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Civilian Employees' Retirement System of the Police Department of Kansas City, Missouri 2009 Statutes

Definitions.

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

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

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

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

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

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

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

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

(8) "Employee", any regularly appointed civilian employee of the police department of the city as specified in sections 86.1310 to 86.1640 who is not eligible to receive a pension from the police retirement system of said city;

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

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

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

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

(13) "Pension", annual payments for life, payable monthly, beginning with the date of retirement or other applicable commencement date and ending with death;

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

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

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

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

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

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

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

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

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

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

(L. 2005 H.B. 323)

System established--continuation of system after population increase, when--name of system.

86.1320. In all cities that now have or may hereafter attain a population of more than three hundred thousand and less than seven hundred thousand inhabitants according to the last preceding federal decennial census, there are hereby created and established retirement or pension systems for the purpose of providing retirement allowances for civilian employees of police departments of such cities. Any city which has established a civilian employees' retirement system under the provisions of sections 86.600 to 86.790 or sections 86.1310 to 86.1640 may elect to continue its civilian employees' retirement system under the provisions of sections 86.1310 to 86.1640 even though the city may cease to have the population described in this section, and any city so electing to continue its established civilian employees' retirement system shall be excused from creating or maintaining any other civilian employees' retirement system under any other provisions of the Missouri statutes. Each system shall be under the management of a retirement board to be known as the "Civilian Employees' Retirement System of the Police Department of (name of city)," and by such name all of its business shall be transacted, and all of its cash and other property held. The retirement systems so created shall begin operation on October 13, 1965, on which date contributions of employees shall be payable to the pension fund.

(L. 2005 H.B. 323)

Retirement board established, members, duties--funds received, duties--oath of board members required.

86.1330. 1. There shall be a retirement board whose members shall serve without compensation but shall be reimbursed from the pension fund for any necessary expenses which they may incur for service on the board. The board shall adopt policies for the administration of the affairs of the retirement system. The members of the retirement board for the civilian employees' retirement system herein enacted shall be the same as the members of the retirement board for police officers as provided in section 86.930 and upon election or appointment as provided in section 86.930, shall be vested with full authority to administer the retirement system provided in sections 86.1310 to 86.1640, and shall be vested with full authority to do all things necessary and required herein; but

all funds received for the administration of the retirement system shall be kept separately and not commingled with funds included in retirement systems provided in sections 86.900 to 86.1280. The members of the retirement system provided in sections 86.1310 to 86.1640 and a surviving spouse receiving benefits from the retirement system shall be entitled to vote in the election of elected members of the retirement board as provided in section 86.930.

2. Each member of the retirement board shall, within ten days after appointment or election, take an oath of office that such member will diligently and honestly administer the affairs of such board, and will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the civilian employees' retirement system. Such oath shall be signed by the member and filed with the clerk of such city.

(L. 2005 H.B. 323)

Voting by board, votes necessary to pass a motion.

86.1350. Each member of the retirement board shall be entitled to one vote in the decisions of the board. Five votes or more in favor shall be necessary to pass a motion by the retirement board at any meeting of the board.

(L. 2005 H.B. 323)

Administration of assets and transaction of business, board to set policies--rulemaking authority--officers to be elected, employment of staff.

86.1360. 1. Subject to the limitations of sections 86.1310 to 86.1640, the retirement board shall, from time to time, establish policies for the administration of its assets, for the transaction of its business and for the conduct of nominations and elections of the elected members of the retirement board. The retirement board shall be deemed to be a state agency within the meaning of chapter 536, RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

2. The retirement board shall elect from its membership a chairman, a vice chairman, and a treasurer and shall, by majority vote of its members, appoint a secretary, who may be, but need not be, one of its members. The offices of secretary and of treasurer shall not be held by the same person. It may employ such actuarial, legal, and other services as may be necessary to transact the business of the retirement system. The compensation of all

persons employed by the retirement board and all other expenses of the board necessary for the operation of the retirement system shall be paid in such manner as the retirement board shall determine; provided, that the compensation of such persons as may be employed by the retirement board shall not be greater than the compensation paid for comparable abilities by the governments of the cities in which the retirement board is located.

(L. 2005 H.B. 323)

Data to be maintained by board--annual statement required--actuarial study and calculation required--medical board to be appointed--seal to be adopted.

86.1370. 1. The retirement board shall keep in convenient form such data as is necessary for administration of the retirement system. The retirement board shall keep a record of all its proceedings which shall be open to public inspection.

2. The retirement board shall publish annually a statement reporting the operations of the retirement system for the year, including income and disbursements during the year and the financial condition of the retirement system at the end of the year, including actuarial valuation and valuations of its assets and liabilities as of April thirtieth of each year. Such statement shall be consistent with results reviewed and approved by independent certified public accountants selected by the board. One copy of the annual report shall be delivered to each member of the retirement board and each member of the board of police commissioners, and one copy shall be filed with the city clerk. Copies of the report shall be made conveniently available to each member of the retirement system.

3. The retirement board shall cause an actuarial study and calculation to be made annually based upon the experiences of the retirement system by an independent firm of pension actuaries.

4. The retirement board shall appoint a medical board of not more than three physicians, each of whom shall serve at the pleasure of the retirement board, to arrange for and conduct medical examinations as requested by the retirement board.

5. The retirement board shall adopt a common seal.

(L. 2005 H.B. 323)

Certification by the board to the city for amount to be paid to the retirement system.

86.1380. The retirement board shall before January tenth of each year certify to the chief financial officer of such city the amount to be paid by the city to the retirement pension

system for the succeeding fiscal year, as otherwise provided by sections 86.1310 to 86.1640.

(L. 2005 H.B. 323)

Contributions to retirement system by cities, amount.

86.1390. The cities specified in sections 86.1310 to 86.1640 shall contribute to the retirement pension system such an amount as may be necessary to pay the pensions as they accrue from year to year, and such additional amounts as may be necessary to maintain the system on a sound actuarial basis as determined by the retirement board and certified as provided in section 86.1380.

(L. 2005 H.B. 323)

Employee contributions to be deducted from compensation--payment by board of police commissioners.

86.1400. The board of police commissioners shall cause to be deducted from the compensation of each member until retirement a percentage of such member's compensation, which shall not be less than five percent, as determined by the retirement board, as such member's contribution to the pension fund. The sum so deducted shall be paid by the board of police commissioners promptly after each payroll to the retirement board to be credited to the member's account. Every member shall be deemed to consent to the deductions made and provided for herein. The board of police commissioners shall certify to the retirement board on each payroll the amount deducted, and such amounts shall be paid into the pension fund and shall be credited to the individual pension account of the member from whose compensation such deduction was made.

(L. 2005 H.B. 323)

Board to be trustee of funds--powers and duties.

86.1410. 1. The retirement board shall act as trustee of the funds created by or collected under the provisions of sections 86.1310 to 86.1640. With appropriate safeguards against loss by the retirement system, the board may designate one or more banks or trust companies to serve as a depository of retirement system funds and as an intermediary in the investment of those funds and payment of system obligations. The board shall promptly deposit the funds with any such designated bank or trust company.

2. The retirement board shall have power, in the name and on behalf of the retirement pension system, to purchase, acquire, hold, invest, lend, lease, sell, assign, transfer, and dispose of all property, rights, and securities, and enter into written contracts, all as may be necessary or proper to carry out the purposes of sections 86.1310 to 86.1640. No investment transaction authorized by the retirement board shall be handled by any

company or firm in which a member of the board has an interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the retirement system, and any securities or other properties obtained by the retirement board may be held by a custodian in the name of the retirement system, or in the name of a nominee in order to facilitate the expeditious transfer of such securities or other properties. Such securities or other properties may be held by such custodian in bearer form or in book entry form. The retirement system is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the uniform commercial code, sections 400.8-102 and 400.8-117, RSMo. When such eligible securities of the retirement system are so deposited with the central depository system they may be merged and held in the name of the nominee of such securities depository and title to such securities may be transferred by bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

3. The retirement board may contract with a bank or trust company to act as the custodian of bonds and securities acquired by the board, in which case the retirement board may authorize such custodian bank or trust company to order purchases, loans, or sales of investments by such custodian bank or trust company, and may also appoint one or more investment managers to manage investments of the retirement pension system and in the course of such management to order purchases, loans, or sales of investments by such custodian bank or trust company, subject to such limitations, reporting requirements and other terms and restrictions as the retirement board may include in the terms of each such appointment. The income from investments shall be credited to the funds of the retirement system at frequent intervals satisfactory to the retirement board. All payments from the funds shall be made by the bank or trust company only upon orders signed by the secretary and treasurer of the retirement board, except as otherwise provided in this subsection. No order shall be drawn unless it shall have previously been allowed by a specific or an ongoing generalized resolution of the retirement board. In the case of payments for benefits, services, supplies, or similar items in the ordinary course of business, such board resolutions may be ongoing generalized authorizations, provided that each payment other than payments to members or beneficiaries for benefits shall be reported to the board at its next following meeting and shall be subject to ratification and approval by the board.

4. Before assuming the duties of office, the secretary and treasurer shall each be bonded for an amount determined by the retirement board at the cost of the retirement system, conditioned upon the faithful performance of the duties as such officer, and to account for all moneys, securities, and property which may come into their respective hands or under their respective control by virtue of such office, with a corporate surety duly licensed to transact business in this state. Such bonds shall be subject to the approval of the presiding judge of the circuit court of the county in which such cities are located.

(L. 2005 H.B. 323)

Benefits and administrative expenses to be paid by system funds.

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

(L. 2005 H.B. 323)

Retirement benefits not subject to execution, garnishment, or attachment--exceptions--funds exempt from taxation.

86.1430. The right of any person to pension or pensions, to the return of contributions, disability or death benefits, or any other right accrued or accruing to any person under the provisions of sections 86.1310 to 86.1640 and the moneys in the various funds created under sections 86.1310 to 86.1640 shall not be subject to execution, garnishment, attachment, or any other process whatsoever and shall be unassignable except as specifically provided in sections 86.1310 to 86.1640, and except for court orders or assignments approved by a court to provide support for family members or a former spouse of any person entitled to benefits under sections 86.1310 to 86.1640. The moneys in the various funds created under sections 86.1310 to 86.1640 are hereby exempt from any tax of the state of Missouri or of any municipality or political subdivision thereof. A revocable request or authorization by a member or a beneficiary to withhold and apply for the requester's convenience some portion or all of a benefit payment shall not be deemed an assignment prohibited under this section provided that any such request shall remain revocable at all times except as to payments or withholdings effected prior to any such revocation. The retirement system may, but shall not be obligated to, comply with any such request.

(L. 2005 H.B. 323)

Criminal liability not limited by statutory provisions--correction of benefit errors by the board.

86.1440. Nothing contained in sections 86.1310 to 86.1640 shall in any way limit the criminal liability of any person subject to prosecution under any law which is now or may hereafter be in force. Should any change or error in records result in any member or beneficiary receiving from the pension system more or less than such person would have been entitled to receive had the records been correct, the retirement board shall correct such error and, as far as practicable, shall adjust the payments in such a manner that the benefit to which said member or beneficiary was correctly entitled shall be paid.

(L. 2005 H.B. 323)

Board may sue and be sued--service of process, procedure.

86.1450. 1. The retirement board may sue and be sued in its own name. Such suits shall constitute suits by or against the members of the retirement board in their representative capacities and not as individuals.

2. Service of process on the retirement board shall be sufficient if ten copies of the pleading or other document to be served shall be served upon the secretary of the retirement board at the principal office of the retirement system during business hours.

(L. 2005 H.B. 323)

Findings of board final and conclusive--judicial review.

86.1460. 1. In any hearing conducted by the retirement board, the board's findings on all issues of fact shall be final and conclusive upon all parties concerned, when such findings are supported by competent and substantial evidence.

2. Any ruling of the retirement board on a question of law and whether the same is supported by substantial evidence shall, at the option of the plaintiff, be reviewed upon application of any party by the circuit court of Cole County, or in the county of the residence of the plaintiff or one of the plaintiffs, or in the county in which the principal office of the retirement system is located.

(L. 2005 H.B. 323)

Board may purchase liability insurance--indemnification, when.

86.1470. 1. The retirement board may purchase with retirement system assets from one or more insurers licensed to do business in this state one or more insurance policies that provide for reimbursement of the retirement system and any trustee, member of the retirement board, officer, or employee of the retirement system for liability imposed or damages because of an alleged act, error, or omission committed in the trustee's, board member's, officer's, or employee's capacity as a fiduciary, officer, or employee of the retirement system and for costs and expenses, including attorney fees, incurred as a trustee, board member, officer, or employee in defense of a claim for an alleged act, error, or omission, as long as the insurance policy does not provide for reimbursement of a trustee, board member, officer, or employee for liability imposed or expenses incurred because of the trustee's, board member's, officer's, or employee's personal dishonesty, fraud, lack of good faith, or intentional failure to act prudently.

2. If the insurance coverage described in subsection 1 of this section is insufficient or is not in effect, the retirement board may indemnify any person who was or is a party or is

threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that the person is or was a member of the retirement board, or is or was serving at the request of the retirement board in the capacity which caused the person's relationship to such action, suit, or proceeding, against expenses, including attorneys' fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit, or proceeding, if the person acted in good faith and without willful malfeasance, and, with respect to any criminal action or proceeding, had reasonable cause to believe the relevant conduct was lawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith, or, with respect to any criminal action or proceeding, that the person did not have reasonable cause to believe that the relevant conduct was lawful.

3. To the extent that a member of the retirement board has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in subsections 1 and 2 of this section, or in defense of any claim, issue, or matter therein, the person shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred in connection with the action, suit, or proceeding that are not covered by the insurance described in subsection 1 of this section.

4. Any indemnification under this section, unless ordered by a court, shall be made by the retirement board only as authorized in each specific case upon a determination that indemnification of any person potentially entitled to indemnification hereunder is proper in the circumstances because the person has met the applicable standard of conduct set forth in this section. The determination shall be made by the retirement board by a majority vote of a quorum consisting of members of the retirement board who are not parties to the action, suit, or proceeding, or if such a quorum is not obtainable, or even if obtainable and a quorum of disinterested members of the retirement board so directs, by independent legal counsel in a written opinion. Such legal counsel may but need not be counsel to the retirement system.

5. Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the retirement board in advance of the final disposition of the action, suit, or proceeding as authorized by the retirement board in the specific case upon receipt of an undertaking by or on behalf of the person potentially entitled to indemnification hereunder to repay such amount unless it shall ultimately be determined that the person is entitled to be indemnified by the retirement board as authorized in this section.

(L. 2005 H.B. 323)

Who shall be members.

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

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

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

(L. 2005 H.B. 323)

Creditable service, inclusions and exclusions.

86.1490. 1. Except as provided in subsection 3 of section 86.1500, creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by such member for which such member received compensation since such member last became a member.

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

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

(L. 2005 H.B. 323, A.L. 2006 H.B. 1138 merged with S.B. 830)

Military service, effect on creditable service--election to purchase creditable service, when--service credit for military service, when.

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

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

such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system. Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is determined by the retirement board to be totally and permanently disabled as provided in section 86.1560.

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

(L. 2005 H.B. 323, A.L. 2006 H.B. 1138 merged with S.B. 830)

Members entitled to prior creditable service, when.

86.1510. Members who terminate membership with three years or more of creditable service and later return to membership may be given credit toward retirement for prior creditable service, subject to the condition that such member deposit in the pension fund a sum equal to the accumulated contributions which had been paid to such member upon

the prior termination. Such repayment of withdrawn contributions shall be accompanied by an additional payment of interest equal to the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions had been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes.

(L. 2005 H.B. 323)

Duration of membership.

86.1520. Each person who becomes a member of the civilian employees' retirement system under the provisions of sections 86.1310 to 86.1640 shall remain a member until the earliest to occur of the following events:

- (1) The termination of service of such person and the payment to such person of all benefits due such person under the provisions of sections 86.1310 to 86.1640; or
- (2) The death of such person.

(L. 2005 H.B. 323)

Normal retirement dates.

86.1530. The normal retirement date of a member shall be the later of the date such member attains the age of sixty-five years, or the tenth anniversary of such member's employment.

(L. 2005 H.B. 323)

Normal pension, amount--early retirement option, when--election for optional benefit for spouse--pension after five years of creditable service--payments, made when--felony conviction, effect of.

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

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

2. Members may elect early retirement as follows:

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

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

(3) At any time after the member's total of age and years of creditable service equals or exceeds eighty, in which event the benefit shall be as computed under subsection 1 of this section without any reduction.

If an election for early retirement results in a reduced benefit under subdivision (1) or (2) of this subsection, such reduced benefit shall become the member's base pension, subject to all other adjustments described in this section.

3. (1) A member who is married at the time of retirement may by a written election, with the written consent of such member's spouse, elect an optional benefit calculated as follows: such optional benefit shall be a monthly pension in the initial amount which shall be actuarially equivalent to the actuarial value of the pension described in subdivision (1) of subsection 1 of this section for such member at the date of retirement (including the value of survivorship rights of a surviving spouse, where applicable, under section 86.1610), upon the basis that the initial annuity for the member's spouse, if such spouse survives the member, shall be the same as the amount being paid the member on such annuity at the member's death, and, subject to cost-of-living adjustments thereafter declared on the spouse's base pension under section 86.1590, shall be paid to such surviving spouse for the lifetime of such spouse without regard to remarriage. If a member who makes an election of an optional benefit under this subsection has also elected an early retirement under either subdivision (1) or (2) of subsection 2 of this section, any reduction in benefit required for such early retirement election shall be calculated before calculating the initial amount of the optional benefit under this subsection.

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

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

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

4. Subject to the provisions of subsection 7 of this section, whenever the service of a member is terminated after August 28, 1999, for any reason prior to death or retirement and the member has five or more years of creditable service, the member may elect not to withdraw such member's accumulated contributions and shall become entitled to receive a pension upon such member's normal retirement date under subdivision (1) of subsection 1 of this section or may elect to receive a pension commencing upon or after any date, prior to his or her normal retirement date, upon which early retirement would have been permitted under subsection 2 of this section if such member had remained a civilian employee of such police department, except that in calculating any qualification under subsection 2 of this section, such member shall not be entitled to count any year of creditable service in excess of such member's total years of creditable service at the time of such member's termination of employment. The amount of any pension commenced upon the basis of a date permitted under subsection 2 of this section shall be computed on the basis of the member's final compensation and number of years of creditable service, subject to such adjustments as may be applicable under the subdivision of subsection 2 of this section upon which such member relies in electing the commencement of such member's pension and subject to any other adjustments that such member may elect under this section. The amount of the initial pension calculated after all applicable adjustments shall be the base pension for such member, and for such member's spouse if such member shall elect the optional benefit permitted under subsection 3 of this section, for all purposes of sections 86.1310 to 86.1640.

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

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

7. Notwithstanding any other provisions of sections 86.1310 to 86.1640, any member who is convicted of a felony prior to separation from active service shall not be entitled to

any benefit from this retirement system except the return of such member's accumulated contributions.

(L. 2005 H.B. 323)

Termination of employment prior to five years of creditable service, lump-sum payment.

86.1550. Whenever a member's service is terminated for any reason prior to death or retirement and such member has less than five years of creditable service, or a member's service is terminated after conviction of a felony, or a member's service is terminated for any reason and such member requests the withdrawal of all such member's accumulated contributions to the retirement system, such member shall be paid the amount of such member's accumulated contributions in one lump sum and such payment shall be in lieu of any and all other benefits to which such member or any beneficiary or survivor thereof might otherwise be or become entitled under sections 86.1310 to 86.1640.

(L. 2005 H.B. 323)

Disability retirement pension, amount--definitions--board to determine disability, proof may be required.

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

- (1) Duty disability, fifty percent of final compensation as of the date of disability;
- (2) Nonduty disability, thirty percent of final compensation as of the date of disability, provided that a nonduty disability pension shall not be available to any member with less than ten years creditable service;
- (3) In no event shall the disability pension be less than the amount to which the member would be entitled as a pension if the member retired on the same date with equivalent age and creditable service.

2. The final payment due a member receiving a disability pension shall be the payment due on the first day of the month in which such member's death occurs. Such member's surviving spouse, if any, shall be entitled to such benefits as may be provided under section 86.1610.

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

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

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

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

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

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

(L. 2005 H.B. 323, A.L. 2008 S.B.980)

Offset to workers' compensation payments--member's percentage defined.

86.1570. 1. Any periodic payment, excluding payments for medical treatment, which may be paid or payable by cities under the provisions of any workers' compensation or similar law to a member or to the dependents of a member on account of any disability or death shall be offset against any benefits payable to the recipient of the workers' compensation payments from funds provided by cities under the provisions of sections 86.1310 to 86.1640 on account of the same disability or death. However, in no event shall the amount paid from funds under the provisions of sections 86.1310 to 86.1640 be less than the amount which represents the member's percentage, as defined in this section, of total benefits payable under sections 86.1310 to 86.1640, before any offset for workers' compensation benefits.

2. Any lump sum amount, excluding payments for medical treatments, which may be paid or payable by cities under the provisions of any workers' compensation or similar law to a member or to the dependents of a member on account of any disability or death shall be offset against any benefits payable from funds provided by cities under the provisions of sections 86.1310 to 86.1640 on account of the same disability or death. The amounts by which each periodic payment made under the provisions of sections 86.1310 to 86.1640 is offset or reduced shall be computed as the periodic amount necessary to amortize as an annuity over the period of time represented by the respective workers' compensation benefits the total amount of the lump sum settlement received as a workers' compensation benefit by a beneficiary of the retirement system. Such computation shall be based upon the same interest rate and mortality assumptions as used for the retirement system at the time of such computation. However, in no event shall the amount paid from funds under the provisions of sections 86.1310 to 86.1640 be less than the amount which represents the member's percentage, as defined in this section, of total benefits payable under sections 86.1310 to 86.1640, before any offset for workers' compensation benefits.

3. As used in this section, the term "member's percentage" shall be the fraction of which the numerator is the percentage of compensation contributed by a working member to the retirement pension system under section 86.1400 during the pay period immediately preceding such member's death or disability which created entitlement to benefits and the denominator is the sum of percentages of a member's compensation contributed by a working member under section 86.1400 and the city under section 86.1390 to the retirement pension system during such pay period. Such percentage shall identify the portion of any benefits due under the provisions of sections 86.1310 to 86.1640 which is deemed to have been provided by the member's own contributions.

(L. 2005 H.B. 323)

Optional distribution under partial lump-sum option plan, when--death before retirement, effect of.

86.1580. 1. Any member in active service entitled to commence a pension under section 86.1540 may elect an optional distribution under the partial lump sum option plan provided in this section if the member:

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

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

Following receipt of an initial notice of a member's retirement date and request for an explanation, the retirement system shall, at least sixty days in advance of such retirement date, provide the member a written explanation of such member's rights under this section and an estimate of the amount by which the member's regular monthly base

pension would be reduced in the event of the member's election of any of the options available to the member under this section.

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

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

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

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

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

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

(3) If a member electing a lump sum distribution under this section has elected the optional benefit permitted under subsection 3 of section 86.1540, the calculation of the member's pension shall be made in the following order:

(a) The amount of the member's normal pension under subdivision (1) of subsection 1 of section 86.1540 shall be reduced if applicable by any reductions required under subsection 2 of section 86.1540;

(b) The amount of the pension as determined under paragraph (a) of this subdivision shall be reduced to the actuarially equivalent amount to produce the optional form of benefit described in subdivision (1) of subsection 3 of section 86.1540;

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

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

(L. 2005 H.B. 323)

Cost-of-living adjustments--base pension defined.

86.1590. 1. Provided that the retirement system shall remain actuarially sound, each of the following persons may receive each year, in addition to such person's base pension, a cost-of-living adjustment in an amount not to exceed three percent of such person's base pension during any one year:

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

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

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

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

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

(2) For a surviving spouse whose pension is prescribed by section 86.1610, the base pension calculated for such spouse in accordance with the provisions of section 86.1610, including any compensation as a consultant to which such surviving spouse is entitled under said section in lieu of a pension, but not including any supplemental benefit under section 86.1600;

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

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

5. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment is granted. If at any time the retirement system ceases to be actuarially sound, pension payments shall continue as adjusted by increases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

(L. 2005 H.B. 323)

Supplemental retirement benefit, amount, cost-of-living adjustments--special consultant, compensation--cost-of-living adjustments, rulemaking authority--member defined.

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

may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

2. Any member who was retired on or before August 28, 1997, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.1310 to 86.1640, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.1310 to 86.1640, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

3. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any supplemental retirement benefit or any supplemental compensation under this section for any member.

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

5. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, supplemental retirement benefit payments under subsection 1 of this section and supplemental compensation payments as a consultant under subsection 2 of this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

(L. 2005 H.B. 323, A.L. 2007 S.B. 172 merged with S.B. 406)

Death of member in service, benefit to be received--death of member after retirement, benefit to be received--surviving spouse benefits--payments to designated beneficiaries, when.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(L. 2005 H.B. 323)

Funeral benefits, amount--lump-sum payment to surviving spouse, when.

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

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

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

(L. 2005 H.B. 323)

Tax-exempt status of plan to be maintained--assets of system to be held in trust--member benefits vested, when--distribution of benefits.

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

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

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

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

(1) The attaining of the age of sixty-five or the member's tenth anniversary of employment, whichever is later;

(2) When the total sum of age and years of service equals or exceeds eighty; or

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

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

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

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

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

8. If the amount of any benefit is determined on the basis of actuarial assumptions that are not specifically set forth for that purpose in sections 86.1310 to 86.1640, the actuarial assumptions to be used are those earnings and mortality assumptions used on the date of the determination by the retirement system's actuary and approved by the retirement board. The actuarial assumptions used at any particular time shall be attached as an addendum to a copy of the retirement system's statute maintained by the retirement board and shall be treated for all purposes as part of sections 86.1310 to 86.1640. The actuarial

assumptions may be changed by the retirement system's actuary annually if approved by the retirement board, but a change in actuarial assumptions shall not result in any decrease in benefits accrued as of the effective date of the change.

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

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

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

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

(L. 2005 H.B. 323)

Incentives for early retirement, board to administer and pay.

86.1640. If a city and the police department of such city adopt any program of incentives to authorize or encourage early retirements, whether for employees not yet eligible for regular retirement or for employees who are eligible but have not yet chosen to retire or for both, the retirement board shall be authorized to administer and pay such incentives for retirees who accept such incentives and are members of the retirement system under sections 86.1310 to 86.1640, in addition to such other benefits as such members or their beneficiaries are entitled to receive under sections 86.1310 to 86.1640, provided such city shall so request and shall agree to increase said city's contribution under section 86.1390 sufficiently to provide the full actuarial cost of any such incentives in addition to the

contribution required of such city necessary, in conjunction with members' contributions under section 86.1400, to provide all other benefits provided under sections 86.1310 to 86.1640.

(L. 2005 H.B. 323)