

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 358

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LEARA (Sponsor) AND COLONA (Co-sponsor).

0380L.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 86.252, 86.255, 86.256, 86.294, and 86.354, RSMo, and to enact in lieu thereof six new sections relating to police retirement.

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

Section A. Sections 86.252, 86.255, 86.256, 86.294, and 86.354, RSMo, are repealed and
2 six new sections enacted in lieu thereof, to be known as sections 86.252, 86.255, 86.256, 86.294,
3 86.295, and 86.354, to read as follows:

86.252. 1. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary,
2 the entire interest of a member shall be distributed or begin to be distributed no later than the
3 member's required beginning date. The general required beginning date of a member's benefit
4 is April first of the calendar year following the calendar year in which the member attains age
5 seventy and one-half years or, if later, in which the member terminates employment as a police
6 officer and actually retires.

7 2. All distributions required pursuant to this section prior to January 1, 2003, shall be
8 determined and made in accordance with the income tax regulations under Section 401(a)(9) of
9 the Internal Revenue Code in effect prior to January 1, 2003, including the minimum distribution
10 incidental benefit requirement of Section 1.401(a)(9)-2 of the income tax regulations. As of the
11 first distribution year, distributions, if not made in a single sum, may only be made over one of
12 the following periods, or a combination thereof:

- 13 (1) The life of the member;
14 (2) The life of the member and a designated beneficiary;

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

15 (3) A period certain not extending beyond the life expectancy of the member; or

16 (4) A period certain not extending beyond the joint and last survivor expectancy of the
17 member and a designated beneficiary.

18 3. (1) This subsection shall apply for purposes of determining required minimum
19 distributions for calendar years beginning on and after January 1, 2003, and shall take precedence
20 over any inconsistent provisions of section 86.200 to 86.366. All distributions required under
21 this subsection shall be determined and made in accordance with the United States Treasury
22 regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.

23 (2) (a) The member's entire interest shall be distributed or begin to be distributed to the
24 member no later than the member's required beginning date.

25 (b) If the member dies before distributions begin, the member's entire interest shall be
26 distributed or begin to be distributed no later than as follows:

27 a. If the member's surviving spouse is the member's sole designated beneficiary,
28 distributions to the surviving spouse shall begin by December thirty-first of the calendar year
29 immediately following the calendar year in which the member died, or by December thirty-first
30 of the calendar year in which the member would have attained age seventy and one- half years,
31 if later;

32 b. If the member's surviving spouse is not the member's sole designated beneficiary,
33 distributions to the designated beneficiary shall begin by December thirty-first of the calendar
34 year immediately following the calendar year in which the member died;

35 c. If there is no designated beneficiary as of September thirtieth of the calendar year
36 following the calendar year of the member's death, the member's entire interest shall be
37 distributed by December thirty-first of the calendar year containing the fifth anniversary of the
38 member's death;

39 d. If the member's surviving spouse is the member's sole designated beneficiary and the
40 surviving spouse dies after the member but before distribution to the surviving spouse begins,
41 this paragraph, except for subparagraph a. of this paragraph, shall apply as if the surviving
42 spouse were the member. For purposes of this paragraph and subdivision (5) of this subsection,
43 distributions shall be considered to begin on the member's required beginning date, or if
44 subparagraph d. of this paragraph applies, the date distributions are required to begin to the
45 surviving spouse under subparagraph a. of this paragraph. If annuity payments irrevocably
46 commence to the member before the member's required beginning date, or to the member's
47 surviving spouse before the date of distributions are required to begin to the surviving spouse
48 under subparagraph a. of this paragraph, the date of distributions shall be considered to begin the
49 date distributions actually commence.

50 (c) Unless the member's interest is distributed in the form of an annuity purchased from
51 an insurance company or in a single sum on or before the required beginning date, as of the first
52 distribution calendar year distributions shall be made in accordance with subdivisions (3), (4),
53 and (5) of this subsection. If the member's interest is distributed in the form of an annuity
54 purchased from an insurance company, distributions shall be made in accordance with the
55 requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, and the
56 United States Treasury regulations.

57 (3) (a) If the member's interest is paid in the form of annuity distributions under sections
58 86.200 to 86.366, payments under the annuity shall satisfy the following requirements:

59 a. The annuity distributions shall be paid in periodic payments made at intervals not
60 longer than one year;

61 b. The distribution period shall be over a life or lives, or over a period certain not longer
62 than the period described in subdivision (4) or (5) of this subsection;

63 c. Once payments have begun over a period certain, the period certain shall not be
64 changed even if the period certain is shorter than the maximum permitted;

65 d. Payments shall either be nonincreasing or increase only as [follows:

66 (i) By an annual percentage increase that does not exceed the annual percentage increase
67 in a cost-of-living index that is based on prices of all items and issued by the federal Bureau of
68 Labor Statistics;

69 (ii) To the extent of the reduction in the amount of the member's payments to provide
70 for a surviving benefit upon death, but only if the beneficiary whose life was being used to
71 determine the distribution period described in subdivision (4) of this subsection dies or is no
72 longer the member's beneficiary under a qualified domestic relations order with the meaning of
73 Section 414(p) of the Internal Revenue Code of 1986, as amended;

74 (iii) To provide cash refunds of employee contributions upon the member's death; or

75 (iv) To pay increased benefits that result from a revision of sections 86.200 to 86.366]
76 **permitted under Q&A-14 of Section 1.401(a)(9)-6 of the United States Treasury**
77 **regulations.**

78 (b) The amount distributed on or before the member's required beginning date, or if the
79 member dies before distribution begins, the date distributions are required to begin under
80 subparagraph a. or b. of paragraph (b) of subdivision (2) of this subsection, shall be the payment
81 that is required for one payment interval. The second payment need not be made until the end
82 of the next payment interval even if the payment interval ends in the next calendar year.
83 "Payment intervals" means the periods for which payments are received, such as bimonthly,
84 monthly, semiannually, or annually. All of the member's benefit accruals as of the last day of

85 the first distribution calendar year shall be included in the calculation of the amount of the
86 annuity payments for payment intervals ending on or after the member's required beginning date.

87 (c) Any additional benefits accruing to the member in a calendar year after the first
88 distribution calendar year shall be distributed beginning with the first payment interval ending
89 in the calendar year immediately following the calendar year in which such amount accrues.

90 (4) (a) If the member's interest is being distributed in the form of a joint and survivor
91 annuity for the joint lives of the member and a nonspouse beneficiary, annuity payments to be
92 made on or after the member's required beginning date to the designated beneficiary after the
93 member's death shall not at any time exceed the applicable percentage of the annuity payment
94 for such period that would have been payable to the member using the table set forth in Q&A-2
95 of Section 1.401(a)(9)-6T of the United States Treasury regulations.

96 (b) The period certain for an annuity distribution commencing during the member's
97 lifetime shall not exceed the applicable distribution period for the member under the Uniform
98 Lifetime Table set forth in Section 1.401(a)(9)-9 of the United States Treasury regulations for
99 the calendar year that contains the annuity starting date. If the annuity starting date precedes the
100 year in which the member reaches age seventy, the applicable distribution period for the member
101 shall be the distribution period for age seventy under the Uniform Lifetime Table set forth in
102 Section 1.401(a)(9)-9 of the United States Treasury regulations plus the excess of seventy over
103 the age of the member as of the member's birthday in the year that contained the annuity starting
104 date.

105 (5) (a) If the member dies before the date distribution of his or her interest begins and
106 there is a designated beneficiary, the member's entire interest shall be distributed, beginning no
107 later than the time described in subparagraph a. or b. of paragraph (b) of subdivision (2) of this
108 subsection, over the life of the designated beneficiary or over a period certain not exceeding:

109 a. Unless the annuity starting date is before the first distribution calendar year, the life
110 expectancy of the designated beneficiary determined using the beneficiary's age as of the
111 beneficiary's birthday in the calendar year immediately following the calendar year of the
112 member's death; or

113 b. If the annuity starting date is before the first distribution calendar year, the life
114 expectancy of the designated beneficiary determined using the beneficiary's age as of the
115 beneficiary's birthday in the calendar year that contains the annuity starting date.

116 (b) If the member dies before the date distributions begin and there is no designated
117 beneficiary as of September thirtieth of the calendar year following the calendar year of the
118 member's death, distribution of the member's entire interest shall be completed by December
119 thirty-first of the calendar year containing the fifth anniversary of the member's death.

120 (c) If the member dies before the date distribution of his or her interest begins, the
121 member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse
122 dies before distributions to the surviving spouse begin, this subdivision shall apply as if the
123 surviving spouse were the member; except that, the time by which distributions shall begin shall
124 be determined without regard to subparagraph a. of paragraph (b) of subdivision (2) of this
125 subsection.

126 (6) As used in this subsection, the following terms mean:

127 (a) "Designated beneficiary", the surviving spouse or the individual who is designated
128 as the beneficiary under subdivision (4) of section 86.200 or any individual who is entitled to
129 receive death benefits under section 86.283 or 86.287 and is the designated beneficiary under
130 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, and Section 1.401(a)(9)-1,
131 Q&A-4 of the United States Treasury regulations;

132 (b) "Distribution calendar year", a calendar year for which a minimum distribution is
133 required. For distributions beginning before the member's death, the first distribution calendar
134 year is the calendar year immediately preceding the calendar year which contains the member's
135 required beginning date. For distributions beginning after the member's death, the first
136 distribution calendar year is the calendar year in which distributions are required to begin under
137 paragraph (b) of subdivision (2) of this subsection;

138 (c) "Life expectancy", life expectancy as computed by use of the Single Life Table in
139 Section 1.401(a)(9)-9 of the United States Treasury regulations;

140 (d) "Required beginning date", April first of the calendar year following the calendar
141 year in which the member attains age seventy and one-half years or, if later, in which the member
142 terminates employment as a police officer and actually retires.

143 (7) Notwithstanding any provision in this subsection to the contrary:

144 (a) A distribution for calendar years 2003, 2004, and 2005 shall not fail to satisfy Section
145 401(a)(9) of the Internal Revenue Code of 1986, as amended, merely because the payments do
146 not satisfy Section 1.401(a)(9)-1, Q&A-1 to Q&A-16 of the United States Treasury regulations,
147 provided the payments satisfy Section 401(a)(9) of the Internal Revenue Code of 1986, as
148 amended; and

149 (b) [In the case of an annuity distribution option provided under the terms of sections
150 86.200 to 86.366 shall not fail to satisfy Section 401(a)(9) of the Internal Revenue Code of 1986,
151 as amended, merely because the annuity payments do not satisfy the requirements of Section
152 1.401(a)(9)-1, Q&A- 1 to Q&A-15 of the United States Treasury regulations, provided the
153 distribution option satisfies Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
154 based on a reasonable and good faith interpretation of the provisions of Section 401(a)(9) of the
155 Internal Revenue Code of 1986, as amended.] **Under Section 1.401(a)(9)-1, Q&A-2(d) of the**

156 **United States Treasury regulations, the plan shall be treated as having complied with**
157 **Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all years to which**
158 **Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, applies to the plan if**
159 **the plan complies with a reasonable and good faith interpretation of Section 401(a)(9) of**
160 **the Internal Revenue Code of 1986, as amended.**

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

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

7 (1) "Direct rollover", a payment by the board of trustees from the fund to the eligible
8 retirement plan specified by the distributee;

9 (2) "Distributee", a member, a surviving spouse [or] , a spouse, **or former spouse who**
10 **is the alternate payee under a qualified domestic relations order, as defined in Section**
11 **414(p) of the Internal Revenue Code of 1986, as amended, or, effective for distributions**
12 **made on or after January 1, 2010, a nonspouse beneficiary;**

13 (3) "Eligible retirement plan", an individual retirement account described in Section
14 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section
15 408(b) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the
16 Internal Revenue Code that accepts the distributee's eligible rollover distribution or, effective for
17 eligible rollover distributions made on or after January 1, 2002, an annuity contract described in
18 Section 403(b) of the Internal Revenue Code or an eligible plan under Section 457(b) of the
19 Internal Revenue Code which is maintained by a state, political subdivision of a state, or any
20 agency or instrumentality of a state or political subdivision of a state and which agrees to
21 separately account for amounts transferred into such plan from this plan, and shall include, for
22 eligible rollover distributions made on or after January 1, 2002, a distribution to a surviving
23 spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic
24 relations order, as defined in Section 414(p) of the Internal Revenue Code. **Effective for**
25 **distributions made on or after January 1, 2008, eligible retirement plan shall also include**
26 **a Roth IRA as described in Section 408 of the Internal Revenue Code of 1986, as amended,**
27 **provided that for distributions made on or after January 1, 2010, to a nonspouse**
28 **beneficiary, an eligible retirement plan shall include only an individual retirement account**
29 **described in Section 408(a) of the Internal Revenue Code of 1986, as amended, an**
30 **individual retirement annuity described in Section 408(b) of the Internal Revenue Code of**
31 **1986, as amended, or a Roth IRA described in Section 408A of the Internal Revenue Code**

32 **of 1986, as amended, that is an inherited individual retirement account or annuity under**
33 **Section 408 of the Internal Revenue Code of 1986, as amended;**

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

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

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

42 (c) Effective for distributions made on or after January 1, 2002, a portion of a
43 distribution shall not fail to be an eligible rollover distribution merely because the portion
44 consists of after-tax employee contributions which are not includable in gross income. However,
45 **for distributions made before January 1, 2007**, such portion may be transferred only to an
46 individual retirement account or annuity described in Section 408(a) or (b) of the Internal
47 Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a)
48 of the Internal Revenue Code that agrees to separately account for amounts so transferred,
49 including to separately account for the portion of such distribution which is includable in gross
50 income and the portion that is not so includable; **for distributions made on or after January 1,**
51 **2007, such portion may also be transferred to an annuity contract described in Section**
52 **403(b) of the Internal Revenue Code of 1986, as amended, or to a qualified defined benefit**
53 **plan described in Section 401(a) of the Internal Revenue Code of 1986, as amended, that**
54 **agrees to separately account for amounts so transferred, including to separately account**
55 **for the portion of such distribution which is includable in gross income and the portion**
56 **that is not so includable; and for distributions made on or after January 1, 2008, such**
57 **portion may also be transferred to a Roth IRA described in Section 408A of the Internal**
58 **Revenue Code of 1986, as amended.**

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

62 4. If the eligible rollover distribution is not subject to Sections 401(a) and 417 of the
63 Internal Revenue Code, such eligible rollover distribution may be made less than thirty days after
64 the distributee has received the notice described in subsection 3 of this section, provided that:

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

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

69 5. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, in no
70 event shall the trustees pay an eligible rollover distribution in the amount of five thousand dollars
71 or less to a member or retired member who has not attained age sixty-two unless such member
72 or retired member consents in writing either to receive such distribution in cash or to have such
73 distribution directly rolled over in accordance with the provisions of this section.

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

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

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

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

13 3. Effective for limitation years beginning prior to January 1, 2000, in no event shall the
14 combined plan limitation of Section 415(e) of the Internal Revenue Code be exceeded; provided
15 that, if necessary to avoid exceeding such limitation, the member's annual benefit under the plan
16 established pursuant to sections 86.200 to 86.366 shall be reduced to the extent necessary to
17 satisfy such limitations] **amount specified in Section 415(c) of the Internal Revenue Code of**
18 **1986, as amended, as adjusted for any applicable increases in the cost of living under**
19 **Section 415(d) of the Internal Revenue Code of 1986, as amended, as in effect on the last**
20 **day of the plan year.**

21 [4.] **3.** For purposes of this section, Section 415 of the Internal Revenue Code, including
22 the special rules under Section 415(b) applicable to governmental plans and qualified
23 participants employed by a police or fire department, is incorporated in this section by reference.

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

8 state, or any agency or instrumentality of a state or political subdivision of a state, **and that**
9 **would otherwise be includable in gross income.** The plan will also accept a member's rollover
10 contribution of the portion of a distribution from an individual retirement account or annuity
11 described in Section 408(a) or (b) of the Internal Revenue Code that is eligible to be rolled over
12 and would otherwise be includable in gross income. **The plan will accept a member's direct**
13 **rollover of an eligible rollover distribution made on or after October 1, 2011, from a**
14 **qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code of 1986,**
15 **as amended, or an annuity contract described in Section 403(b) of the Internal Revenue**
16 **Code of 1986, as amended, that includes after-tax employee contributions, other than Roth**
17 **contributions described in Section 402A of the Internal Revenue Code of 1986, as amended,**
18 **that are not includable in gross income and shall separately account for such after-tax**
19 **amounts.**

20 2. **Except to the extent specifically permitted under procedures established by the**
21 **board of trustees,** the amount of such rollover contribution or direct rollover of an eligible
22 rollover distribution shall not exceed the amount required to repay the member's accumulated
23 contributions plus the applicable members' interest thereon from the date of withdrawal to the
24 date of repayment in order to receive credit for such prior service in accordance with section
25 86.210, to the extent that Section 415 of the Internal Revenue Code does not apply to such
26 repayment by reason of subsection (k)(3) thereof, or to purchase permissive service credit, as
27 defined in Section 415(n)(3)(A) of the Internal Revenue Code, for the member under the plan
28 in accordance with the provisions of section 105.691.

29 3. Acceptance of any rollover contribution or direct rollover of **an** eligible rollover
30 distribution under this section shall be subject to the approval of the board of trustees and shall
31 be made in accordance with procedures established by the board of trustees.

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

86.295. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary,
2 **if a member dies on or after January 1, 2007, while performing qualified military service,**
3 **as defined in Section 414(u)(5) of the Internal Revenue Code of 1986, as amended, the**
4 **member's surviving spouse and other dependents shall be entitled to any benefits, other**
5 **than benefit increases relating to the period of qualified military service, and the rights and**
6 **features associated with those benefits which would have been provided under sections**
7 **86.280 and 86.290 if the member had returned to active service as a police officer and died**
8 **while in active service.**

86.354. A member's benefit shall be one hundred percent vested and nonforfeitable upon
2 the **first of the following to occur:**

3 (1) **The member's attainment of age fifty-five, the normal retirement age [of the earlier**
4 **of age fifty-five] ; or**

5 (2) **The member's completion of twenty years of creditable service regardless of age;**
6 **or[, if earlier, and to the extent funded, upon]**

7 (3) **The termination of the plan established pursuant to sections 86.200 to 86.366, to the**
8 **extent the plan is funded.**

9

10 Forfeitures of any nature under such plan shall not be used to increase the benefits of any
11 member, but shall be used to reduce the city's contributions pursuant to section 86.243.

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