

SECOND REGULAR SESSION  
[PERFECTED]  
HOUSE SUBSTITUTE FOR  
**HOUSE BILL NO. 1455**  
**91ST GENERAL ASSEMBLY**

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Taken up for Perfection April 8, 2002.

House Substitute for House Bill No. 1455 ordered Perfected and printed.

TED WEDEL, Chief Clerk

3641L.03P

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**AN ACT**

To repeal sections 86.200, 86.213, 86.251, 86.254, 86.255, 86.256, 104.625, and 104.1024, RSMo, and to enact in lieu thereof thirteen new sections relating to public retirement systems, with an emergency clause.

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

Section A. Sections 86.200, 86.213, 86.251, 86.254, 86.255, 86.256, 104.625, and  
2 104.1024, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as  
3 sections 86.200, 86.213, 86.251, 86.254, 86.255, 86.256, 86.294, 86.296, 87.177, 87.231,  
4 87.238, 104.625, and 104.1024, to read as follows:

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

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

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

8 (3) "Average final compensation":

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

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

12 service, the average earnable compensation of the member's entire period of creditable service;

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

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

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

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

41 (f) If a member who is described in paragraph (c) or (e) of this subdivision completes  
42 less than one full year of creditable service after returning to active participation in the system,  
43 the member's earnable compensation for the period immediately prior to DROP entry shall be  
44 added to the member's earnable compensation after the member's return to active participation  
45 for purposes of determining such member's average final compensation for his or her last year  
46 of creditable service; and

47 **(g) With respect to the surviving spouse or surviving dependent child of a member**

48 **who earns any creditable service on or after October 1, 2001, the average earnable**  
49 **compensation of the member during the member's last two years of creditable service as**  
50 **a police officer or, if the member has had less than two years of creditable service, the**  
51 **average earnable compensation of the member's entire period of creditable service;**

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

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

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

58 (7) "Creditable service", prior service plus membership service as provided in sections  
59 86.200 to 86.366;

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

61 (9) "Earnable compensation", the annual salary which a member would earn during one  
62 year on the basis of the member's rank or position as specified in the applicable salary matrix in  
63 section 84.160, RSMo, plus additional compensation for academic work as provided in  
64 subsection 9 of section 84.160, RSMo, plus shift differential as provided in subdivision (4) of  
65 subsection 10 of section 84.160, RSMo. Such amount shall [be determined without regard to]  
66 **include** the member's deferrals to a deferred compensation plan pursuant to Section 457 of the  
67 Internal Revenue Code or to a cafeteria plan pursuant to Section 125 of the Internal Revenue  
68 Code **or, effective October 1, 2001, to a transportation fringe benefit program pursuant to**  
69 **Section 132(f)(4) of the Internal Revenue Code.** Earnable compensation shall not include a  
70 member's additional compensation for overtime, standby time, court time, nonuniform time or  
71 unused vacation time. Notwithstanding the foregoing, the earnable compensation taken into  
72 account under the plan established pursuant to sections 86.200 to 86.366 with respect to a  
73 member who is a noneligible participant, as defined in this subdivision, for any plan year  
74 beginning on or after October 1, 1996, shall not exceed the amount of compensation that may  
75 be taken into account under Section 401(a)(17) of the Internal Revenue Code, as adjusted for  
76 increases in the cost of living, for such plan year. For purposes of this subdivision, a  
77 "noneligible participant" is an individual who first becomes a member on or after the first day  
78 of the first plan year beginning after the earlier of:

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

80 (b) December 31, 1995;

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

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

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

85 (13) "Member", a member of the retirement system as defined by sections 86.200 to  
86 86.366;

87 (14) "Members' interest", interest on accumulated contributions at such rate as may be  
88 set from time to time by the board of trustees;

89 (15) "Membership service", service as a policeman rendered since last becoming a  
90 member, except in the case of a member who has served in the armed forces of the United States  
91 and has subsequently been reinstated as a policeman, in which case "membership service" means  
92 service as a policeman rendered since last becoming a member prior to entering such armed  
93 service;

94 (16) "Plan year" or "limitation year", the twelve consecutive-month period beginning  
95 each October first and ending each September thirtieth;

96 (17) "Policeman" or "police officer", any member of the police force of such cities who  
97 holds a rank in such police force for which the annual salary is listed in section 84.160, RSMo;

98 (18) "Prior service", all service as a policeman rendered prior to the date the system  
99 becomes operative or prior to membership service which is creditable in accordance with the  
100 provisions of sections 86.200 to 86.366;

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

104 (20) "Retirement system", the police retirement system of the cities as defined in sections  
105 86.200 to 86.366;

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

86.213. 1. The general administration and the responsibility for the proper operation of  
2 the retirement system and for making effective the provisions of sections 86.200 to 86.366 are  
3 hereby vested in a board of trustees of ten persons. The board shall be constituted as follows:

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

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

12 (3) Three members to be appointed by the mayor of the city to serve for a term of two

13 years;

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

22 (5) Two members who shall be retired members of the retirement system to be elected  
23 by the retired members of the retirement system for a term of three years; except that, the term  
24 of office of the first two members so elected shall begin immediately upon their election and one  
25 such member's term shall expire two years from the date of election and the other such member's  
26 term shall expire three years from the date of election.

27 2. Any member elected chairman of the board of trustees may serve [a total of four years  
28 in that capacity which shall be limited to no more than two consecutive terms] **without term**  
29 **limitations.**

30 3. Each commissioned elected trustee shall be granted travel time by the St. Louis  
31 metropolitan police department to attend any and all functions that have been authorized by the  
32 board of trustees of the police retirement system of St. Louis. Travel time for a trustee shall not  
33 exceed thirty days in any board fiscal year.

86.251. 1. The board of trustees may develop and establish a deferred retirement option  
2 plan (DROP) in which members who are eligible for retirement but who have not terminated  
3 employment as police officers and who have not actually retired may participate. The DROP  
4 shall be designed to allow members with at least twenty years of creditable service or who have  
5 attained the age of fifty-five who have achieved eligibility for retirement and are entitled to a  
6 service retirement allowance and other benefits to postpone actual retirement, continue active  
7 employment and accumulate a deferred receipt of the service retirement allowance. No one shall  
8 participate in the DROP for a period exceeding five years.

9 2. Any member who has at least twenty years of creditable service or has attained the age  
10 of fifty-five may elect in writing before retirement to participate in the DROP. A member  
11 electing to participate in the DROP shall postpone actual retirement, shall continue in active  
12 employment and shall not receive any direct retirement allowance payments or benefits during  
13 the period of participation.

14 3. Upon the start of the participation in the DROP, the member shall cease to make any  
15 mandatory contributions to the system. No contribution shall be required by the city into the

16 DROP account. During the period of participation in the DROP, the amount that the member  
17 would have received as a service retirement allowance if the member had actually retired instead  
18 of entering DROP shall be deposited monthly in the member's DROP account which shall be  
19 established in the member's name by the board of trustees. The member's service retirement  
20 allowance shall not be adjusted for any cost-of-living increases for any period prior to the  
21 member's termination of employment as a police officer and actual retirement. Cost-of-living  
22 increases, if any, for any period following the member's termination of employment as a police  
23 officer and actual retirement shall be applied only to monthly service retirement payments made  
24 following termination of employment as a police officer and actual retirement. Service earned  
25 during the period of participation in the DROP shall not be creditable service and shall not be  
26 counted in determination of any service retirement allowance or surviving spouse's or  
27 dependents' benefits. Compensation paid during the period of participation in the DROP shall  
28 not be earnable compensation and shall not be counted in the determination of any service  
29 retirement allowance or surviving spouse's or dependent's benefits. The member's service  
30 retirement allowance shall be frozen as of the date the member enters DROP. Except as  
31 specifically provided in sections 86.200 to 86.366, the member's frozen service retirement  
32 allowance shall not increase while the member is participating in DROP or after the member's  
33 participation in DROP ends, and the member shall not share in any benefit improvement that is  
34 enacted or that becomes effective while such member is participating in the DROP.

35 4. A member shall cease participation in the DROP upon the termination of the member's  
36 employment as a police officer and actual retirement, or at the end of the five-year period  
37 commencing on the first day of the member's participation in the DROP, or as of the effective  
38 date, but in no event prior to October 1, 2001, of the member's election to return to active  
39 participation in the system, whichever occurs first. A member's election to return to active  
40 participation in the system before the end of the five-year period commencing on the first day  
41 of participation in the DROP shall be made and shall become effective in accordance with  
42 procedures established by the board of trustees, but in no event prior to October 1, 2001. Upon  
43 the member's termination of employment as a police officer and actual retirement, the member  
44 shall elect to receive the value of the member's DROP account, in one of the following forms of  
45 payment:

- 46 (a) A lump sum payment; or  
47 (b) Equal monthly installments over a ten-year period.

48

49 Either form of payment should begin within thirty days after the member's notice to the board  
50 of trustees that the member has selected a particular option.

51 5. If a member who is participating in the DROP elects to return to active participation

52 in the system or if a member who is participating in the DROP does not terminate employment  
53 as a police officer in the city for which the retirement system was established pursuant to sections  
54 86.200 to 86.366 and actually retires at the end of the five-year period commencing on the first  
55 day of the member's participation in the DROP, the member shall return to active participation  
56 in the system and shall resume making mandatory contributions to the system effective as of the  
57 day after participation in the DROP ends or, if later, October 1, 2001. The board of trustees shall  
58 notify the police commissioners to begin deducting mandatory contributions from the member's  
59 salary and the member's employment period shall count as creditable service beginning as of the  
60 day the member returns to active participation.

61 6. In no event shall a member whose participation in DROP has ended for any reason be  
62 eligible to participate in DROP again.

63 7. Upon the member's termination of employment as a police officer and actual  
64 retirement, the member's mandatory contributions to the retirement system shall be paid to the  
65 member pursuant to subsection 4 of section 86.253.

66 8. If a member dies prior to termination of employment as a police officer and actual  
67 retirement while participating in the DROP or before the member has received full withdrawal  
68 of the amount in the member's DROP account under the installment optional payment form, the  
69 remaining balance of the member's DROP account shall be payable to the member's surviving  
70 spouse; or, if the member is then unmarried, to the member's dependent children in equal shares;  
71 or, if none, to the member's dependent mother or father; or, if none, to the member's designated  
72 beneficiary or, if no such beneficiary is then living, to the member's estate. Payment shall be  
73 made **in a lump sum** within sixty days after [the retirement system is notified of the member's  
74 death] **receipt by the board of trustees of evidence and proof of the death of a member**. In  
75 addition, the member's mandatory contributions, if any, that were not already paid to the member  
76 pursuant to subsection 4 of section 86.253 shall be paid to the member's surviving spouse  
77 pursuant to section 86.288.

78 9. If a member has elected to participate in the DROP and during such participation  
79 period applies for and receives benefits for an accidental disability retirement allowance pursuant  
80 to the provisions of section 86.263, the member shall forfeit all rights, claims or interest in the  
81 member's DROP account and the member's benefits shall be calculated as if the member has  
82 continued in employment and had not elected to participate in the DROP. Any portion of a  
83 DROP account that has been forfeited as provided in this subsection shall be a general asset of  
84 the system.

85 10. A member's DROP account shall earn interest equal to the rate of return earned by  
86 the system's investment portfolio on a market value basis, including realized and unrealized gains  
87 and losses, net of investment expense, as certified by the system's actuary. As of the [first] **last**

88 day of each **plan** year[,] beginning [with the second fiscal year of] **after DROP** participation  
89 **begins**, the member's DROP account balance, determined as of the [first] **last** day of [such] **the**  
90 **prior plan** year, shall be credited with interest at the investment rate earned by the assets of the  
91 retirement system for [the] **such** prior **plan** year. If distribution of the member's DROP account  
92 balance is [completed during the year] **made in a lump sum under subsection 4 or 8 of this**  
93 **section**, interest **for the plan year of distribution** shall be credited[, based] on the [beginning]  
94 **ending** balance for the **prior plan** year **at the investment rate earned on the assets of the**  
95 **retirement system for the prior plan year**, in proportion to the part of the **plan** year preceding  
96 the date of [final distribution. No interest shall be credited on amounts, if any, added to the  
97 member's DROP account during the year in which the distribution of the account is completed]  
98 **the member's termination of employment or death, whichever is earlier**. If the member's  
99 DROP account is paid in equal monthly installments pursuant to subsection [5] 4 of this section,  
100 [any] **interest during the installment period shall be credited as of the last day of each plan**  
101 **year ending after installment payment begins on the account balance as of the first or last**  
102 **day of the plan year, whichever is lower, at the investment rate earned by the assets of the**  
103 **system for the prior plan year. Interest for the year in which the final installment is paid**  
104 **shall be credited on the balance remaining after the final installment is paid, at the**  
105 **investment rate earned on the assets of the system for the prior plan year, in proportion**  
106 **to the part of the plan year preceding payment of the final installment. Any** interest credited  
107 to the DROP account during the installment period shall be paid as soon as reasonably possible  
108 after the final monthly installment. **No interest shall be credited on amounts, if any, added**  
109 **to the member's DROP account during the year in which the distribution of the account**  
110 **is completed.**

111 11. The board of trustees shall not incur any liability individually or on behalf of other  
112 individuals for any act or omission, made in good faith in relation to the DROP or assets credited  
113 to DROP accounts established by this section. The provisions of the Internal Revenue Code and  
114 regulations promulgated thereunder shall supersede any provision of this section if there is any  
115 inconsistency with the Internal Revenue Code or regulation.

116 12. Upon the receipt by the board of trustees of evidence and proof that the death of a  
117 member resulted from an event occurring while the member was in the actual performance of  
118 duty, and if the member is participating in the DROP, the member's surviving spouse or, if the  
119 member is then unmarried, the member's unmarried dependent children, may elect within thirty  
120 days after the member's death to have the amount in the member's DROP account paid in the  
121 form of a monthly survivor annuity. Payment of the survivor annuity shall begin within sixty  
122 days after the election is received. Payment to the member's surviving spouse shall continue  
123 until the surviving spouse's death; payment to the member's unmarried dependent children shall



124 be made while any child qualifies as an unmarried dependent child pursuant to section 86.280.  
125 The survivor annuity shall be the actuarial equivalent of the member's DROP account as of the  
126 date [payment begins] **of the member's death**. In no event shall the total amount paid pursuant  
127 to this subsection be less than the member's DROP account balance as of the date [payment  
128 begins] **of the member's death**.

86.254. 1. Beginning July 1, 1994, in addition to any other annuity, benefits, or  
2 retirement allowance provided pursuant to sections 86.200 to 86.366, each present and future  
3 retired member after attaining the age of sixty years shall, upon application to the board of  
4 trustees, be made, constituted, appointed and employed by the board of trustees as an advisor on  
5 the problems of retirement, aging and other matters, for the remainder of the retired member's  
6 life, and upon request of the board of trustees shall give opinions in writing or orally in response  
7 to such requests as may be required.

8 2. For the performance of duties required in subsection 1 of this section, each retired  
9 member employed as an advisor by the board of trustees shall be compensated monthly in an  
10 amount of [ten] **twelve dollars and fifty cents** per month multiplied by the number of years the  
11 retired member is past the age of sixty years. The compensation provided by this subsection  
12 shall be adjusted annually. No funding shall be required prior to the effective date of this benefit.

13 3. Beginning October 1, 1999, in addition to any other benefit provided to any surviving  
14 spouse pursuant to sections 86.200 to 86.366, each present and future surviving spouse of a  
15 member after attaining the age of sixty years shall upon application to the board of trustees, be  
16 made, constituted, appointed and employed by the board of trustees as an advisor on the  
17 problems of retirement, aging and other matters for the remainder of the surviving spouse's life  
18 or until the surviving spouse remarries, whichever is earlier, and upon request of the board of  
19 trustees shall give opinions in writing or orally in response to such requests as may be required.

20 4. For the performance of duties required in subsection 3 of this section, each surviving  
21 spouse of a member employed as an advisor by the board of trustees shall be compensated  
22 monthly in an amount of ten dollars per month multiplied by the number of years the surviving  
23 spouse is past the age of sixty years. The compensation provided by this subsection shall be  
24 adjusted annually.

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

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

7 (1) "Direct rollover", a payment by the board of trustees from the fund to the eligible

8 retirement plan specified by the distributee;

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

10 (3) "Eligible retirement plan", an individual retirement account described in Section  
11 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section  
12 408(b) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the  
13 Internal Revenue Code that accepts the distributee's eligible rollover distribution **or, effective**  
14 **for eligible rollover distributions made on or after January 1, 2002, an annuity contract**  
15 **described in Section 403(b) of the Internal Revenue Code or an eligible plan under Section**  
16 **457(b) of the Internal Revenue Code which is maintained by a state, political subdivision**  
17 **of a state, or any agency or instrumentality of a state or political subdivision of a state and**  
18 **which agrees to separately account for amounts transferred into such plan from this plan,**  
19 **and shall include, for eligible rollover distributions made on or after January 1, 2002, a**  
20 **distribution to a surviving spouse or to a spouse or former spouse who is the alternate**  
21 **payee under a qualified domestic relations order, as defined in Section 414(p) of the**  
22 **Internal Revenue Code;**

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

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

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

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

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

43 4. If the eligible rollover distribution is not subject to Sections 401(a) and 417 of the

44 Internal Revenue Code, such eligible rollover distribution may be made less than thirty days after  
45 the distributee has received the notice described in subsection 3 of this section, provided that:

46 (1) The board of trustees clearly informs the distributee of the distributee's right to  
47 consider whether to elect a direct rollover, and if applicable, a particular distribution option, for  
48 at least thirty days after the distributee receives the notice; and

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

86.256. 1. In no event shall a member's annual benefit paid under the plan established  
2 pursuant to sections 86.200 to 86.366 exceed the amount specified in Section 415(b)(1)(A) of  
3 the Internal Revenue Code, as adjusted for any applicable increases in the cost of living, as in  
4 effect on the last day of the plan year, including any increases after the member's termination of  
5 employment.

6 2. **Effective for limitation years beginning after December 31, 2001**, in no event shall  
7 the annual additions to the plan established pursuant to sections 86.200 to 86.366, on behalf of  
8 the member, including the member's own mandatory contributions, exceed the lesser of:

9 (1) [Twenty-five] **One hundred** percent of the member's compensation, as defined for  
10 purposes of Section 415(c)(3) of the Internal Revenue Code, **for the limitation year**; or

11 (2) [Thirty] **Forty** thousand dollars, as adjusted for increases in the cost of living **under**  
12 **Section 415(d) of the Internal Revenue Code**.

13 3. Effective for limitation years beginning prior to January 1, 2000, in no event shall the  
14 combined plan limitation of Section 415(e) of the Internal Revenue Code be exceeded; provided  
15 that, if necessary to avoid exceeding such limitation, the member's annual benefit under the plan  
16 established pursuant to sections 86.200 to 86.366 shall be reduced to the extent necessary to  
17 satisfy such limitations.

18 4. For purposes of this section, Section 415 of the Internal Revenue Code, including the  
19 special rules under Section 415(b) applicable to governmental plans and qualified participants  
20 [in] **employed by a police [and] or fire department [plans]**, is incorporated in this section by  
21 reference.

**86.294. 1. Notwithstanding any other provision of the plan established in sections**  
2 **86.200 to 86.366, and subject to the provisions of subsections 2, 3, and 4 of this section,**  
3 **effective January 1, 2002, the plan shall accept a member's rollover contribution or direct**  
4 **rollover of an eligible rollover distribution made on or after January 1, 2002, from a**  
5 **qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code, or an**  
6 **annuity contract described in Section 403(b) of the Internal Revenue Code, or an eligible**  
7 **plan under Section 457(b) of the Internal Revenue Code which is maintained by a state,**  
8 **political subdivision of a state, or any agency or instrumentality of a state or political**  
9 **subdivision of a state. The plan will also accept a member's rollover contribution of the**

10 portion of a distribution from an individual retirement account or annuity described in  
11 Section 408(a) or (b) of the Internal Revenue Code that is eligible to be rolled over and  
12 would otherwise be includable in gross income.

13       2. The amount of such rollover contribution or direct rollover of an eligible rollover  
14 distribution shall not exceed the amount required to repay the member's accumulated  
15 contributions plus the applicable members' interest thereon from the date of withdrawal  
16 to the date of repayment in order to receive credit for such prior service in accordance with  
17 section 86.210, to the extent that Section 415 of the Internal Revenue Code does not apply  
18 to such repayment by reason of subsection (k)(3) thereof, or to purchase permissive service  
19 credit, as defined in Section 415(n)(3)(A) of the Internal Revenue Code, for the member  
20 under the plan in accordance with the provisions of section 105.691, RSMo.

21       3. Acceptance of any rollover contribution or direct rollover of eligible rollover  
22 distribution under this section shall be subject to the approval of the board of trustees and  
23 shall be made in accordance with procedures established by the board of trustees.

24       4. In no event shall the plan accept any rollover contribution or direct rollover  
25 distribution to the extent that such contribution or distribution consists of after-tax  
26 employee contributions which are not includable in gross income.

      86.296. 1. Notwithstanding any other provision of the plan established in sections  
2 86.200 to 86.366, and subject to the provisions of subsections 2 and 3 of this section,  
3 effective January 1, 2002, the plan shall accept a direct trustee-to-trustee transfer on behalf  
4 of a member from an annuity contract described in Section 403(b) of the Internal Revenue  
5 Code or an eligible plan under Section 457(b) of the Internal Revenue Code which is  
6 maintained by a state, political subdivision of a state, or any agency or instrumentality of  
7 a state or political subdivision.

8       2. A trustee-to-trustee transfer may be accepted by the plan only if the transfer is  
9 used to repay the member's accumulated contributions plus the applicable members'  
10 interest thereon from the date of withdrawal to the date of repayment in order to receive  
11 credit for such prior service in accordance with section 86.210, to the extent that Section  
12 415 of the Internal Revenue Code does not apply to such repayment by reason of  
13 subsection (k)(3) thereof, or to purchase permissive service credit, as defined in Section  
14 415(n)(3)(A) of the Internal Revenue Code, for the member under the plan in accordance  
15 with the provisions of section 105.691, RSMo.

16       3. Acceptance of any trustee-to-trustee transfer under this section shall be subject  
17 to the approval of the board of trustees and shall be made in accordance with procedures  
18 established by the board of trustees.

      87.177. 1. Any firefighter who terminates employment with five or more years of

2 service but less than twenty years may apply at age sixty-two for a service retirement  
3 allowance. Upon written application to the board of trustees the benefit payable shall be  
4 equal to two percent times years of service times the average final compensation, and the  
5 member shall also be repaid the total amount of the member's contribution, without  
6 interest.

7 2. The benefits provided in subsection 1 of this section shall be in lieu of any  
8 benefits payable pursuant to the provisions of section 87.240.

9 3. Any survivor of a firefighter retiring pursuant to the provisions of subsection 1  
10 of this section shall be entitled to fifty percent of the retirement allowance of the retired  
11 member at his or her date of death.

12 4. Any surviving spouse of a firefighter who had five or more years of service but  
13 less than twenty years and who dies prior to application for retirement benefits payable  
14 pursuant to this section shall be entitled to fifty percent of the retirement allowance of the  
15 member at his or her date of death payable at the date the member would have reached age  
16 sixty-two, or to the immediate refund of the member's contribution plus interest. If no  
17 surviving spouse exists, a benefit shall be payable pursuant to subdivisions (2) and (3) of  
18 subsection 1 of section 87.220, or by the immediate refund of the member's contribution  
19 plus interest.

20 5. Any firefighter retiring pursuant to the provisions of this section shall be entitled  
21 to receive a cost-of-living allowance of five percent per year for a maximum of five years.

87.231. 1. In lieu of any benefits payable pursuant to section 87.230, any surviving  
2 spouse who is receiving retirement benefits, upon application to the board of trustees of the  
3 retirement system, shall be made, constituted, appointed and employed by the board as a  
4 special consultant on the problems of retirement, aging, and other state matters, for the  
5 remainder of his or her life, and upon request of the board, give opinions, and be available  
6 to give opinions in writing, or orally, in response to such request, as may be required, and  
7 for such services shall be compensated monthly, in an amount, which, when added to any  
8 monthly retirement benefits being received, shall not exceed fifty percent of the deceased  
9 member's average final compensation or five hundred twenty-five dollars, whichever is  
10 greater.

11 2. This compensation shall be consolidated with any other retirement benefits  
12 payable to such surviving spouse, and shall be paid in the manner and from the same fund  
13 as his or her other retirement benefits under this chapter, and shall be treated in all aspects  
14 under the laws of this state as retirement benefits paid pursuant to this chapter.

15 3. The employment provided for by this section shall in no way affect any person's  
16 eligibility for retirement benefits under this chapter, or in any way have the effect of

17 **reducing retirement benefits, anything to the contrary notwithstanding.**

2 **87.238. 1. In lieu of any benefit payable pursuant to section 87.237, any person who**  
3 **served as a firefighter and who is retired and receiving a retirement allowance of less than**  
4 **six hundred twenty-five dollars may act as a special advisor to the retirement system.**

5 **2. For the additional service as a special advisor, each retired person shall receive,**  
6 **in addition to the retirement allowance provided pursuant to this chapter, an additional**  
7 **amount, which amount, together with the retirement allowance he or she is receiving**  
8 **pursuant to other provisions of this chapter, shall equal, but not exceed, six hundred**  
9 **twenty-five dollars. Any retirement allowance paid to a retiree pursuant to this subsection**  
10 **shall be withdrawn from the firefighters' retirement and relief system fund and no moneys**  
11 **shall be withdrawn from the general revenue fund of any city not within a county.**

12 104.625. Effective [January] **July 1, 2002**, any member retiring pursuant to the  
13 provisions of sections 104.010 to 104.801, except an elected official or a member of the general  
14 assembly, who has not been paid retirement benefits and continues employment for at least two  
15 years beyond normal retirement age, may elect to receive an annuity and lump sum payment or  
16 payments, determined as follows:

17 (1) A retroactive starting date shall be established which shall be [the later of the date  
18 when a normal annuity would have first been payable had the member retired at that time or five  
19 years before the annuity starting date, which shall be the first day of the month with respect to  
20 which an amount is paid as annuity pursuant to this section] **a date selected by the member;**  
21 **provided, however, that the retroactive starting date selected by the member shall not be**  
22 **a date which is earlier than the date when a normal annuity would have first been payable.**  
23 **In addition, the retroactive starting date shall not be more than five years prior to the**  
24 **annuity starting date, which shall be the first day of the month with respect to which an**  
25 **amount is paid as an annuity pursuant to this section. The member's selection of a**  
26 **retroactive starting date shall be done in twelve-month increments, except this restriction**  
27 **shall not apply when the member selects the total available time between the retroactive**  
28 **starting date and the annuity starting date;**

29 (2) The prospective annuity payable as of the annuity starting date shall be determined  
30 pursuant to the provisions otherwise applicable under the law, with the exception that it shall be  
31 the amount which would have been payable had the member actually retired on the retroactive  
32 starting date under the retirement plan selected by the member. Other than for the lump sum  
33 payment or payments specified in subdivision (3) of this section, no other amount shall be due  
34 for the period between the retroactive starting date and the annuity starting date;

35 (3) The lump sum payable shall be ninety percent of the annuity amounts which would  
36 have been paid to the member from the retroactive starting date to the annuity starting date had

26 the member actually retired on the retroactive starting date and received a normal annuity. The  
27 member shall elect to receive the lump sum amount either in its entirety at the same time as the  
28 initial annuity payment is made or in three equal annual installments with the first payment made  
29 at the same time as the initial annuity payment; [and]

30 (4) Any annuity payable pursuant to this section that is subject to a division of benefit  
31 order pursuant to section 104.312 shall be calculated as follows:

32 (a) Any service of a member between the retroactive starting date and the annuity  
33 starting date shall not be considered creditable service except for purposes of calculating the  
34 division of benefit; and

35 (b) The lump sum payment described in subdivision (3) of this section shall not be  
36 subject to any division of benefit order; and

37 **(5) For purposes of determining annual benefit increases payable as part of the**  
38 **lump sum and annuity provided pursuant to this section, the retroactive starting date shall**  
39 **be considered the member's date of retirement.**

104.1024. 1. Any member who terminates employment may retire on or after attaining  
2 normal retirement eligibility by making application in written form and manner approved by the  
3 appropriate board. The written application shall set forth the annuity starting date which shall  
4 not be earlier than the first day of the second month following the month of the execution and  
5 filing of the member's application for retirement nor later than the first day of the fourth month  
6 following the month of the execution and filing of the member's application for retirement.

7 2. A member's annuity shall be paid in the form of a life annuity, except as provided in  
8 section 104.1027, and shall be an amount for life equal to one and seven-tenths percent of the  
9 final average pay of the member multiplied by the member's years of credited service.

10 3. The life annuity defined in subsection 2 of this section shall not be less than a monthly  
11 amount equal to fifteen dollars multiplied by the member's full years of credited service.

12 4. If as of the annuity starting date of a member who has attained normal retirement  
13 eligibility the sum of the member's years of age and years of credited service equals eighty or  
14 more years and if the member's age is at least fifty years but less than sixty-two years, or, in the  
15 case of a member of the highway patrol who shall be subject to the mandatory retirement  
16 provision of section 104.080, the mandatory retirement age and completion of five years of  
17 credited service, then in addition to the life annuity described in subsection 2 of this section, the  
18 member shall receive a temporary annuity equal to eight-tenths of one percent of the member's  
19 final average pay multiplied by the member's years of credited service. The temporary annuity  
20 and any cost-of-living adjustments attributable to the temporary annuity pursuant to section  
21 104.1045 shall terminate at the end of the calendar month in which the earlier of the following  
22 events occurs: the member's death or the member's attainment of the earliest age of eligibility for

23 reduced Social Security retirement benefits.

24         5. The annuity described in subsection 2 of this section for any person who has credited  
25 service not covered by the federal Social Security Act, as provided in sections 105.300 to  
26 105.445, RSMo, shall be calculated as follows: the life annuity shall be an amount equal to two  
27 and five-tenths percent of the final average pay of the member multiplied by the number of years  
28 of service not covered by the federal Social Security Act in addition to one and seven-tenths  
29 percent of the final average pay of the member multiplied by the member's years of credited  
30 service covered by the federal Social Security Act.

31         6. Effective [January] **July 1, 2002**, any member, except an elected official or a member  
32 of the general assembly, who has not been paid retirement benefits and continues employment  
33 for at least two years beyond the date of normal retirement eligibility, may elect to receive an  
34 annuity and lump sum payment or payments, determined as follows:

35         (1) A retroactive starting date shall be established which shall be [the later of the first  
36 day of retirement eligibility or five years before the annuity starting date] **a date selected by the**  
37 **member; provided, however, that the retroactive starting date selected by the member shall**  
38 **not be a date which is earlier than the date when a normal annuity would have first been**  
39 **payable. In addition, the retroactive starting date shall not be more than five years prior**  
40 **to the annuity starting date. The member's selection of a retroactive starting date shall be**  
41 **done in twelve-month increments, except this restriction shall not apply when the member**  
42 **selects the total available time between the retroactive starting date and the annuity**  
43 **starting date;**

44         (2) The prospective annuity payable as of the annuity starting date shall be determined  
45 pursuant to the provisions of this section, with the exception that it shall be the amount which  
46 would have been payable at the annuity starting date had the member actually retired on the  
47 retroactive starting date under the retirement plan selected by the member. Other than for the  
48 lump sum payment or payments specified in subdivision (3) of this subsection, no other amount  
49 shall be due for the period between the retroactive starting date and the annuity starting date;

50         (3) The lump sum payable shall be ninety percent of the annuity amounts which would  
51 have been paid to the member from the retroactive starting date to the annuity starting date had  
52 the member actually retired on the retroactive starting date and received a life annuity. The  
53 member shall elect to receive the lump sum amount either in its entirety at the same time as the  
54 initial annuity payment is made or in three equal annual installments with the first payment made  
55 at the same time as the initial annuity payment; [and]

56         (4) Any annuity payable pursuant to this section that is subject to a division of benefit  
57 order pursuant to section 104.1051 shall be calculated as follows:

58         (a) Any service of a member between the retroactive starting date and the annuity



59 starting date shall not be considered credited service except for purposes of calculating the  
60 division of benefit; and

61 (b) The lump sum payment described in subdivision (3) of this section shall not be  
62 subject to any division of benefit order; and

63 **(5) For purposes of determining annual benefit increases payable as part of the**  
64 **lump sum and annuity provided pursuant to this section, the retroactive starting date shall**  
65 **be considered the member's date of retirement.**

Section B. Because immediate action is necessary to provide equitable treatment and  
2 timely application of certain pension benefits and compensation, section A of this act is deemed  
3 necessary for the immediate preservation of the public health, welfare, peace, and safety, and is  
4 hereby declared to be an emergency act within the meaning of the constitution, and section A of  
5 this act shall be in full force and effect on July 1, 2002, or upon its passage and approval,  
6 whichever occurs later.