and all copies of records, books,  
14 and written instruments which are kept in the office of the  
15 system and are certified by the director under the seal shall be  
16 proved or admitted in any court or proceeding as provided by  
17 section 109.130.

18 4. The board shall arrange for annual audits of the records  
19 and accounts of the system by a certified public accountant or by  
20 a firm of certified public accountants. [The state auditor shall  
21 examine such audits at least once every three years and report to  
22 the board and the governor.]

23 169.020. 1. For the purpose of providing retirement  
24 allowances and other benefits for public school teachers, there  
25 is hereby created and established a retirement system which shall  
26 be a body corporate, shall be under the management of a board of  
27 trustees herein described, and shall be known as "The Public  
28 School Retirement System of Missouri". Such system shall, by and

1 in such name, sue and be sued, transact all of its business,  
2 invest all of its funds, and hold all of its cash, securities,  
3 and other property. The system so created shall include all  
4 school districts in this state, except those in cities that had  
5 populations of four hundred thousand or more according to the  
6 latest United States decennial census, and such others as are or  
7 hereafter may be included in a similar system or in similar  
8 systems established by law and made operative; provided, that  
9 teachers in school districts of more than four hundred thousand  
10 inhabitants who are or may become members of a local retirement  
11 system may become members of this system with the same legal  
12 benefits as accrue to present members of such state system on the  
13 terms and under the conditions provided for in section 169.021.  
14 The system hereby established shall begin operations on the first  
15 day of July next following the date upon which sections 169.010  
16 to 169.130 shall take effect.

17 2. The general administration and the responsibility for  
18 the proper operation of the retirement system and for making  
19 effective the provisions of sections 169.010 to 169.141 are  
20 hereby vested in a board of trustees of seven persons as follows:  
21 four persons to be elected as trustees by the members and retired  
22 members of the public school retirement system created by  
23 sections 169.010 to 169.141 and the public education employee  
24 retirement system created by sections 169.600 to 169.715; and  
25 three members appointed by the governor with the advice and  
26 consent of the senate. The first member appointed by the  
27 governor shall replace the commissioner of education for a term  
28 beginning August 28, 1998. The other two members shall be

1 appointed by the governor at the time each member's, who was  
2 appointed by the state board of education, term expires.

3 3. Trustees appointed and elected shall be chosen for terms  
4 of four years from the first day of July next following their  
5 appointment or election, except that one of the elected trustees  
6 shall be a member of the public education employee retirement  
7 system and shall be initially elected for a term of three years  
8 from July 1, 1991. The initial term of one other elected trustee  
9 shall commence on July 1, 1992.

10 4. Trustees appointed by the governor shall be residents of  
11 school districts included in the retirement system, but not  
12 employees of such districts or a state employee or a state  
13 elected official. At least one trustee so appointed shall be a  
14 retired member of the public school retirement system or the  
15 public education employee retirement system. Three elected  
16 trustees shall be members of the public school retirement system  
17 and one elected trustee shall be a member of the public education  
18 employee retirement system.

19 5. The elections of the trustees shall be arranged for,  
20 managed and conducted by the board of trustees of the retirement  
21 system.

22 6. If a vacancy occurs in the office of trustee, the  
23 vacancy shall be filled for the unexpired term in the same manner  
24 as the office was previously filled.

25 7. Trustees of the retirement system shall serve without  
26 compensation but they shall be reimbursed for expenses  
27 necessarily incurred through service on the board of trustees.

28 8. Each trustee shall be commissioned by the governor, and

1 before entering upon the duties of the trustee's office, shall  
2 take and subscribe to an oath or affirmation to support the  
3 Constitution of the United States, and of the state of Missouri  
4 and to demean himself or herself faithfully in the trustee's  
5 office. Such oath as subscribed to shall be filed in the office  
6 of secretary of state of this state.

7 9. Each trustee shall be entitled to one vote in the board  
8 of trustees. Four votes shall be necessary for a decision by the  
9 trustees at any meeting of the board of trustees. Unless  
10 otherwise expressly provided herein, a meeting need not be called  
11 or held to make any decision on a matter before the board. Each  
12 member must be sent by the executive director a copy of the  
13 matter to be decided with full information from the files of the  
14 board of trustees. The unanimous decision of four trustees may  
15 decide the issue by signing a document declaring their decision  
16 and sending such written instrument to the executive director of  
17 the board, provided that no other member of the board of trustees  
18 shall send a dissenting decision to the executive director of the  
19 board within fifteen days after such document and information was  
20 mailed to the trustee. If any member is not in agreement with  
21 four members the matter is to be passed on at a regular board  
22 meeting or a special meeting called for the purpose.

23 10. The board of trustees shall elect one of their number  
24 as chairman, and shall employ a full-time executive director, not  
25 one of their number, who shall be the executive officer of the  
26 board. Other employees of the board shall be chosen only upon  
27 the recommendation of the executive director.

28 11. The board of trustees shall employ an actuary who shall

1 be its technical advisor on matters regarding the operation of  
2 the retirement system, and shall perform such duties as are  
3 essential in connection therewith, including the recommendation  
4 for adoption by the board of mortality and other necessary  
5 tables, and the recommendation of the level rate of contributions  
6 required for operation of the system.

7 12. As soon as practicable after the establishment of the  
8 retirement system, and annually thereafter, the actuary shall  
9 make a valuation of the system's assets and liabilities on the  
10 basis of such tables as have been adopted.

11 13. At least once in the three-year period following the  
12 establishment of the retirement system, and in each five-year  
13 period thereafter, the board of trustees shall cause to be made  
14 an actuarial investigation into the mortality, service, and  
15 compensation experience of the members and beneficiaries of the  
16 system, and shall make any changes in the mortality, service, and  
17 other tables then in use which the results of the investigation  
18 show to be necessary.

19 14. Subject to the limitations of sections 169.010 to  
20 169.141 and 169.600 to 169.715, the board of trustees shall  
21 formulate and adopt rules and regulations for the government of  
22 its own proceedings and for the administration of the retirement  
23 system.

24 15. The board of trustees shall determine and decide all  
25 questions of doubt as to what constitutes employment within the  
26 meaning of sections 169.010 to 169.141 and 169.600 to 169.715,  
27 the amount of benefits to be paid to members, retired members,  
28 beneficiaries and survivors and the amount of contributions to be

1 paid by employer and employee. The executive director shall  
2 notify by certified mail both employer and member, retired  
3 member, beneficiary or survivor interested in such determination.  
4 Any member, retired member, beneficiary or survivor, district or  
5 employer adversely affected by such determination, at any time  
6 within thirty days after being notified of such determination,  
7 may appeal to the circuit court of Cole County. Such appeal  
8 shall be tried and determined anew in the circuit court and such  
9 court shall hear and consider any and all competent testimony  
10 relative to the issues in the case, which may be offered by  
11 either party thereto. The circuit court shall determine the  
12 rights of the parties under sections 169.010 to 169.141 and  
13 169.600 to 169.715 using the same standard provided in section  
14 536.150, and the judgment or order of such circuit court shall be  
15 binding upon the parties and the board shall carry out such  
16 judgment or order unless an appeal is taken from such decision of  
17 the circuit court. Appeals may be had from the circuit court by  
18 the employer, member, retired member, beneficiary, survivor or  
19 the board, in the manner provided by the civil code.

20 16. The board of trustees shall keep a record of all its  
21 proceedings, which shall be open to public inspection. It shall  
22 prepare annually a comprehensive annual financial report, the  
23 financial section of which shall be prepared in accordance with  
24 applicable accounting standards and shall include the independent  
25 auditor's opinion letter. The report shall also include  
26 information on the actuarial status and the investments of the  
27 system. The reports shall be preserved by the executive director  
28 and made available for public inspection.

1           17. The board of trustees shall provide for the maintenance  
2 of an individual account with each member, setting forth such  
3 data as may be necessary for a ready determination of the  
4 member's earnings, contributions, and interest accumulations. It  
5 shall also collect and keep in convenient form such data as shall  
6 be necessary for the preparation of the required mortality and  
7 service tables and for the compilation of such other information  
8 as shall be required for the valuation of the system's assets and  
9 liabilities. All individually identifiable information  
10 pertaining to members, retirees, beneficiaries and survivors  
11 shall be confidential.

12           18. The board of trustees shall meet regularly at least  
13 twice each year, with the dates of such meetings to be designated  
14 in the rules and regulations adopted by the board. Such other  
15 meetings as are deemed necessary may be called by the chairman of  
16 the board or by any four members acting jointly.

17           19. The headquarters of the retirement system shall be in  
18 Jefferson City, where suitable office space, utilities and other  
19 services and equipment necessary for the operation of the system  
20 shall be provided by the board of trustees and all costs shall be  
21 paid from funds of the system. All suits or proceedings directly  
22 or indirectly against the board of trustees, the board's members  
23 or employees or the retirement system established by sections  
24 169.010 to 169.141 or 169.600 to 169.715 shall be brought in Cole  
25 County.

26           20. The board may appoint an attorney or firm of attorneys  
27 to be the legal advisor to the board and to represent the board  
28 in legal proceedings, however, if the board does not make such an

1 appointment, the attorney general shall be the legal advisor of  
2 the board of trustees, and shall represent the board in all legal  
3 proceedings.

4 21. The board of trustees shall arrange for adequate surety  
5 bonds covering the executive director. When approved by the  
6 board, such bonds shall be deposited in the office of the  
7 secretary of state of this state.

8 22. The board shall arrange for annual audits of the  
9 records and accounts of the system by a firm of certified public  
10 accountants[, the state auditor shall review the audit of the  
11 records and accounts of the system at least once every three  
12 years and shall report the results to the board of trustees and  
13 the governor].

14 23. The board by its rules may establish an interest charge  
15 to be paid by the employer on any payments of contributions which  
16 are delinquent. The rate charged shall not exceed the  
17 actuarially assumed rate of return on invested funds of the  
18 pertinent system.

19 208.1050. 1. There is hereby created in the state treasury  
20 the "Missouri Senior Services Protection Fund", which shall  
21 consist of money collected under subsection 2 of this section.  
22 The state treasurer shall be custodian of the fund. In  
23 accordance with sections 30.170 and 30.180, the state treasurer  
24 may approve disbursements. The fund shall be a dedicated fund  
25 and, upon appropriation, money in the fund shall be used solely  
26 for the administration of subsection 2 of this section.  
27 Notwithstanding the provisions of section 33.080 to the contrary,  
28 any moneys remaining in the fund at the end of the biennium shall

1 not revert to the credit of the general revenue fund. The state  
2 treasurer shall invest moneys in the fund in the same manner as  
3 other funds are invested. Any interest and moneys earned on such  
4 investments shall be credited to the fund.

5 2. The state treasurer shall deposit from moneys that  
6 otherwise would have been deposited into the general revenue fund  
7 an amount equal to fifty-five million one hundred thousand  
8 dollars into the Missouri senior services protection fund. At  
9 least one-quarter of such amount shall be deposited on or before  
10 July 15, 2013, an additional one-quarter by October 15, 2013, and  
11 an additional one-quarter by January 15, 2014. The remaining  
12 amount shall be deposited by March 15, 2014. Moneys in the fund  
13 shall be allocated for services for low-income seniors and people  
14 with disabilities.

15 238.272. The state auditor [shall] may audit each district  
16 not [less] more than once every three years[, and may audit more  
17 frequently if the state auditor deems appropriate]. The costs of  
18 this audit shall be paid by the district and shall not exceed the  
19 greater of three percent of the gross revenues received by the  
20 transportation district or three percent of the expenditures made  
21 by the transportation district.

22 [29.090. It shall be unlawful for any examiner  
23 appointed under the provisions of this chapter to  
24 accept, receive or ride on any free transportation  
25 while engaged on official business, and any officer who  
26 shall request such free transportation for any such  
27 examiner shall be guilty of a misdemeanor, and  
28 punishable by a fine not to exceed five hundred  
29 dollars.]

30  
31 [29.180. The state auditor in cooperation with  
32 the budget director shall establish appropriate systems  
33 of accounting for all officers and agencies of the  
34 state, including all educational and eleemosynary

1 institutions, and he shall also prescribe systems of  
2 accounting for all county officers. Such systems of  
3 accounting shall conform to recognized principles of  
4 governmental accounting and shall be uniform in  
5 application to offices of the same grade and kind and  
6 to accounts of the same kind. Such systems of  
7 accounting shall be adequate to record all assets and  
8 revenues accrued, all liabilities and expenditures  
9 incurred, as well as all cash receipts and  
10 disbursements, and all transactions affecting the  
11 acquisition and disposition of property, including the  
12 preparation and keeping of inventories of all property.  
13 Each department shall keep such accounts in accordance  
14 with the system of accounts prescribed by the auditor.]  
15

16 [29.270. The state auditor shall report to the  
17 governor as soon as possible the result of his findings  
18 from an examination of the state institutions, and  
19 report to the elective officers the result of his  
20 findings from an examination of their appointive  
21 officers, setting out in detail the findings as to the  
22 collection and disbursements of public funds and the  
23 mode of bookkeeping and accounting in force in such  
24 institution, and as soon as possible after the  
25 completion of the examination of a county's officers  
26 and institutions, he shall report in writing the  
27 findings to the county court or prosecuting attorney or  
28 proper officer thereof, setting out in detail the  
29 results as to the collection and disbursement of county  
30 funds and the mode of bookkeeping and accounting in use  
31 and such recommendations as may be proper. All audit  
32 reports and reports of examinations made by the state  
33 auditor shall be made a matter of public record. The  
34 state auditor shall report to each general assembly his  
35 findings and recommendations resulting from audits and  
36 examinations of the various state officials and  
37 institutions made by him in accordance with law.]  
38

39 [29.275. Before the state auditor performs a duty  
40 or service required by law for which a fee is charged,  
41 the person requiring the service shall produce to the  
42 state auditor the receipt of the state director of  
43 revenue showing that the fee has been paid to him.]  
44

45 [29.340. Any state or county official affected by  
46 this chapter who shall refuse or fail to comply with  
47 the provisions of this chapter shall be deemed guilty  
48 of a misdemeanor.]

49 Section B. Because immediate action is necessary to protect

1 low-income seniors and disabled persons, the enactment of section  
2 208.1050 of this act is deemed necessary for the immediate  
3 preservation of the public health, welfare, peace and safety, and  
4 is hereby declared to be an emergency act within the meaning of  
5 the constitution, and the enactment of section 208.1050 of this  
6 act shall be in full force and effect upon its passage and  
7 approval.