

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 664

96TH GENERAL ASSEMBLY

1583S.04T

2011

AN ACT

To repeal sections 87.005, 87.006, 87.205, and 87.207, RSMo, and to enact in lieu thereof five new sections relating to firemen's retirement.

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

Section A. Sections 87.005, 87.006, 87.205, and 87.207, RSMo, are repealed and five
2 new sections enacted in lieu thereof, to be known as sections 87.005, 87.006, 87.127, 87.205,
3 and 87.207, to read as follows:

87.005. 1. Notwithstanding the provisions of any law to the contrary, after five years'
2 service, any condition of impairment of health caused by any **infectious disease**, disease of the
3 lungs or respiratory tract, hypertension, or disease of the heart resulting in total or partial
4 disability or death to a uniformed member of a paid fire department, who successfully passed a
5 physical examination within five years prior to the time a claim is made for such disability or
6 death, which examination failed to reveal any evidence of such condition, shall be presumed to
7 have been suffered in line of duty, unless the contrary be shown by competent evidence. **In
8 order to receive the presumption that an infectious disease was contracted in the line of
9 duty, the member shall submit to an annual physical examination, at which a blood test is
10 administered.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 2. This section shall apply only to the provisions of chapter 87, RSMo 1959.

12 **3. As used in this section, the term "infectious disease" means the human**
13 **immunodeficiency virus, acquired immunodeficiency syndrome, tuberculosis, hepatitis A,**
14 **hepatitis B, hepatitis C, hepatitis D, diphtheria, meningococcal meningitis, methicillin-**
15 **resistant staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe acute**
16 **respiratory syndrome.**

 87.006. 1. Notwithstanding the provisions of any law to the contrary, and only for the
2 purpose of computing retirement benefits provided by an established retirement plan, after five
3 years' service, any condition of impairment of health caused by any **infectious disease**, disease
4 of the lungs or respiratory tract, hypotension, hypertension, or disease of the heart resulting in
5 total or partial disability or death to a uniformed member of a paid fire department, who
6 successfully passed a physical examination within five years prior to the time a claim is made
7 for such disability or death, which examination failed to reveal any evidence of such condition,
8 shall be presumed to have been suffered in the line of duty, unless the contrary be shown by
9 competent evidence. **In order to receive the presumption that an infectious disease was**
10 **contracted in the line of duty, the member shall submit to an annual physical examination,**
11 **at which a blood test is administered.**

12 2. Any condition of cancer affecting the skin or the central nervous, lymphatic, digestive,
13 hematological, urinary, skeletal, oral, breast, testicular, genitourinary, liver or prostate systems,
14 as well as any condition of cancer which may result from exposure to heat or radiation or to a
15 known or suspected carcinogen as determined by the International Agency for Research on
16 Cancer, which results in the total or partial disability or death to a uniformed member of a paid
17 fire department who successfully passed a physical examination within five years prior to the
18 time a claim is made for disability or death, which examination failed to reveal any evidence of
19 such condition, shall be presumed to have been suffered in the line of duty unless the contrary
20 be shown by competent evidence and it can be proven to a reasonable degree of medical certainty
21 that the condition did not result nor was contributed to by the voluntary use of tobacco.

22 3. This section shall apply to paid members of all fire departments of all counties, cities,
23 towns, fire districts, and other governmental units.

24 **4. As used in this section, the term "infectious disease" means the human**
25 **immunodeficiency virus, acquired immunodeficiency syndrome, tuberculosis, hepatitis A,**
26 **hepatitis B, hepatitis C, hepatitis D, diphtheria, meningococcal meningitis, methicillin-**

27 resistant staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe acute
28 respiratory syndrome.

2 **87.127. A retirement plan under sections 87.120 to 87.370 is intended to be a**
3 **qualified governmental plan under the provisions of applicable federal law. The benefits**
4 **and conditions of the plan shall be interpreted and the system shall be operated to ensure**
5 **that the system meets the federal qualification requirements.**

6 87.205. 1. Upon retirement for accidental disability **before August 28, 2011**, a member
7 shall receive seventy-five percent of the pay then provided by law for the highest step in the
8 range of salary for the title or rank held by such member at the time of such retirement unless the
9 member is permanently and totally incapacitated from performing any work, occupation or
10 vocation of any kind whatsoever and is continuously confined to the member's home except for
11 visits to obtain medical treatment, in which event the member may receive, in the discretion of
12 the board of trustees, a retirement allowance in an amount not exceeding the member's rate of
13 compensation as a firefighter in effect as of the date the allowance begins.

14 2. Anyone who has retired pursuant to the provisions of section 87.170 and has been
15 reinstated pursuant to subsection 2 of section 87.130 who subsequently becomes disabled, as
16 provided in section 87.200, shall receive a total benefit which is the higher of either the disability
17 pension or the service pension.

18 **3. Upon retirement for accidental disability on or after August 28, 2011, based on**
19 **conditions of the heart, lungs, or cancer or based on permanent and total disability which**
20 **will prevent the member from obtaining employment elsewhere, as determined by the**
21 **board of trustees based on medical evidence presented by the retirement system's**
22 **physicians, a member shall receive, regardless of his or her number of years of creditable**
23 **service, seventy-five percent of the earnable compensation then provided for the step in the**
24 **range of salary for the title or rank held by such member at the time of such retirement.**

25 **4. Except as provided in subsection 3 of this section, upon retirement for accidental**
26 **disability on or after August 28, 2011, a member shall receive a base pension equal to**
27 **twenty-five percent of the member's earnable compensation then provided for the step in**
28 **the range of salary for the title or rank held by such member at the time of such retirement.**

29 **5. Except as provided in subsection 3 of this section, upon retirement for accidental**
30 **disability on or after August 28, 2011, the member may elect to receive an education**
31 **allowance in an amount not to exceed the tuition for a state resident at the University of**
32 **Missouri-St. Louis. The accidentally disabled member shall enroll in a college, university,**

28 community college, or vocational or technical school at the first opportunity after the
29 accidentally disabled member was retired and shall receive such educational allowance in
30 the form of reimbursement upon proof of payment to such institution. The education
31 allowance described in this subsection shall cease when the accidentally disabled member
32 ceases to be a full-time student, fails to provide proof of achievement of a grade point
33 average of two on a four-point scale or the equivalent on another scale for each academic
34 term, or if the accidentally disabled member is restored to active service as a firefighter,
35 but in no event shall such education allowance be available for more than five years after
36 the member is retired under section 87.200.

37 6. Except as provided in subsection 3 of this section, upon retirement for accidental
38 disability on or after August 28, 2011, in addition to the base pension provided for in
39 subsection 4 of this section and the education allowance provided for in subsection 5 of this
40 section, members with twenty-five years or less of creditable service shall receive an
41 additional accidental retirement pension equal to two and three-fourths percent of the
42 member's earnable compensation then provided for the step in the range of salary for the
43 title or rank held by such member at the time of retirement for each year of creditable
44 service equal to or greater than ten years but not more than twenty-five years.

45 7. Except as provided in subsection 3 of this section, upon retirement for accidental
46 disability on or after August 28, 2011, in addition to the base pension provided for in
47 subsection 4 of this section and the additional accidental retirement pension provided for
48 in subsection 6 of this section, for members with twenty-five years or less of creditable
49 service, then during such time that the disabled member is a full-time student in a college,
50 university, community college, or vocational or technical school and is receiving the
51 educational allowance provided for in subsection 5 of this section, such member shall also
52 receive a supplemental disability retirement pension in the amount necessary so that his
53 or her total accidental disability retirement pension, excluding the education allowance,
54 shall be equal to one hundred percent of the earnable compensation then provided for the
55 step in the range of salary for the title or rank held by such member at the time of such
56 retirement. In no event shall such supplemental accidental disability pension be paid for
57 a period more than five years after the member is retired under section 87.200.

58 8. Except as provided in subsection 3 of this section, upon retirement for accidental
59 disability on or after August 28, 2011, in addition to the base pension provided for in
60 subsection 4 of this section and the education allowance provided for in subsection 5 of this

61 section, for members with more than twenty-five years of creditable service, such member
62 shall also receive an additional pension equal to fifty percent of the member's earnable
63 compensation then provided for the step in the range of salary for the title or rank held by
64 such member at the time of such retirement.

65 **9. Notwithstanding any other provisions in this section, upon retirement for**
66 **accidental disability, other than as provided in subsection 3 of this section, on or after**
67 **August 28, 2011, a member with more than twenty years of creditable service but not more**
68 **than twenty-five years of creditable service may waive the right to receive the education**
69 **allowance provided for in subsection 5 of this section, the right to additional pension**
70 **retirement allowance provided for in subsection 6 of this section, and the right to receive**
71 **the supplemental disability retirement pension provided for in subsection 7 of this section**
72 **and may elect to receive instead in addition to the accidental disability retirement base**
73 **pension as provided for in subsection 4 of this section an additional pension from the date**
74 **of such member's retirement equal to forty percent of the member's earnable compensation**
75 **then provided for the step in the range of salary for the title or rank held by such member**
76 **at the time of such retirement. Any such election shall be made prior to such member's**
77 **receipt of his or her first accidental disability pension payment.**

87.207. The following allowances due under the provisions of sections 87.120 to 87.371
2 of any member who retired from service shall be increased annually, as approved by the board
3 of trustees beginning with the first increase in the October following his or her retirement and
4 subsequent increases in each October thereafter, at the rates designated:

- 5 (1) With a retirement service allowance or ordinary disability allowance:
6 (a) One and one-half percent per year, compounded each year, up to age sixty for those
7 retiring with twenty to twenty-four years of service,
8 (b) Two and one-fourth percent per year, compounded each year, up to age sixty for
9 those retiring with twenty-five to twenty-nine years of service,
10 (c) Three percent per year, compounded each year, up to age sixty for those retiring with
11 thirty or more years of service,
12 (d) After age sixty, five percent per year for five years;
13 (2) With an accidental disability allowance, three percent per year, compounded each
14 year, up to age sixty, then five percent per year for five years. **Provided, however, for**
15 **accidental disability on or after August 28, 2011, for reasons other than provided in**
16 **subsection 3 of section 87.205, unless a member has more than twenty-five years of**

17 **creditable service, the accidental disability allowance shall only increase at a rate of one**
18 **percent per year, compounded each year, up to age sixty, then five percent per year for five**
19 **years. For accidental disability on or after August 28, 2011, for reasons other than**
20 **provided in subsection 3 of section 87.205, if a member has more than twenty-five years of**
21 **creditable service, the accidental disability allowance shall only increase at a rate of two**
22 **and one-fourth percent per year, compounded each year, up to age sixty, then five percent**
23 **per year for five years.**

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