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Police Retirement System of Kansas City, Missouri 2009 Statutes

Definitions.

86.900. The following words and phrases as used in sections 86.900 to 86.1280 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 86.900 to 86.1280;

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

(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 86.910 to continue a police retirement system maintained under sections 86.900 to 86.1280;

(5) "Compensation", the basic wage or salary paid a member for any period on the basis of the member's rank and position, 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, 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 86.900 to 86.1280 by meeting the requirements specified in said sections or section 105.691, RSMo;

(8) "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. In computing the average annual compensation of a member, no compensation for service after the thirtieth full year of membership service shall be included. 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;

- (9) "Fiscal year", for the retirement system, the fiscal year of the cities;
- (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 police retirement system as described in section 86.1090;
- (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 86.900 to 86.1280 and by the members of the police retirement system;
- (15) "Police officer", an officer or member of the police department of the cities employed for compensation by the boards of police commissioners of the cities for police duty who holds a rank or position for which an annual salary range is provided in section 84.480 or 84.510, RSMo; in case of dispute as to whether any person is a police officer qualified for membership in the retirement system, the decision of the board of police commissioners shall be final;
- (16) "Retirement board" or "board", the board provided in section 86.920 to administer the retirement system;
- (17) "Retirement system", the police retirement system of the cities as defined in section 86.910;
- (18) "Surviving spouse", when determining whether a person is entitled to benefits under sections 86.900 to 86.1280 by reason of surviving a member, shall include only:
- (a) A person who was married to a member at the time of the member's death in the line of duty or from an occupational disease arising out of and in the course of the member's employment and who had not, after the member's death and prior to August 28, 2000, remarried;
- (b) With respect to a member who retired or died prior to August 28, 1997, a spouse who survives such member, whose marriage to such member occurred at least two years before the member's retirement or at least two years before the member's death while in service, and who had not remarried anyone other than the member prior to August 28, 2000;
- (c) With respect to a member who retired or died while in service after August 28, 1997, and before August 28, 2000, a spouse who survives such member, was married to such member at the time of such member's retirement or of such member's death while in service, and had not, after the member's death and prior to August 28, 2000, remarried; and

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

(L. 2005 H.B. 323)

Police retirement system created--election to continue system after decline in population.

86.910. 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 police officers of such cities. Any city which has established a police retirement system under the provisions of sections 86.370 to 86.497 or sections 86.900 to 86.1280 may elect to continue its police retirement system under the provisions of sections 86.900 to 86.1280 even though the city may cease to have the population described in this section, and any city so electing to continue its established police retirement system shall be excused from creating or maintaining any other police 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 "Police Retirement System 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 the effective date of sections 86.370 to 86.497.

(L. 2005 H.B. 323)

Retirement board established, responsibility for operation of retirement system.

86.920. The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of sections 86.900 to 86.1280 are hereby vested in a retirement board of nine persons.

(L. 2005 H.B. 323)

Membership of the board--election procedures--vacancies--oath.

86.930. 1. The retirement board shall be constituted as follows:

(1) Two members, one of whom shall be of the political party casting the highest number of votes statewide for governor in the election next preceding such member's selection and the other of whom shall be of the political party casting the next highest number of votes statewide for governor at the election next preceding such member's selection, shall be selected by the board of police commissioners of such cities to serve one- and two-year terms respectively. All such subsequent members shall serve for terms of two years each or to fill an unexpired term;

(2) Two members, one of whom shall be of the political party casting the highest number of votes statewide for governor in the election next preceding such member's selection and the other of whom shall be of the political party casting the next highest number of votes statewide for governor at the election next preceding such member's selection, shall be selected by the city council of such city, one of whom may be the director of finance of such city to act as ex officio member, and the other to serve for a term of two years; and

(3) Five members shall be elected for three-year terms respectively or to fill an unexpired term in annual elections in which each member of the police retirement system, each person receiving benefits as a surviving spouse of a member of the police retirement system, and, if such city has established a civilian employees' retirement system of the police department of such city pursuant to the provisions of sections 86.1310 to 86.1640, each member of such civilian employees' retirement system and each person receiving benefits as a surviving spouse of a member of such civilian employees' retirement system shall be entitled to one vote.

2. Commencing with the first annual election for members of the retirement board in 2004, the five elected members of the board shall be designated and elected as follows:

(1) If a city has established a civilian employees' retirement system of the police department of such city under the provisions of sections 86.1310 to 86.1640, the elected members of the retirement board of such city shall consist of three restricted members and two open members:

(a) One restricted member shall be a member of the police retirement system who has retired from active service with the police department as of the date of such member's election to the board;

(b) One restricted member shall be a member of the police retirement system who, as of the date of such member's election to the board, is in active service as a police officer and has not attained the rank of sergeant or higher; and

(c) One restricted member shall be a member of the civilian employees' retirement system of the police department of such city.

There shall be no required qualifications for open members. At the annual election in 2004 and each third year thereafter, one open member shall be elected to a three-year term. At the annual election in 2005 and each third year thereafter, one open member shall be elected to a three-year term. At the annual election in 2006 and each third year thereafter, the three restricted members shall be elected to a three-year term. Such elections shall be conducted simultaneously but as elections for three separate offices, in which only persons qualified for a respective office may be a candidate for such office;

(2) If a city has not established a civilian employees' retirement system of the police department of such city under the provisions of sections 86.1310 to 86.1640, the elected members of the retirement board of such city shall consist of two restricted members and three open members. All provisions of subdivision (1) of this subsection shall apply, except that the restricted

membership provided for a member of a civilian employees' retirement system shall be an open membership;

(3) In every election in which more than one position is to be filled, either for a three-year term or for the unexpired portion of the term of a position which has become vacant, every candidate in such election must declare the position to which such candidate desires to be elected; and no person may be a candidate for more than one such position in any given election;

(4) Any person elected to a restricted position on the retirement board who at the time of such election meets the qualifications for such position shall be deemed to continue to meet such qualifications throughout the term to which such person was elected, regardless of any change in the rank, classification or other employment status of such person.

3. If a vacancy occurs in the office of a member of the retirement board the vacancy shall be filled for the unexpired term in the same manner as the vacated office was previously filled.

4. 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 the board, and will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the police retirement system. Such oath shall be signed by the member and filed with the clerk of such city.

(L. 2005 H.B. 323)

Voting rights of board members.

86.940. 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)

Board to establish policies--officers and employees.

86.950. 1. Subject to the limitations of sections 86.900 to 86.1280, 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.

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. The retirement board 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)

Board deemed a state agency--rulemaking authority.

86.951. 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 sections 86.900 to 86.1280 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.

(L. 2005 H.B. 323)

Data and records--annual report--actuarial study--appointment of a medical board--common seal.

86.960. 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)

Compensation of board members.

86.970. The members of the retirement board shall be compensated in full for all services rendered under the provisions of sections 86.900 to 86.1280 at the rate of ten dollars per business session actually attended but no member shall be so compensated in an amount exceeding one hundred fifty dollars in any fiscal year regardless of the amount of services rendered or the number of business sessions actually attended. The members of the board shall be reimbursed from the funds of the police retirement system for all necessary expenses which they may incur on such board, in addition to their compensation for services.

(L. 2005 H.B. 323)

Board members in active police service, leave to attend educational seminars.

86.980. Each member of the retirement board who is in active service with the police department of a city as either a police officer, as defined in section 86.900, or as an employee, as defined in section 86.1310, shall be granted authorized leave with pay by such police department to attend any and all educational seminars and like functions that have been authorized by the retirement board, including travel time to and from such functions, not to exceed ten days in any calendar year. Leave granted under this section shall not reduce vacation or other authorized leave time to which such member may be entitled without reference to this section.

(L. 2005 H.B. 323)

Board to certify amount to be paid by city, when.

86.990. 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 under the retirement pension system for the succeeding fiscal year, as otherwise provided by sections 86.900 to 86.1280.

(L. 2005 H.B. 323)

Contributions to pension fund by city--board to certify to board of police commissioners amount required.

86.1000. 1. The city shall contribute to the pension fund quarter- annually or at such lesser intervals as may be agreed upon by the city and the retirement board. Such contribution shall be in addition to and separate from the appropriations made by the city for the operation of the police department. For each fiscal year of the operation of the pension system, the city's

contribution to the pension fund shall be a percentage of the compensation paid to members of the pension system from which a member's deduction has been made under section 86.1010. The city's contribution shall be such percentage as shall be agreed upon by the board of police commissioners and the city, but in no event shall such contribution be less than twelve percent.

2. On or before the tenth day of January of each year the retirement board shall certify to the board of police commissioners the amount of money that will likely be required to comply with the provisions of this section during the next succeeding fiscal year including administration expenses. The amounts so certified shall be included by the board of police commissioners in their annual budget estimate, and shall be appropriated by the cities and transferred to the pension fund during the ensuing fiscal year.

(L. 2005 H.B. 323)

Members' retirement contributions, amount, how determined.

86.1010. 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 six 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 every 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 act as trustee of certain funds--powers of the board.

86.1020. 1. The retirement board shall act as trustee of the funds created by or collected under the provisions of sections 86.900 to 86.1280. 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 86.900 to 86.1280. 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 the 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 retirement system funds.

86.1030. 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--tax-exempt status of funds.

86.1040. 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 86.900 to 86.1280 and the moneys in the various funds created under sections 86.900 to 86.1280 shall not be subject to execution, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as specifically provided in sections 86.900 to 86.1280, 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 86.900 to 86.1280. The moneys in the various funds created under sections 86.900 to 86.1280 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 retirement system laws--correction of errors.

86.1050. Nothing contained in sections 86.900 to 86.1280 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.

86.1060. 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 the board--review.

86.1070. 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)

Purchase of insurance policies permitted--indemnification--expenses of court proceedings may be paid, when.

86.1080. 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)

Membership of persons entering or reentering the force after effective date of retirement system.

86.1090. 1. All persons who enter or reenter the service of the such cities as police officers for compensation after the date this police retirement system becomes effective shall become members thereof as a condition of their employment.

2. Members of the police retirement system shall receive no retirement or pension allowance from any other retirement or pension system supported wholly or in part by such cities or the state of Missouri, nor shall they be required to make contributions under any other retirement or pension system of such cities or the state.

3. Nothing in sections 86.900 to 86.1280 shall be construed to prevent the inauguration of the federal Social Security laws for police officers, nor to prevent the contribution to such Social Security administration or fund established by the federal government, nor by it the pensioning of such police officers. In the event that federal Social Security benefits are made available to police officers covered by sections 86.900 to 86.1280, then any benefits payable to any member or the dependents of such member under sections 86.900 to 86.1280 shall be in addition to the amount of such Social Security benefits, and any contributions required by a member under this

section shall be in addition to the amount of such member's contribution under such Social Security system.

(L. 2005 H.B. 323)

Creditable service, board to fix and determine by rule.

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

2. Creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by such member since such member last became a member.

3. 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 86.900 to 86.1280.

4. 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 86.1010 or from the city under section 86.1000 for such time.

5. Any member who has completed thirty years of creditable service may continue in service by permission of the board of police commissioners. Contributions shall not be required of, and no service shall be credited to, any member for more than thirty years of service.

(L. 2005 H.B. 323)

Military leave of absence, effect of--service credit for military service, when.

86.1110. 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 retired by the board of police commissioners for reason of disability as provided in sections 86.900 to 86.1280.

3. Notwithstanding any other provision of sections 86.900 to 86.1280, 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 86.900 to 86.1280 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)

Termination of members after five or more years of service, credit towards retirement.

86.1120. Members who terminate membership with five 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)

Membership, terminated when.

86.1130. Each person who becomes a member of the police retirement system under the provisions of sections 86.900 to 86.1280 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 86.900 to 86.1280; or
- (2) The death of such person.

(L. 2005 H.B. 323)

Leave of absence not to act as termination of membership--creditable service permitted, when.

86.1140. 1. Should any member be granted leave of absence by the board of police commissioners, such member shall not, because of such absence, cease to be a member.

2. If a member is on leave of absence by authority of the board of police commissioners for thirty consecutive days or less, such member shall receive creditable service for such time.

3. Except as provided in subsection 3 of section 86.1110, if a member is on leave of absence for more than thirty consecutive days without compensation, such member shall not receive service credits for such time unless such member shall, within one year after returning from such absence, pay into the retirement system an amount equal to the member's contribution percentage at the time such absence began times an assumed salary figure for the period of such absence, computed by assuming that such member received a salary during such absence at the rate of the base annual salary the member was receiving immediately prior to such absence.

(L. 2005 H.B. 323)

Retirement age--base pension amount.

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

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

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

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

3. Except as provided in section 86.1100 or in subsection 2 of this section, any member in service who shall have attained sixty years of age and at that time shall have completed at least ten but less than thirty years of creditable service shall retire and shall receive a base pension equal to:

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

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

4. Subject to the provisions of subsection 5 of this section, whenever the service of a member is terminated for any reason prior to death or retirement and the member has fifteen or more years of creditable service, the member may elect not to withdraw such member's accumulated contributions and shall become entitled to a base pension beginning at the age of fifty-five, if then living, equal to:

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

(2) For a member whose service so terminates on or after August 28, 2001, two and one-half percent of such member's final compensation multiplied by the number of years of such member's creditable service.

5. Notwithstanding any other provisions of sections 86.900 to 86.1280, 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 membership prior to death or retirement, effect of.

86.1160. Whenever a member's service is terminated for any reason prior to death or retirement and such member has less than fifteen 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, without interest, 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 86.900 to 86.1280.

(L. 2005 H.B. 323)

Pension benefit after twenty-five years of service or injury in line of duty, when--retirees appointed as consultants to board, when.

86.1170. 1. Any member who retires after August 28, 2000, who is entitled to a pension benefit under the provisions of sections 86.900 to 86.1280 and who either has at least twenty-five years of creditable service or is retired as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, shall receive a pension benefit which, without including any supplemental retirement benefits paid such member by the retirement system, shall be six hundred dollars monthly. Any member who retired on or before August 28, 2000, who is entitled to a pension benefit under the provisions of sections 86.900 to 86.1280 and who either had at least twenty-five years of creditable service or was retired as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, shall upon application to the retirement board be appointed by the retirement board as a consultant and shall, beginning the later of August 28, 2000, or the time of such appointment under this subsection or a previously applicable statute, be compensated in an amount which, without including any supplemental retirement benefits provided by this system, shall be not less than six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of such member's base pension as increased by cost-of-living adjustments granted under section 86.1220.

The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the member's base pension and cost-of-living adjustments at such time as the total base pension and such adjustments exceed six hundred dollars monthly.

2. Any member who retired on or before August 28, 2009, who is entitled to a pension benefit under the provisions of sections 86.900 to 86.1280 and was retired under section 86.1200 shall, upon application to the retirement board, be appointed by the retirement board as a consultant and shall, beginning August 28, 2009, or the time of such appointment under this subsection, whichever is later, be compensated in an amount which, without including any supplemental retirement benefits provided by sections 86.900 to 86.1280, shall be six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of such member's base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the member's base pension and cost-of-living adjustments at such time as the total base pension and adjustments exceed six hundred dollars monthly.

(L. 2005 H.B. 323, A.L. 2009 H.B. 397 & H.B. 947)

Permanent disability caused by performance of duty, retirement by board of police commissioners permitted--base pension amount--certification of disability.

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

2. Upon such retirement on or after August 28, 2001, a member shall receive a base pension equal to seventy-five percent of his or her final compensation for so long as the permanent disability shall continue, during which time such member shall for purposes of this section be referred to as a disability beneficiary. Such pension may be subject to offset or reduction under section 86.1190 by amounts paid or payable under any workers' compensation law.

3. Once each year during the first five years following his or her retirement, and at least once in every three-year period thereafter, the retirement board may, and upon the member's application shall, require any disability beneficiary who has not yet attained the age of sixty years to undergo a medical examination at a place designated by the medical board or some member thereof. If any disability beneficiary who has not attained the age of sixty years refuses to submit to a medical examination his or her disability pension may be discontinued until his or her

withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to such pension may be revoked by the retirement board.

4. If one or more members of the medical board certify to the retirement board that a disability beneficiary is able to perform the full and unrestricted duties of a police officer, and if the retirement board concurs on the report, then such beneficiary's disability pension shall cease.

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

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

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

Workers' compensation benefit payments, offset against retirement benefits, exceptions--member's percentage defined.

86.1190. 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 86.900 to 86.1280 on account of the same disability or death; except that, amounts payable under subsection 1 of section 86.1250 and section 86.1260 shall not be offset or reduced by any amount paid or payable under any workers' compensation or similar law. However, in no event shall the amount paid from funds under the provisions of sections 86.900 to 86.1280 be less than the amount which represents the member's percentage, as defined in this section, of total benefits payable under sections 86.900 to 86.1280, other than under subsection 1 of section 86.1250 and section 86.1260 and before any offset for workers' compensation benefits.

2. Any lump sum amount, excluding payments for medical treatments, which may be paid or payable by the 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 86.900 to 86.1280 on account of the same disability or death; except that, amounts payable under subsection 1 of section 86.1250 and section 86.1260 shall not be offset or reduced by any

amounts paid or payable under any workers' compensation or similar law. The amount by which each periodic payment made under the provisions of sections 86.900 to 86.1280 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 86.900 to 86.1280 be less than the amount which represents the member's percentage, as defined in this section, of total benefits payable under sections 86.900 to 86.1280, other than under subsection 1 of section 86.1250 and section 86.1260 and 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 86.1010 during the pay period immediately preceding such member's death or disability which created entitlement to benefits and the denominator is the sum of the percentages of a member's compensation contributed by a working member under section 86.1010 and the city under section 86.1000 to the retirement pension system during such pay period. Such percentage shall identify the portion of any benefits due under the provisions of sections 86.900 to 86.1280 which is deemed to have been provided by the member's own contributions.

(L. 2005 H.B. 323)

Permanent disability not caused by performance of duty, ten years of creditable service, retirement permitted--base pension amount--certification of disability.

86.1200. 1. Any member in active service who has completed ten or more years of creditable service and who has become permanently unable to perform the full and unrestricted duties of a police officer as the result of an injury or illness not exclusively caused or induced by the actual performance of his or her official duties or by his or her own negligence shall be retired by the board of police commissioners upon certification by one or more physicians of the medical board of the retirement board that the member is mentally or physically unable to perform the full and unrestricted duties of a police officer, that the inability is permanent or likely to become permanent, and that the member should be retired. The inability to perform the full and unrestricted duties of a police officer means that the member is unable to perform all the essential job functions for the position of police officer as established by the board of police commissioners.

2. Upon such retirement on or after August 28, 2001, a member shall receive a base pension equal to two and one-half percent of final compensation multiplied by the number of years of creditable service. Such pension shall be paid for so long as the permanent disability shall continue, during which time such member shall for purposes of this section be referred to as a nonduty disability beneficiary.

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

4. If one or more members of the medical board certify to the retirement board that a nonduty disability beneficiary is able to perform the full and unrestricted duties of a police officer, and if the retirement board concurs in the report, then such beneficiary's nonduty disability pension shall cease.

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

Retirement after twenty-six years--partial lump sum option plan distribution authorized.

86.1210. 1. Any member entitled to commence a pension under section 86.1150 with twenty-six years or more of creditable service 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 member's retirement date.

Following receipt of an initial notice of a member's retirement date and request for an explanation under this section, the retirement system shall, at least sixty days in advance of such retirement date, provide the member a written explanation of the 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 86.1150, 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 twenty-six or more years of creditable service 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 twenty-seven or more years of creditable service 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 twenty-eight or more years of creditable service 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.

(2) When a member makes an election to receive a lump sum distribution under this section, the base pension which the member would have received in the absence of the 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 86.900 to 86.1280.

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, and in such 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 in addition to base pension.

86.1220. 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 the retirement system;

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

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

2. Upon the death of a member who has been retired and receiving a pension and who dies after September 28, 1987, the surviving spouse of such member entitled to receive a base pension under section 86.1240 or children of such member entitled to receive a base pension under subsection 2 of section 86.1250 shall receive an immediate percentage cost-of-living adjustment to their respective base pension equal to the total percentage cost-of-living adjustments received during such member's lifetime under this section, except that the adjustment provided by this subsection shall not be made to a base pension calculated under either subdivision (1) or paragraph (b) of subdivision (2) of subsection 2 of section 86.1240, either for a surviving spouse or for a child or children entitled to a base pension measured by the pension to which a qualified

surviving spouse would be entitled, wherein such base pension is determined by a percentage of the amount being received by the deceased member at death.

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 election made under section 86.1210, but in all events not including any supplemental benefit under section 86.1230;

(2) For a surviving spouse, the base pension calculated for such spouse in accordance with the provisions of section 86.1240, including any compensation as a consultant to which such surviving spouse is entitled under said section in lieu of a pension thereunder, but not including any supplemental benefit under section 86.1230; and

(3) For a member's surviving child who is entitled to receive part or all of the pension which would be received by the surviving spouse, if living, the base pension calculated for such surviving spouse in accordance with the provisions of section 86.1240, including any compensation as a consultant to which such spouse would be entitled under said section, if living, divided by the number of surviving children entitled to share in such pension under subsection 2 of section 86.1250.

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 or applicable children 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.

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

(L. 2005 H.B. 323)

Supplemental retirement benefits, amount--member to be special consultant, compensation.

86.1230. 1. Any member who retires subsequent to August 28, 1991, with entitlement to a pension under sections 86.900 to 86.1280, shall receive each month, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, 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, 1991, 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 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, 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 86.900 to 86.1280, 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. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse entitled to a benefit under sections 86.900 to 86.1280 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 if the surviving spouse of any member who retired prior to August 28, 2000, shall not have remarried prior to August 28, 2000, but remarries thereafter, such surviving spouse shall thereafter receive benefits under subsection 2 of this section, and provided further, that no benefits shall be payable under this section to the surviving spouse of any member who retired prior to August 28, 2000, if such surviving spouse was at any time remarried after the member's death and prior to August 28, 2000. 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 86.900 to 86.1280. Any such 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. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension which would be received by a surviving spouse if living.

4. Any member who is receiving benefits from the retirement system and who either was retired under the provisions of subdivision (1) of subsection 1 of section 86.1150, or who retired before

August 28, 2001, under the provisions of section 86.1180 or section 86.1200, shall, upon application to the retirement board, be retained as a consultant. 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 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, an equalizing supplemental compensation of ten 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 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the member's base pension. Each cost-of-living adjustment to compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. For the purposes of this subsection, the term "member" shall include a surviving spouse entitled to benefits under the provisions of sections 86.900 to 86.1280, and who is the surviving spouse of a member who qualified, or would have qualified if living, for compensation under this subsection. Such surviving spouse shall, upon application to the retirement board, be retained as a consultant, and for such services shall be compensated in an amount equal to the compensation which would have been received by the member under this subsection, if living. Any such surviving spouse of a member who dies while entitled to payments under this subsection shall succeed to the full amount of payment under this subsection 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 subsection prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

5. A surviving spouse who is entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death prior to August 28, 2007, of a member in service, and who is receiving benefits from the retirement system, shall, upon application to the retirement board, be retained as a consultant, and for such services such surviving spouse shall receive each month an equalizing supplemental compensation of ten dollars per month. A surviving spouse entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death of a member in service on or after August 28, 2007, shall receive each month an equalizing supplemental benefit of ten dollars per month. All benefits payable to a surviving spouse under this subsection shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280 and shall in no way have the effect of reducing benefits otherwise payable to such surviving spouse. The amount of equalizing supplemental benefit or equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental benefit or compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the base pension of the surviving spouse. Each cost-of-living adjustment to an equalizing supplemental benefit or compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to

86.1280. In all events the term "surviving spouse" as used in this subsection shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

6. 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 benefit or compensation under this section for any member.

7. 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, any benefit or compensation payments provided under 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. 406;A.L. 2008 S.B. 980)

Pensions of spouses of deceased members--surviving spouse to be appointed as consultant to board, when.

86.1240. 1. Upon receipt of the proper proofs of death of a member in service for any reason whatsoever, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection 7 of this section, a base pension equal to forty percent of the final compensation of such member, subject to adjustments, if any, as provided in section 86.1220.

2. (1) Upon receipt of the proper proofs of death of a member who was retired or terminated service after August 28, 1999, and died after commencement of benefits to such member from this retirement system, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection 7 of this section, a base pension equal to eighty percent of the pension being received by such member, including cost-of-living adjustments to such pension but excluding supplemental retirement benefits, at the time of such member's death, subject to subsequent adjustments, if any, as provided in section 86.1220. The pension provided by this subdivision shall terminate upon remarriage by the surviving spouse prior to August 28, 2000.

(2) (a) Upon receipt of the proper proof of death of a member who retired or terminated service on or before August 28, 1999, and who died after August 28, 1999, and after commencement of benefits to such member from this retirement system, such member's surviving spouse, if any,

shall be entitled to a base pension equal to forty percent of the final compensation of such member.

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

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

3. In the case of any member who, prior to August 28, 2000, 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 who has not remarried prior to August 28, 2000, 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 86.900 to 86.1280 in the absence of such remarriage.

4. For purposes of this section, commencement of benefits shall begin, for any benefit, at such time as all requirements of sections 86.900 to 86.1280 have been met entitling the member to a payment of such benefit at the next following payment date with the amount thereof established, regardless of whether the member has received the initial payment of such benefit.

5. Upon the death of any member who is in service after August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, the surviving spouse's benefit provided under this section, without including any supplemental retirement benefits paid such surviving spouse by this retirement system, shall be six hundred dollars per month. For any member who died, retired or terminated service on or before August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, the surviving spouse shall upon application to the retirement board be appointed by the retirement board as a consultant. For services as such consultant, the surviving spouse shall, beginning the later of August 28, 2000, or the time the appointment is made under this subsection, be compensated in an amount which without including supplemental retirement benefits provided by this system shall be six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly.

6. A surviving spouse who is entitled to benefits under the provisions of subsection 1 of this section as a result of the death on or before August 28, 2009, of a member in service who is receiving benefits under sections 86.900 to 86.1280 and who does not qualify under the provisions of subsection 5 of this section shall, upon application to the retirement board, be

appointed as a consultant, and for such services such surviving spouse shall be compensated in an amount which, without including any supplemental retirement benefits provided by sections 86.900 to 86.1280, shall be six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such surviving spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly. As used in this subsection, "surviving spouse" shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

7. Any beneficiary of benefits under sections 86.900 to 86.1280 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.

(L. 2005 H.B. 323, A.L. 2009 H.B. 397 & H.B. 947)

Effective 7-09-09

Pensions of children of deceased members.

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

(2) Any child eighteen years of age or older, who is physically or mentally incapacitated from wage earning, so long as such incapacity exists as certified by a member of the medical board, shall be entitled to the same benefits as a child under the age of eighteen. For purposes of this section, a determination of whether a child of a member is physically or mentally incapacitated from wage earning so that the child is entitled to benefits under this section shall be made at the time of the member's death. If a child becomes incapacitated after the member's death, or if a child's incapacity existing at the member's death is removed and such child later becomes incapacitated again, such child shall not be entitled to benefits as an incapacitated child under the provisions of this section. A child shall be deemed incapacitated only for so long as the incapacity existing at the time of the member's death continues.

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

2. Upon or after the death of a member in service or after retirement and commencement of benefits, if there is no surviving spouse or if a surviving spouse dies, the total amount, including any amounts receivable as consulting compensation, but not including any supplemental benefits under section 86.1230, which would be received by a qualified surviving spouse or which is being received by the surviving spouse at the date of death of such surviving spouse shall be added to the amounts received by and shall be divided among the children of such member under the age of eighteen years and the incapacitated children in equal shares. As each such child attains the age of eighteen years or has such incapacity removed, such total amount shall then be divided among the remaining such children, until there is no remaining child of such member under the age of eighteen years or incapacitated, at which time all benefits for children of such member under this subsection shall cease.

3. Upon the death of a member in service or after retirement and commencement of benefits, a funeral benefit of one thousand dollars shall be paid to the person or entity who provided or paid for the funeral services for such member.

4. If no benefits are otherwise payable to a surviving spouse or child 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 or child 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.

5. For purposes of this section, commencement of benefits shall begin, for any benefit, at such time as all requirements of sections 86.900 to 86.1280 have been met entitling the member to a payment of such benefit at the next following payment date with the amount established, regardless of whether the member has received the initial payment of such benefit.

(L. 2005 H.B. 323)

Pensions of spouse and children of member who died in performance of duty.

86.1260. 1. Upon the receipt of the proper proof that the death of a member in service was the natural and proximate result of an event occurring within the performance of duty or of an occupational disease arising out of and in the course of such member's employment, there shall be paid to the surviving spouse, or if there be no surviving spouse, then to the child or children of such member under the age of twenty-one years and those, if any, over the age of twenty-one years if mentally or physically incapacitated from wage earning, in equal shares or divided between or among them as the retirement board in its sole discretion shall direct, the sum of fifty thousand dollars.

2. If a member dies in such manner that a surviving spouse or child would be entitled to benefits under this section but there is no surviving spouse or child eligible to receive payments under this section, no payments under this section shall be paid.

3. Notwithstanding any other law to the contrary, amounts payable under this section shall not be subject to offset or reduction by amounts paid or payable under any workers' compensation or similar law.

(L. 2005 H.B. 323)

Retirement plan deemed qualified plan under federal law--board to administer plan as a qualified plan--vesting of benefits --distributions--definitions.

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

2. The retirement board shall administer the retirement system in a 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 86.900 to 86.1280.

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) Completion of twenty-five years of service;

(2) Age sixty if the member has completed at least ten years of creditable service;

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

(4) To the extent funded, upon the termination of the system established under sections 86.900 to 86.1280 or any partial termination which affects the members 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 86.900 to 86.1280 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 those limits 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 shall be 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 shall 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 to be determined on the basis of actuarial assumptions that are not otherwise specifically set forth for that purpose in sections 86.900 to 86.1280, the actuarial assumptions to be used are those earnings and mortality assumptions being used on the date of the determination by the retirement system's actuary and approved by the retirement board. The actuarial assumptions being used at any particular time shall be attached as an addendum to a copy of the retirement system's statute that is maintained by the retirement board and shall be treated for all purposes as a part of sections 86.900 to 86.1280. 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 this 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 contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by the 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 of 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 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)

Early retirement incentives, effect of.

86.1280. 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 86.900 to 86.1280, in addition to such other benefits as such members or their beneficiaries are entitled to receive under sections 86.900 to 86.1280, provided such city shall so request and shall agree to increase the city's contribution under section 86.1000 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 86.1010, to provide all other benefits provided under sections 86.900 to 86.1280.

(L. 2005 H.B. 323)