

FIRST REGULAR SESSION

# SENATE BILL NO. 215

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SILVEY.

Read 1st time January 28, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1107S.011

## AN ACT

To repeal sections 86.900, 86.1000, 86.1010, 86.1030, 86.1100, 86.1110, 86.1150, 86.1180, 86.1210, 86.1220, 86.1230, 86.1240, 86.1250, 86.1270, 86.1310, 86.1420, 86.1500, 86.1530, 86.1540, 86.1580, 86.1590, 86.1610, and 86.1630, RSMo, and to enact in lieu thereof twenty-five new sections relating to Kansas City police retirement systems.

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

Section A. Sections 86.900, 86.1000, 86.1010, 86.1030, 86.1100, 86.1110, 2 86.1150, 86.1180, 86.1210, 86.1220, 86.1230, 86.1240, 86.1250, 86.1270, 86.1310, 3 86.1420, 86.1500, 86.1530, 86.1540, 86.1580, 86.1590, 86.1610, and 86.1630, 4 RSMo, are repealed and twenty-five new sections enacted in lieu thereof, to be 5 known as sections 86.900, 86.1000, 86.1010, 86.1030, 86.1100, 86.1110, 86.1150, 6 86.1151, 86.1180, 86.1210, 86.1220, 86.1230, 86.1231, 86.1240, 86.1250, 86.1270, 7 86.1310, 86.1420, 86.1500, 86.1530, 86.1540, 86.1580, 86.1590, 86.1610, and 8 86.1630, to read as follows:

86.900. The following words and phrases as used in sections 86.900 to 2 86.1280 shall have the following meanings unless a different meaning is plainly 3 required by the context:

4 (1) "Accumulated contributions", the sum of all amounts deducted from 5 the compensation of a member and paid to the retirement board, together with 6 all amounts paid to the retirement board by a member or by a member's 7 beneficiary, for the purchase of prior service credits or any other purpose 8 permitted under sections 86.900 to 86.1280;

9 (2) "Actuarial cost", the present value of a future payment or series of 10 payments as calculated by applying the actuarial assumptions established

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

11 according to subsection 8 of section 86.1270;

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

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

17 (5) "City" or "cities", any city which now has or may hereafter have a  
18 population of more than three hundred thousand and less than seven hundred  
19 thousand inhabitants, or any city that has made an election under section 86.910  
20 to continue a police retirement system maintained under sections 86.900 to  
21 86.1280;

22 (6) "Compensation", the basic wage or salary paid a member for any  
23 period on the basis of the member's rank and position, excluding bonuses,  
24 overtime pay, expense allowances, and other extraordinary compensation; except  
25 that, notwithstanding such provision, compensation for any year for any member  
26 shall not exceed the amount permitted to be taken into account under Section  
27 401(a)(17) of the Internal Revenue Code as applicable to such year;

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

33 (8) "Creditable service", service qualifying as a determinant of a member's  
34 pension or other benefit under sections 86.900 to 86.1280 by meeting the  
35 requirements specified in said sections or section 105.691;

36 (9) "Final compensation":

37 **(a) For a Tier I member as described in subdivision (13) of this**  
38 **section**, the average annual compensation of a member during the member's  
39 service if less than two years, or the twenty-four months of service for which the  
40 member received the highest salary whether consecutive or otherwise. In  
41 computing the average annual compensation of a member, [no compensation for  
42 service after the thirtieth full year of membership service shall be included.]  
43 **compensation shall only be included for the periods in which the**  
44 **member made contributions as provided under section 86.1010;**

45 **(b) For a Tier II member as described in subdivision (13) of this**  
46 **section, the average annual compensation of a member during the**

47 **member's service if less than three years, or the thirty-six months of**  
48 **service for which the member received the highest salary whether**  
49 **consecutive or otherwise. In computing the average annual**  
50 **compensation of a member, compensation shall only be included for the**  
51 **periods in which the member made contributions as provided under**  
52 **section 86.1010;**

53 **(c) For any period of time when a member is paid on a frequency other**  
54 **than monthly, the member's salary for such period shall be deemed to be the**  
55 **monthly equivalent of the member's annual rate of compensation for such period;**

56 **(10) "Fiscal year", for the retirement system, the fiscal year of the cities;**

57 **(11) "Internal Revenue Code", the United States Internal Revenue Code**  
58 **of 1986, as amended;**

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

62 **(13) "Member", a member of the police retirement system as described in**  
63 **section 86.1090[;];**

64 **(a) "Tier I member", any person who became a member prior to**  
65 **August 28, 2013, and who remains a member on August 28, 2013, shall**  
66 **remain a Tier I member until such member's membership is terminated**  
67 **as described in section 86.1130;**

68 **(b) "Tier I surviving spouse", the surviving spouse of a Tier I**  
69 **member;**

70 **(c) "Tier II member", any person who became a member on or**  
71 **after August 28, 2013;**

72 **(d) "Tier II surviving spouse", the surviving spouse of a Tier II**  
73 **member;**

74 **(e) Any person whose membership is terminated as described in**  
75 **section 86.1130 and who re-enters membership on or after August 28,**  
76 **2013, shall become a member under paragraph (c) of this subdivision;**

77 **(14) "Pension", annual payments for life, payable monthly, at the times**  
78 **described in section 86.1030;**

79 **(15) "Pension fund", the fund resulting from contributions made thereto**  
80 **by the cities affected by sections 86.900 to 86.1280 and by the members of the**  
81 **police retirement system;**

82 **(16) "Police officer", an officer or member of the police department of the**

83 cities employed for compensation by the boards of police commissioners of the  
84 cities for police duty who holds a rank or position for which an annual salary  
85 range is provided in section 84.480 or 84.510; in case of dispute as to whether any  
86 person is a police officer qualified for membership in the retirement system, the  
87 decision of the board of police commissioners shall be final;

88 (17) "Retirement board" or "board", the board provided in section 86.920  
89 to administer the retirement system;

90 (18) "Retirement system", the police retirement system of the cities as  
91 defined in section 86.910;

92 (19) "Surviving spouse", when determining whether a person is entitled  
93 to benefits under sections 86.900 to 86.1280 by reason of surviving a member,  
94 shall include only:

95 (a) A person who was married to a member at the time of the member's  
96 death in the line of duty or from an occupational disease arising out of and in the  
97 course of the member's employment and who had not, after the member's death  
98 and prior to August 28, 2000, remarried;

99 (b) With respect to a member who retired or died prior to August 28, 1997,  
100 a spouse who survives such member, whose marriage to such member occurred  
101 at least two years before the member's retirement or at least two years before the  
102 member's death while in service, and who had not remarried anyone other than  
103 the member prior to August 28, 2000;

104 (c) With respect to a member who retired or died while in service after  
105 August 28, 1997, and before August 28, 2000, a spouse who survives such  
106 member, was married to such member at the time of such member's retirement  
107 or of such member's death while in service, and had not, after the member's death  
108 and prior to August 28, 2000, remarried; and

109 (d) With respect to a member who retires or dies in service after August  
110 28, 2000, a spouse who survives a member and was married to such member at  
111 the time of such member's retirement or death while in service.

86.1000. 1. The city shall contribute to the pension fund quarter-annually  
2 or at such lesser intervals as may be agreed upon by the city and the retirement  
3 board. Such contribution shall be in addition to and separate from the  
4 appropriations made by the city for the operation of the police department. For  
5 each fiscal year of the operation of the pension system, the city's contribution to  
6 the pension fund shall be a percentage of the compensation paid to members of  
7 the pension system from which a member's deduction has been made under

8 section 86.1010. The city's contribution shall be [such percentage as shall be  
9 agreed upon by the board of police commissioners and the city, but in no event  
10 shall such contribution be less than twelve percent] **the total of the following**  
11 **amounts:**

12 **(1) Such amounts as may be necessary to meet the requirements**  
13 **for the annual actuarial required contributions as determined by a**  
14 **qualified professional actuary selected by the retirement board;**

15 **(2) An amount of two-hundred dollars per month for every**  
16 **member entitled to receive a supplemental benefit under section**  
17 **86.1230 or section 86.1231.**

18 **Such total of said amounts shall be certified by the retirement board to**  
19 **the chief financial officer of said city as provided in section 86.990.**

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

86.1010. **Except as provided in subsection 5 of section 86.1100**, the  
2 board of police commissioners shall cause to be deducted from the compensation  
3 of each member [until retirement] **who is accruing creditable service** a  
4 percentage of such member's compensation[, which shall not be less than six  
5 percent,] as determined by the retirement board, as such member's contribution  
6 to the pension fund. The sum so deducted shall be paid by the board of police  
7 commissioners promptly after each payroll to the retirement board to be credited  
8 to the member's account. Every member shall be deemed to consent to the  
9 deductions made and provided for herein. The board of police commissioners  
10 shall certify to the retirement board on every payroll the amount deducted, and  
11 such amounts shall be paid into the pension fund and shall be credited to the  
12 individual pension account of the member from whose compensation such  
13 deduction was made.

86.1030. 1. All benefits and all necessary administrative expenses of the  
2 retirement system shall be paid from the funds of the retirement system.

3 2. The base pension of a member who, after August 28, 2011, retires from  
4 or otherwise terminates active service with entitlement to a base pension under

5 sections 86.900 to 86.1280 shall commence as of the first day of the month next  
6 following such retirement or termination with no proration of such pension for the  
7 month in which such retirement or termination occurs. The supplemental  
8 retirement benefits of a member who, after August 28, 2011, retires from or  
9 otherwise terminates active service with entitlement to a supplemental  
10 retirement benefit provided in subsection 1 of section 86.1230 **or as provided**  
11 **in section 86.1231** shall commence as of the first day of the month next  
12 following such retirement or termination with no proration of such supplemental  
13 retirement benefit for the month in which such retirement or termination occurs.

14 3. Upon the death of a member who is receiving a base pension under  
15 sections 86.900 to 86.1280 leaving a surviving spouse, as defined in section  
16 86.900, entitled to benefits, payment of the member's base pension including all  
17 cost-of-living adjustments thereto, prorated for that portion of the month of such  
18 death in which such member was living, shall be made to such surviving spouse,  
19 and the benefit for which such spouse is entitled under section 86.1240 shall be  
20 prorated and paid to such spouse for the remainder of such month.

21 4. Upon the death of a member who is receiving a base pension under  
22 sections 86.900 to 86.1280 leaving no surviving spouse, as defined in section  
23 86.900, entitled to benefits, payment of the member's base pension including all  
24 cost-of-living adjustments thereto, prorated for that portion of the month of such  
25 death in which such member was living, shall be made in equal shares to or for  
26 the benefit of the children, if any, of such member as are entitled to share in  
27 spousal benefits as described in subsection 2 of section 86.1250. If no such  
28 children shall survive such member, such prorated benefit for the month of such  
29 member's death shall be paid to the beneficiary named by such member in a  
30 writing filed with the retirement system prior to the member's death for the  
31 purpose of receiving such benefit. If no beneficiary is named, then no payment  
32 shall be made of such prorated benefit for the month of such member's death.

33 5. Upon the death of a surviving spouse who is receiving a base pension  
34 under section 86.1240, payment of such spouse's base pension including all  
35 cost-of-living adjustments thereto, prorated for that portion of the month of such  
36 death in which such spouse was living, shall be made in equal shares to or for the  
37 benefit of the children, if any, of the member of whom such spouse is the  
38 surviving spouse as are entitled to share in spousal benefits described in  
39 subsection 2 of section 86.1250. If no such children shall survive such spouse,  
40 such prorated benefit for the month of such spouse's death shall be paid to the

41 beneficiary named by such surviving spouse in a writing filed with the retirement  
42 system prior to such spouse's death for the purpose of receiving such benefit. If  
43 no beneficiary is named, then no payment shall be made of such prorated benefit  
44 for the month of such spouse's death.

45         6. Upon the death of a **Tier I** member who is receiving a supplemental  
46 benefit under section 86.1230 **or upon the death of a Tier II member who**  
47 **is receiving a supplemental benefit under section 86.1231** and who leaves  
48 a surviving spouse, as defined in section 86.900, entitled to benefits, the entire  
49 supplemental benefit for the month of such death shall be paid to such surviving  
50 spouse without proration, and the surviving spouse shall receive no additional  
51 supplemental benefit for such month.

52         7. Upon the death of a **Tier I** member who is receiving a supplemental  
53 benefit under section 86.1230 **or upon the death of a Tier II member who**  
54 **is receiving a supplemental benefit under section 86.1231** and who leaves  
55 no surviving spouse, as defined in section 86.900, entitled to benefits, or upon the  
56 death of a surviving spouse who is receiving a supplemental benefit under section  
57 86.1230 **or section 86.1231**, such supplemental benefit shall terminate upon  
58 such death. No benefit shall be payable for any period after the most recent  
59 monthly payment of such benefit prior to such death.

60         8. Upon the death of a member in service who leaves a surviving spouse,  
61 as defined in section 86.900, entitled to benefits, the base pension of such  
62 surviving spouse shall commence as of the first day of the month next following  
63 such death with no proration of such pension for the month in which such death  
64 occurs.

65         9. Upon the death of a member in service who leaves no surviving spouse,  
66 as defined in section 86.900, entitled to benefits, any benefit payable to surviving  
67 children of such member under subsection 2 of section 86.1250 shall commence  
68 as of the first day of the month next following such death with no proration of  
69 such benefit for the month in which such death occurs. If there are no such  
70 surviving children entitled to such benefit, then such member's accumulated  
71 contributions shall be paid to the beneficiary named by such member in a writing  
72 filed with the retirement system prior to the member's death for the purpose of  
73 receiving such benefit, or if no beneficiary is named, then to such member's  
74 estate.

75         10. Upon the death of a member in service or after retirement, any benefit  
76 payable to the surviving children of such member under subsection 1 of section

77 86.1250 shall commence as of the first day of the month next following such death  
78 with no proration of such benefit for the month in which such death occurs.

79 11. All payments of any benefit shall be paid on the last business day of  
80 each month for that month. For any benefit under sections 86.900 to 86.1280, the  
81 retirement system shall withhold payment of such benefit until all requisite  
82 documentation has been filed with the retirement system evidencing the  
83 entitlement of payee to such payment.

84 12. If no benefits are otherwise payable to a surviving spouse or child of  
85 a deceased member or otherwise as provided in this section, the member's  
86 accumulated contributions, to any extent not fully paid to such member prior to  
87 the member's death or to the surviving spouse or child of such member or  
88 otherwise as provided in this section, shall be paid in one lump sum to the  
89 member's beneficiary named by such member in a writing filed with the  
90 retirement system prior to the member's death for the purpose of receiving such  
91 benefit, or if no beneficiary is named, then to such member's estate. Such  
92 payment shall constitute full and final payment of any and all claims for benefits  
93 under the retirement system.

86.1100. 1. The retirement board shall fix and determine by proper rules  
2 and regulations how much service in any year is equivalent to one year of service.  
3 In no case shall more than one year of service be creditable for all service  
4 rendered in one calendar year. The retirement board shall not allow credit as  
5 service for any period during which the member was absent without  
6 compensation, except as provided in sections 86.1110 and 86.1140.

7 2. Except as provided in subsection 3 of section 86.1110, creditable service  
8 at retirement on which the retirement allowance of a member is based consists  
9 of the membership service rendered by such member since such member last  
10 became a member **provided that no creditable service shall be allowed for**  
11 **any period of time when a member was not making contributions.**

12 3. Creditable service also includes any prior service credit to which a  
13 member may be entitled by virtue of an authorized purchase of such credit or as  
14 otherwise provided in sections 86.900 to 86.1280.

15 4. Creditable service shall not include any time a member was suspended  
16 from service without compensation. No contribution is required from either the  
17 member under section 86.1010 or from the city under section 86.1000 for such  
18 time.

19 5. Any member [who has completed thirty years of creditable service may



20 continue in service by permission of the board of police commissioners] **in active**  
21 **service with the police department on or after August 28, 2013, may**  
22 **accrue up to a maximum of thirty-two years of creditable**  
23 **service.** Contributions shall not be required of, and no service shall be credited  
24 to, any member for more than [thirty] **thirty-two** years of service.

86.1110. 1. Whenever a member is given a leave of absence for military  
2 service and returns to employment after discharge from the service, such member  
3 shall be entitled to creditable service for the years of employment prior to the  
4 leave of absence.

5 2. Except as provided in subsection 3 of this section, a member who served  
6 on active duty in the Armed Forces of the United States and who became a  
7 member, or returned to membership, after discharge under honorable conditions,  
8 may elect prior to retirement to purchase creditable service equivalent to such  
9 service in the Armed Forces, not to exceed two years, provided the member is not  
10 receiving and is not eligible to receive retirement credits or benefits from any  
11 other public or private retirement plan for the service to be purchased, other than  
12 a United States military service retirement system or United States Social  
13 Security benefits attributable to such military service, and an affidavit so stating  
14 is filed by the member with the retirement system. A member electing to make  
15 such purchase shall pay to the retirement system an amount equal to the  
16 actuarial cost of the additional benefits attributable to the additional service  
17 credit to be purchased, as of the date the member elects to make such  
18 purchase. Payment in full of the amount due from a member electing to purchase  
19 creditable service under this subsection shall be made over a period not to exceed  
20 five years, measured from the date of election, or prior to the commencement date  
21 for payment of benefits to the member from the retirement system, whichever is  
22 earlier, including interest on unpaid balances compounded annually at the  
23 interest rate assumed from time to time for actuarial valuations of the retirement  
24 system. If payment in full including interest is not made within the prescribed  
25 period, any partial payments made by the member shall be refunded, and no  
26 creditable service attributable to such election, or as a result of any such partial  
27 payments, shall be allowed; provided that if a benefit commencement date occurs  
28 because of the death or disability of a member who has made an election under  
29 this subsection and if the member is current in payments under an approved  
30 installment plan at the time of the death or disability, such election shall be valid  
31 if the member, the surviving spouse, or other person entitled to benefit payments

32 pays the entire balance of the remaining amount due, including interest to the  
33 date of such payment, within sixty days after the member's death or  
34 disability. The time of a disability shall be deemed to be the time when such  
35 member is retired by the board of police commissioners for reason of disability as  
36 provided in sections 86.900 to 86.1280.

37 3. Notwithstanding any other provision of sections 86.900 to 86.1280, a  
38 member who is on leave of absence for military service during any portion of  
39 which leave the United States is in a state of declared war, or a compulsory draft  
40 is in effect for any of the military branches of the United States, or any units of  
41 the military reserves of the United States, including the National Guard, are  
42 mobilized for combat military operations, and who becomes entitled to  
43 reemployment rights and other employment benefits under Title 38, Chapter 43  
44 of the U.S. Code, relating to employment and reemployment rights of members  
45 of the uniformed services by meeting the requirements for such rights and  
46 benefits under Section 4312 of said chapter, or the corresponding provisions of  
47 any subsequent applicable federal statute, shall be entitled to service credit for  
48 the time spent in such military service for all purposes of sections 86.900 to  
49 86.1280 and such member shall not be required to pay any member contributions  
50 for such time. If it becomes necessary for the years of such service to be included  
51 in the calculation of such member's compensation for any purpose, such member  
52 shall be deemed to have received the same compensation throughout such period  
53 of service as the member's base annual salary immediately prior to the  
54 commencement of such leave of absence; **provided, however, that the**  
55 **foregoing provisions of this subsection shall apply only to such portion**  
56 **of such leave with respect to which the cumulative length of the**  
57 **absence and of all previous absences from a position of employment**  
58 **with the employer by reason of service in the uniformed services does**  
59 **not exceed five years except for such period of any such excess as**  
60 **meets the requirements for exceptions to such five-year limitation set**  
61 **forth in the aforesaid Section 4312.**

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

6 (1) For a member retiring prior to August 28, 2000, two percent of such

7 member's final compensation, as defined in section 86.900, multiplied by the  
8 number of years of such member's total creditable service; or

9 (2) For a member retiring on or after August 28, 2000, **and prior to**  
10 **August 28, 2013**, two and one-half percent of such member's final compensation,  
11 as defined in section 86.900, multiplied by the number of years of such member's  
12 total creditable service. Such pension shall not exceed seventy-five percent of the  
13 member's final compensation[.

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

24 3. Except as provided in section 86.1100 or in subsection 2 of this  
25 section,]; or

26 (3) **For a member retiring on or after August 28, 2013, two and**  
27 **one-half percent of such member's final compensation, as defined in**  
28 **section 86.900, multiplied by the number of years of such member's**  
29 **total creditable service. Such pension shall not exceed eighty percent**  
30 **of the member's final compensation.**

31 2. Any **Tier I** member in service who shall have attained sixty years of  
32 age and at that time shall have completed at least ten [but less than  
33 thirty] years of creditable service [shall] **may** retire and **upon such**  
34 **retirement** shall receive a base pension equal to:

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

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

41 [4.] 3. Subject to the provisions of subsection [5] 4 of this section,  
42 whenever the service of a **Tier I** member is terminated for any reason prior to

43 death or retirement and the member has fifteen or more years of creditable  
44 service, the member may elect not to withdraw such member's accumulated  
45 contributions and shall become entitled to a base pension commencing on the first  
46 day of the month following the attainment of the age of fifty-five, if then living,  
47 equal to:

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

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

54 [5.] 4. Notwithstanding any other provisions of sections 86.900 to  
55 86.1280, any member who is convicted of a felony prior to separation from active  
56 service shall not be entitled to any benefit from this retirement system except the  
57 return of such member's accumulated contributions.

**86.1151. 1. Any Tier II member may retire when such member  
2 has completed twenty-seven or more years of creditable service. Upon  
3 such retirement such member shall receive a base pension equal to two  
4 and one-half percent of such member's final compensation, as defined  
5 in section 86.900, multiplied by the number of years of such member's  
6 total creditable service. Such pension shall not exceed eighty percent  
7 of the member's final compensation.**

8 **2. (1) A Tier II member who is married at the time of retirement  
9 may by a written election, with the written consent of such member's  
10 spouse, elect an optional benefit calculated as follows: such optional  
11 benefit shall be a monthly pension in the initial amount which shall be  
12 actuarially equivalent to the actuarial value of the pension described  
13 in subsection 1 of this section for such member at the date of  
14 retirement (including the value of survivorship rights of a surviving  
15 spouse, where applicable, under section 86.1240), upon the basis that  
16 the initial annuity for the member's spouse, if such spouse survives the  
17 member, shall be:**

18 **(a) The same as the amount being paid the member at the  
19 member's death; or**

20 **(b) Seventy-five percent of the amount being paid the member at  
21 the member's death, and, together with cost-of-living adjustments**

22 thereafter declared on the spouse's base pension under section 86.1220,  
23 shall be paid to such surviving spouse for the lifetime of such spouse.

24 (2) If a member who elects the optional benefit permitted by this  
25 subsection also makes an election permitted under section 86.1210, such  
26 optional benefit shall be reduced as provided in subdivision (3) of  
27 subsection 2 of section 86.1210.

28 (3) If a member makes the election permitted by this subsection,  
29 the amount calculated for such optional benefit under either  
30 subdivision (1) or (2) of this subsection shall become the base pension  
31 for such member and for such member's spouse for all purposes of  
32 sections 86.900 to 86.1280.

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

37 3. Subject to the provisions of subsection 4 of this section,  
38 whenever the service of a Tier II member is terminated for any reason  
39 prior to death or retirement and the member has fifteen or more years  
40 of creditable service, the member may elect not to withdraw such  
41 member's accumulated contributions and shall become entitled to a  
42 base pension commencing on the first day of the month following the  
43 attainment of the age of sixty, if then living, equal to two and one-half  
44 percent of such member's final compensation multiplied by the number  
45 of years of such member's creditable service.

46 4. Notwithstanding any other provisions of sections 86.900 to  
47 86.1280, any member who is convicted of a felony prior to separation  
48 from active service shall not be entitled to any benefit from this  
49 retirement system except the return of such member's accumulated  
50 contributions.

86.1180. 1. Any member in active service who is permanently unable to  
2 perform the full and unrestricted duties of a police officer as the natural,  
3 proximate, and exclusive result of an accident occurring within the actual  
4 performance of duty at some definite time and place or through an occupational  
5 disease arising exclusively out of and in the course of his or her employment shall  
6 be retired by the board of police commissioners upon certification by one or more  
7 physicians of the medical board that the member is mentally or physically unable  
8 to perform the full and unrestricted duties of a police officer, that the inability is

9 permanent or likely to become permanent, and that the member should be  
10 retired. The inability to perform the full and unrestricted duties of a police  
11 officer means that the member is unable to perform all the essential job functions  
12 for the position of police officer as established by the board of police  
13 commissioners.

14       2. **(1) Upon such retirement on or after August 28, 2001, and prior to**  
15 **August 28, 2013**, a member shall receive a base pension equal to seventy-five  
16 percent of his or her final compensation for so long as the permanent disability  
17 shall continue, during which time such member shall for purposes of this section  
18 be referred to as a disability beneficiary. Such pension may be subject to offset  
19 or reduction under section 86.1190 by amounts paid or payable under any  
20 workers' compensation law;

21       **(2) Upon such retirement on or after August 28, 2013, a member**  
22 **shall receive a base pension equal to eighty percent of his or her final**  
23 **compensation for so long as the permanent disability shall continue,**  
24 **during which time such member shall for purposes of this section be**  
25 **referred to as a disability beneficiary. Such pension may be subject to**  
26 **offset or reduction under section 86.1190 by amounts paid or payable**  
27 **under any workers' compensation law.**

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

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

42       5. If upon cessation of a disability pension under subsection 4 of this  
43 section, the former disability beneficiary is restored to active service, such  
44 member shall contribute to this retirement system thereafter at the same rate as

45 other members. Upon subsequent retirement, such member shall be credited with  
46 all his or her creditable service, including any years in which such member  
47 received a disability pension under this section.

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

86.1210. 1. Any member **in active service** entitled to commence a  
2 pension under **subsection 1 of section 86.1150** [with twenty-six years or more  
3 of creditable service] **or subsection 1 of section 86.1151** may elect an optional  
4 distribution under the partial lump sum option plan provided in this section if  
5 the member:

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

9 (2) Notifies the retirement system of the member's election hereunder at  
10 least thirty days in advance of the member's retirement date. Following receipt  
11 of an initial notice of a member's retirement date and request for an explanation  
12 under this section, the retirement system shall, at least sixty days in advance of  
13 such retirement date, provide the member a written explanation of the member's  
14 rights under this section and an estimate of the amount by which the member's  
15 regular monthly base pension would be reduced in the event of the member's  
16 election of any of the options available to the member under this section.

17 2. (1) A member entitled to make an election under this section may elect  
18 to receive a lump sum distribution with the member's initial monthly pension  
19 payment under **subsection 1 of section 86.1150 or subsection 1 of section**  
20 **86.1151**, subject to all the terms of this section. The member may elect the  
21 amount of the member's lump sum distribution from one, but not more than one,  
22 of the following options for which the member qualifies:

23 (a) A member having [twenty-six] **one or more years of creditable**  
24 **service after the member's eligible retirement date** or more years of  
25 creditable service may elect a lump sum amount equal to twelve times the initial

26 monthly base pension the member would receive if no election were made under  
27 this section;

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

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

36 (2) When a member makes an election to receive a lump sum distribution  
37 under this section, the base pension which the member would have received in  
38 the absence of the election shall be reduced on an actuarially equivalent basis to  
39 reflect the payment of the lump sum distribution, and the reduced base pension  
40 shall be the member's base pension thereafter for all purposes relating to base  
41 pension amounts under sections 86.900 to 86.1280, **unless the member has**  
42 **also elected an optional benefit permitted under subdivision (1) of**  
43 **subsection 2 of section 86.1151;**

44 (3) If a member electing a lump sum distribution under this  
45 section has elected the optional benefit permitted under subdivision (1)  
46 of subsection 2 of section 86.1151, the calculation of the member's  
47 pension shall be made in the following order:

48 (a) The amount of the member's normal pension under  
49 subsection 1 of section 86.1151 shall be reduced to the actuarially  
50 equivalent amount to produce the optional form of benefit described in  
51 subdivision (1) of subsection 2 of section 86.1151, and

52 (b) The amount of reduced pension as determined under  
53 paragraph (a) of this subdivision shall be further reduced as required  
54 to produce an actuarially equivalent benefit in the form of the lump  
55 sum distribution option elected under this section which will include  
56 the lump sum benefit and the optional benefit elected under  
57 subdivision 1 of subsection 2 of section 86.1151, and, subject to cost-of-  
58 living adjustments thereafter declared on the spouse's base pension  
59 under section 86.1220, shall be paid to such surviving spouse for the  
60 lifetime of such spouse.

61 3. An election under this section to receive a lump sum distribution and



62 reduced monthly base pension shall be void if the member dies before retirement,  
63 and in such case amounts due a surviving spouse or other beneficiary of the  
64 member shall be determined without regard to such election.

86.1220. 1. Provided that the retirement system shall remain actuarially  
2 sound, each of the following persons may receive [each year], in addition to such  
3 person's base pension, a cost-of-living adjustment in an amount not to exceed  
4 three percent of such person's base pension during any one year:

5 (1) Every **Tier I** member who is retired and receiving a base pension from  
6 the retirement system; **and**

7 (2) Every **Tier I** surviving spouse who is receiving a base pension from  
8 the retirement system[; and

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

12 2. **Provided that the retirement system shall remain actuarially**  
13 **sound, each of the following persons may receive, in addition to such**  
14 **person's base pension, a cost-of-living adjustment in an amount not to**  
15 **exceed three percent of such person's base pension during any one year**  
16 **as follows:**

17 (1) **Every Tier II member who retired with at least thirty-two**  
18 **years of creditable service shall be eligible in the year following**  
19 **retirement; and**

20 (2) **Every Tier II member who retired under subsection 1 of**  
21 **section 86.1151 with less than thirty-two years of creditable service**  
22 **shall be eligible in the year following the year in which they would**  
23 **have attained thirty-two years of creditable service had such member**  
24 **remained in active service; and**

25 (3) **Every Tier II member who retired under section 86.1180 shall**  
26 **be eligible in the year following retirement; and**

27 (4) **Every Tier II member who retired under section 86.1200 shall**  
28 **be eligible in the earlier of the year following the fifth year after**  
29 **retirement or the year following the year in which they would have**  
30 **attained thirty-two years of creditable service had such member**  
31 **remained in active service; and**

32 (5) **Every Tier II member who retired under subsection 3 of**  
33 **section 86.1151 shall be eligible in the year following the fifth year after**

34 retirement; and

35 (6) (a) Every Tier II surviving spouse of a member who, at the  
36 member's death, was receiving benefits including cost-of-living  
37 adjustments shall be eligible in the year following the most recent year  
38 when the decedent received a cost-of-living adjustment; and

39 (b) Every Tier II surviving spouse of a member who, at the  
40 member's death, was receiving benefits but who was not yet eligible for  
41 cost-of-living adjustments shall be eligible in the year when the  
42 decedent member would have become eligible had such decedent  
43 survived; and

44 (c) Every Tier II surviving spouse entitled to the benefit  
45 provided in subsection 1 of section 86.1260 shall be eligible in the year  
46 following the year of the member's death; and

47 (d) Every Tier II surviving spouse of a member who died with  
48 less than twenty-seven years of creditable service, entitled to benefits  
49 provided in subsection 1 of section 86.1240, and who is not eligible for  
50 the benefit provided in subsection 1 of section 86.1260, shall be eligible  
51 in the year following the fifth year after the member's death; and

52 (e) Every Tier II surviving spouse of a member who died with  
53 twenty-seven or more years of creditable service, entitled to benefits  
54 provided in subsection 1 of section 86.1240, and who is not eligible for  
55 the benefit provided in subsection 1 of section 86.1260, shall be eligible  
56 the later of the year following the year of the member's death or the  
57 year following the year in which the member would have attained  
58 thirty-two years of creditable service had such member remained in  
59 active service.

60 3. Provided that the retirement system shall remain actuarially  
61 sound, every child who, under subsection 2 of section 86.1250, is  
62 receiving the benefit, or a portion thereof, which would be payable to  
63 a surviving spouse of the member who was such child's parent, may  
64 receive each year such cost-of-living adjustment on such benefit as  
65 would have been payable on such benefit, or portion thereof, to such  
66 surviving spouse if living.

67 4. Upon the death of a Tier I member who has been retired and receiving  
68 a pension and who dies after September 28, 1987, the surviving spouse of such  
69 member entitled to receive a base pension under section 86.1240 or children of  
70 such member entitled to receive a base pension under subsection 2 of section

71 86.1250 shall receive an immediate percentage cost-of-living adjustment to their  
72 respective base pension equal to the total percentage cost-of-living adjustments  
73 received during such member's lifetime under this section, except that the  
74 adjustment provided by this subsection shall not be made to a base pension  
75 calculated under either subdivision (1) or paragraph (b) of subdivision (2) of  
76 subsection 2 of section 86.1240, either for a surviving spouse or for a child or  
77 children entitled to a base pension measured by the pension to which a qualified  
78 surviving spouse would be entitled, wherein such base pension is determined by  
79 a percentage of the amount being received by the deceased member at death.

80 **5. Upon the death of a Tier II member who has been retired and**  
81 **receiving a pension, the surviving spouse of such member entitled to**  
82 **receive a base pension under section 86.1240 or children of such**  
83 **member entitled to receive a base pension under subsection 2 of section**  
84 **86.1250 shall receive an immediate percentage cost-of-living adjustment**  
85 **to their respective base pension equal to the total percentage cost-of-**  
86 **living adjustments received during such member's lifetime under this**  
87 **section, except that the adjustment provided by this subsection shall**  
88 **not apply for any surviving spouse, or for a child or children entitled**  
89 **to benefits which would be received by a qualified surviving spouse,**  
90 **receiving a benefit pursuant to an election made under subdivision (1)**  
91 **of subsection 2 of section 86.1151.**

92 [3.] **6.** For purposes of this section, the term "base pension" shall mean:

93 (1) For a member, the pension computed under the provisions of the law  
94 as of the date of retirement without regard to cost-of-living adjustments, as  
95 adjusted, if applicable, for any election made under **subdivision (1) of**  
96 **subsection 2 of section 86.1151** or section 86.1210, but in all events not  
97 including any supplemental benefit under section 86.1230 **or section 86.1231**;

98 (2) For a surviving spouse, the base pension calculated for such spouse in  
99 accordance with the provisions of section 86.1240, including any compensation as  
100 a consultant to which such surviving spouse is entitled under said section in lieu  
101 of a pension thereunder, but not including any supplemental benefit under  
102 section 86.1230 **or section 86.1231**; and

103 (3) For a member's surviving child who is entitled to receive part or all of  
104 the pension which would be received by the surviving spouse, if living, the base  
105 pension calculated for such surviving spouse in accordance with the provisions of  
106 section 86.1240, including any compensation as a consultant to which such spouse

107 would be entitled under said section, if living, divided by the number of surviving  
108 children entitled to share in such pension under subsection 2 of section 86.1250.

109 [4.] 7. The cost-of-living adjustment shall be an increase or decrease  
110 computed on the base pension amount by the retirement board in an amount that  
111 the board, in its discretion, determines to be satisfactory, but in no event shall  
112 the adjustment be more than three percent or reduce the pension to an amount  
113 less than the base pension. In determining and granting the cost-of-living  
114 adjustments, the retirement board shall adopt such rules and regulations as may  
115 be necessary to effectuate the purposes of this section, including provisions for  
116 the manner of computation of such adjustments and the effective dates  
117 thereof. The retirement board shall provide for such adjustments to be  
118 determined once each year and granted on a date or dates to be chosen by the  
119 board, and may apply such adjustments in full to **eligible members as provided**  
120 **in subsections 1 and 2 of this section** who have retired during the year prior  
121 to such adjustments but who have not been retired for one full year and to the  
122 surviving spouse or applicable children of a member who has died during the year  
123 prior to such adjustments.

124 [5.] 8. The determination of whether the retirement system will remain  
125 actuarially sound shall be made at the time any cost-of-living adjustment is  
126 granted. If at any time the retirement system ceases to be actuarially sound,  
127 pension payments shall continue as adjusted by increases theretofore granted. A  
128 member of the retirement board shall have no personal liability for granting  
129 increases under this section if that retirement board member in good faith relied  
130 and acted upon advice of a qualified actuary that the retirement system would  
131 remain actuarially sound.

132 [6.] 9. If any benefit under subsection 1 of section 86.1250 on August 27,  
133 2005, would be reduced by application of this section, such benefit shall continue  
134 thereafter without reduction, but any benefit so continued shall terminate at the  
135 time prescribed in subsection 1 of section 86.1250.

86.1230. 1. Any **Tier I** member who retires subsequent to August 28,  
2 1991, with entitlement to a pension under sections 86.900 to 86.1280, shall  
3 receive, in addition to such member's base pension and cost-of-living adjustments  
4 thereto under section 86.1220, and in addition to any other compensation or  
5 benefit to which such member may be entitled under sections 86.900 to 86.1280,  
6 a supplemental retirement benefit of fifty dollars per month. The amount of such  
7 supplemental retirement benefit may be adjusted by cost-of-living adjustments

8 determined by the retirement board not more frequently than annually.

9           2. Any **Tier I** member who was retired on or before August 28, 1991, and  
10 is receiving retirement benefits from the retirement system shall, upon  
11 application to the retirement board, be retained as a consultant, and for such  
12 services such member shall receive, in addition to such member's base pension  
13 and cost-of-living adjustments thereto under section 86.1220, and in addition to  
14 any other compensation or benefit to which such member may be entitled under  
15 sections 86.900 to 86.1280, a supplemental compensation in the amount of fifty  
16 dollars per month. This appointment as a consultant shall in no way affect any  
17 member's eligibility for retirement benefits under the provisions of sections  
18 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits  
19 otherwise payable to such member. The amount of such supplemental  
20 compensation under this subsection may be adjusted by cost-of-living adjustments  
21 determined by the retirement board not more frequently than annually.

22           3. For purposes of subsections 1 and 2 of this section, the term "member"  
23 shall include a surviving spouse entitled to a benefit under sections 86.900 to  
24 86.1280 who shall be deemed to have retired for purposes of this section on the  
25 date of retirement of the member of whom such person is the surviving spouse or  
26 on the date of death of such member if such member died prior to retirement;  
27 provided, that if the surviving spouse of any member who retired prior to August  
28 28, 2000, shall not have remarried prior to August 28, 2000, but remarries  
29 thereafter, such surviving spouse shall thereafter receive benefits under  
30 subsection 2 of this section, and provided further, that no benefits shall be  
31 payable under this section to the surviving spouse of any member who retired  
32 prior to August 28, 2000, if such surviving spouse was at any time remarried  
33 after the member's death and prior to August 28, 2000. All benefits payable to  
34 a surviving spouse under this section shall be in addition to all other benefits to  
35 which such surviving spouse may be entitled under other provisions of sections  
36 86.900 to 86.1280. Any such surviving spouse of a member who dies while  
37 entitled to payments under this section shall succeed to the full amount of  
38 payment under this section to which such member was entitled at the time of  
39 such member's death, including any cost-of-living adjustments received by such  
40 member in the payment under this section prior to such member's death. In all  
41 events, the term "member" shall not include any children of the member who  
42 would be entitled to receive part or all of the pension which would be received by  
43 a surviving spouse if living.

44           4. Any member who is receiving benefits from the retirement system and  
45 who either was retired under the provisions of subdivision (1) of subsection 1 of  
46 section 86.1150, or who retired before August 28, 2001, under the provisions of  
47 section 86.1180 or section 86.1200, shall, upon application to the retirement  
48 board, be retained as a consultant. For such services such member shall receive  
49 each month in addition to such member's base pension and cost-of-living  
50 adjustments thereto under section 86.1220, and in addition to any other  
51 compensation or benefit to which such member may be entitled under sections  
52 86.900 to 86.1280, an equalizing supplemental compensation of ten dollars per  
53 month. This appointment as a consultant shall in no way affect any member's  
54 eligibility for retirement benefits under the provisions of sections 86.900 to  
55 86.1280, or in any way have the effect of reducing retirement benefits otherwise  
56 payable to such member. The amount of equalizing supplemental compensation  
57 under this subsection may be adjusted by cost-of-living adjustments, determined  
58 by the retirement board not more frequently than annually, but in no event shall  
59 the aggregate of such equalizing supplemental compensation together with all  
60 such cost-of-living adjustments thereto exceed twenty-five percent of the member's  
61 base pension. Each cost-of-living adjustment to compensation under this  
62 subsection shall be determined independently of any cost-of-living adjustment to  
63 any other benefit under sections 86.900 to 86.1280. For the purposes of this  
64 subsection, the term "member" shall include a surviving spouse entitled to  
65 benefits under the provisions of sections 86.900 to 86.1280, and who is the  
66 surviving spouse of a member who qualified, or would have qualified if living, for  
67 compensation under this subsection. Such surviving spouse shall, upon  
68 application to the retirement board, be retained as a consultant, and for such  
69 services shall be compensated in an amount equal to the compensation which  
70 would have been received by the member under this subsection, if living. Any  
71 such surviving spouse of a member who dies while entitled to payments under  
72 this subsection shall succeed to the full amount of payment under this subsection  
73 to which such member was entitled at the time of such member's death, including  
74 any cost-of-living adjustments received by such member in the payment under  
75 this subsection prior to such member's death. In all events, the term "member"  
76 shall not include any children of the member who would be entitled to receive  
77 part or all of the pension that would be received by a surviving spouse, if living.

78           5. A surviving spouse who is entitled to benefits under the provisions of  
79 subsection 1 of section 86.1240 as a result of the death prior to August 28, 2007,

80 of a member in service, and who is receiving benefits from the retirement system,  
81 shall, upon application to the retirement board, be retained as a consultant, and  
82 for such services such surviving spouse shall receive each month an equalizing  
83 supplemental compensation of ten dollars per month. A surviving spouse entitled  
84 to benefits under the provisions of subsection 1 of section 86.1240 as a result of  
85 the death of a member in service on or after August 28, 2007, shall receive each  
86 month an equalizing supplemental benefit of ten dollars per month. All benefits  
87 payable to a surviving spouse under this subsection shall be in addition to all  
88 other benefits to which such surviving spouse may be entitled under other  
89 provisions of sections 86.900 to 86.1280 and shall in no way have the effect of  
90 reducing benefits otherwise payable to such surviving spouse. The amount of  
91 equalizing supplemental benefit or equalizing supplemental compensation under  
92 this subsection may be adjusted by cost-of-living adjustments, determined by the  
93 retirement board not more frequently than annually, but in no event shall the  
94 aggregate of such equalizing supplemental benefit or compensation together with  
95 all such cost-of-living adjustments thereto exceed twenty-five percent of the base  
96 pension of the surviving spouse. Each cost-of-living adjustment to an equalizing  
97 supplemental benefit or compensation under this subsection shall be determined  
98 independently of any cost-of-living adjustment to any other benefit under sections  
99 86.900 to 86.1280. In all events the term "surviving spouse" as used in this  
100 subsection shall not include any children of the member who would be entitled  
101 to receive part or all of the pension that would be received by a surviving spouse,  
102 if living.

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

111         7. The determination of whether the retirement system will remain  
112 actuarially sound shall be made at the time any cost-of-living adjustment under  
113 this section is granted. If at any time the retirement system ceases to be  
114 actuarially sound, any benefit or compensation payments provided under this  
115 section shall continue as adjusted by increases or decreases theretofore granted.

116 A member of the retirement board shall have no personal liability for granting  
117 increases under this section if that retirement board member in good faith relied  
118 and acted upon advice of a qualified actuary that the retirement system would  
119 remain actuarially sound.

**86.1231. Any Tier II member who retires with entitlement to a  
2 pension under sections 86.900 to 86.1280, shall receive, in addition to  
3 such member's base pension and cost-of-living adjustments thereto  
4 under section 86.1220, and in addition to any other compensation or  
5 benefit to which such member may be entitled under sections 86.900 to  
6 86.1280, a supplemental retirement benefit of two hundred dollars per  
7 month. For purposes of this section, the term "member" shall include  
8 a surviving spouse entitled to a benefit under sections 86.900 to 86.1280  
9 as a Tier II surviving spouse. All benefits payable to a surviving spouse  
10 under this section shall be in addition to all other benefits to which  
11 such surviving spouse may be entitled under other provisions of  
12 sections 86.900 to 86.1280. Any such surviving spouse of a member who  
13 dies while entitled to payments under this section shall succeed to the  
14 full amount of payment under this section to which such member was  
15 entitled at the time of such member's death. In all events, the term  
16 "member" shall not include any children of the member who would be  
17 entitled to receive part or all of the pension which would be received  
18 by a surviving spouse, if living.**

86.1240. 1. Upon receipt of the proper proofs of death of a member in  
2 service for any reason whatsoever, there shall be paid to such member's surviving  
3 spouse, if any, in addition to all other benefits but subject to subsection 6 of this  
4 section, a base pension equal to forty percent of the final compensation of such  
5 member, subject to adjustments, if any, as provided in section 86.1220.

6 2. (1) Upon receipt of the proper proofs of death of a **Tier I** member who  
7 was retired or terminated service after August 28, 1999, and died after having  
8 become entitled to benefits from this retirement system, there shall be paid to  
9 such member's surviving spouse, if any, in addition to all other benefits but  
10 subject to subsection 6 of this section, a base pension equal to eighty percent of  
11 the pension being received by such member, including cost-of-living adjustments  
12 to such pension but excluding supplemental retirement benefits, at the time of  
13 such member's death, subject to subsequent adjustments, if any, as provided in  
14 section 86.1220. The pension provided by this subdivision shall terminate upon



15 remarriage by the surviving spouse prior to August 28, 2000.

16 (2) (a) Upon receipt of the proper proof of death of a **Tier I** member who  
17 retired or terminated service on or before August 28, 1999, and who died after  
18 August 28, 1999, and after having become entitled to benefits from this  
19 retirement system, such member's surviving spouse, if any, shall be entitled to  
20 a base pension equal to forty percent of the final compensation of such member.

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

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

28 **(3) Upon receipt of the proper proof of death of a Tier II member**  
29 **after retirement who has not elected the optional annuity permitted**  
30 **under subdivision (1) of subsection 2 of section 86.1151, such member's**  
31 **surviving spouse, shall be entitled to a base pension payable for life**  
32 **equaling fifty percent of the member's base pension.**

33 3. In the case of any member who, prior to August 28, 2000, died in  
34 service or retired, the surviving spouse who would qualify for benefits under  
35 subsection 1 or 2 of this section but for remarriage, and who has not remarried  
36 prior to August 28, 2000, but remarries thereafter, shall upon application be  
37 appointed by the retirement board as a consultant. For services as such  
38 consultant, such surviving spouse shall be compensated in an amount equal to the  
39 benefits such spouse would have received under sections 86.900 to 86.1280 in the  
40 absence of such remarriage.

41 4. Upon the death of any member who is in service after August 28, 2000,  
42 and who either had at least twenty-five years of creditable service or was retired  
43 or died as a result of an injury or illness occurring in the line of duty or course  
44 of employment under section 86.1180, the surviving spouse's benefit provided  
45 under this section, without including any supplemental retirement benefits paid  
46 such surviving spouse by this retirement system, shall be six hundred dollars per  
47 month. For any member who died, retired or terminated service on or before  
48 August 28, 2000, and who either had at least twenty-five years of creditable  
49 service or was retired or died as a result of an injury or illness occurring in the  
50 line of duty or course of employment under section 86.1180, the surviving spouse

51 shall upon application to the retirement board be appointed by the retirement  
52 board as a consultant. For services as such consultant, the surviving spouse  
53 shall, beginning the later of August 28, 2000, or the time the appointment is  
54 made under this subsection, be compensated in an amount which without  
55 including supplemental retirement benefits provided by this system shall be six  
56 hundred dollars monthly. A pension benefit under this subsection shall be paid  
57 in lieu of any base pension as increased by cost-of-living adjustments granted  
58 under section 86.1220. The benefit under this subsection shall not be subject to  
59 cost-of-living adjustments, but shall be terminated and replaced by the base  
60 pension and cost-of-living adjustments to which such spouse would otherwise be  
61 entitled at such time as the total base pension and such adjustments exceed six  
62 hundred dollars monthly.

63         5. A surviving spouse who is entitled to benefits under the provisions of  
64 subsection 1 of this section as a result of the death on or before August 28, 2009,  
65 of a member in service who is receiving benefits under sections 86.900 to 86.1280  
66 and who does not qualify under the provisions of subsection 4 of this section  
67 shall, upon application to the retirement board, be appointed as a consultant, and  
68 for such services such surviving spouse shall be compensated in an amount  
69 which, without including any supplemental retirement benefits provided by  
70 sections 86.900 to 86.1280, shall be six hundred dollars monthly. A pension  
71 benefit under this subsection shall be paid in lieu of any base pension as  
72 increased by cost-of-living adjustments granted under section 86.1220. The  
73 benefit under this subsection shall not be subject to cost-of-living adjustments,  
74 but shall be terminated and replaced by the base pension and cost-of-living  
75 adjustments to which such surviving spouse would otherwise be entitled at such  
76 time as the total base pension and such adjustments exceed six hundred dollars  
77 monthly. As used in this subsection, "surviving spouse" shall not include any  
78 children of the member who would be entitled to receive part or all of the pension  
79 that would be received by a surviving spouse, if living.

80         6. Any beneficiary of benefits under sections 86.900 to 86.1280 who  
81 becomes the surviving spouse of more than one member shall be paid all benefits  
82 due a surviving spouse of that member whose entitlements produce the largest  
83 surviving spouse benefits for such beneficiary but shall not be paid surviving  
84 spouse benefits as the surviving spouse of more than one member.

86.1250. 1. (1) Upon the death of a member in service or after  
2 retirement, such member's child or children under the age of eighteen years at

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

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

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

29 2. Upon or after the death of a member in service or after retirement with  
30 entitlement to benefits, if there is no surviving spouse or if a surviving spouse  
31 dies, the total amount, including any amounts receivable as consulting  
32 compensation, but not including any supplemental benefits under section 86.1230  
33 **for a Tier I member or section 86.1231 for a Tier II member**, which would  
34 be received by a qualified surviving spouse or which is being received by the  
35 surviving spouse at the date of death of such surviving spouse shall be added to  
36 the amounts received by and shall be divided among the children of such member  
37 under the age of eighteen years and the incapacitated children in equal shares.  
38 As each such child attains the age of eighteen years or has such incapacity

39 removed, such total amount shall then be divided among the remaining such  
40 children, until there is no remaining child of such member under the age of  
41 eighteen years or incapacitated, at which time all benefits for children of such  
42 member under this subsection shall cease.

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

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

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

8 3. The retirement board shall hold in trust the assets of the retirement  
9 system for the exclusive benefit of the members and their beneficiaries and for  
10 defraying reasonable administrative expenses of the system. No part of such  
11 assets shall, at any time prior to the satisfaction of all liabilities with respect to  
12 members and their beneficiaries, be used for or diverted to any purpose other  
13 than such exclusive benefit or to any purpose inconsistent with sections 86.900  
14 to 86.1280.

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

18 (1) Completion of twenty-five years of service **for Tier I members and**  
19 **twenty-seven years of service for Tier II members;**

20 (2) Age sixty [if the] **for any Tier I member who** has completed at least  
21 ten years of creditable service **or age sixty for any Tier II member who has**  
22 **completed at least fifteen years of creditable service;**

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

24 (4) To the extent funded, upon the termination of the system established  
25 under sections 86.900 to 86.1280 or any partial termination which affects the  
26 members or any complete discontinuance of contributions by the city to the  
27 system. Amounts representing forfeited nonvested benefits of terminated  
28 members shall not be used to increase benefits payable from the system but may  
29 be used to reduce contributions for future plan years.

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

35           6. A member or beneficiary of a member shall not accrue a service  
36 retirement annuity, disability retirement annuity, death benefit, whether death  
37 occurs in the line of duty or otherwise, or any other benefit under sections 86.900  
38 to 86.1280 in excess of the benefit limits applicable to the fund under Section 415  
39 of the Internal Revenue Code. The retirement board shall reduce the amount of  
40 any benefit that exceeds those limits by the amount of the excess. If the total  
41 benefits under the retirement system and the benefits and contributions to which  
42 any member is entitled under any other qualified plan or plans maintained by the  
43 board of police commissioners that employs the member would otherwise exceed  
44 the applicable limits under Section 415 of the Internal Revenue Code, the benefits  
45 the member would otherwise receive from the retirement system shall be reduced  
46 to the extent necessary to enable the benefits to comply with Section 415 of the  
47 Internal Revenue Code.

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

54           8. If the amount of any benefit is to be determined on the basis of  
55 actuarial assumptions that are not otherwise specifically set forth for that  
56 purpose in sections 86.900 to 86.1280, the actuarial assumptions to be used are  
57 those earnings and mortality assumptions being used on the date of the  
58 determination by the retirement system's actuary and approved by the retirement  
59 board. The actuarial assumptions being used at any particular time shall be  
60 attached as an addendum to a copy of the retirement system's statute that is  
61 maintained by the retirement board and shall be treated for all purposes as a  
62 part of sections 86.900 to 86.1280. The actuarial assumptions may be changed  
63 by the retirement system's actuary annually if approved by the retirement board,  
64 but a change in actuarial assumptions shall not result in any decrease in benefits  
65 accrued as of the effective date of the change.

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

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

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

83           (2) For purposes of subsection 9 of this section, a portion of a distribution  
84 shall not fail to be an eligible rollover distribution merely because the portion  
85 consists of after-tax employee contributions which are not includable in gross  
86 income. However, such portion may be paid only to an individual retirement  
87 account or annuity described in Section 408(a) or 408(b) of the Internal Revenue  
88 Code, or to a qualified defined contribution plan described in Section 401(a) or  
89 403(a) of the Internal Revenue Code that agrees to separately account for  
90 amounts so transferred, including separately accounting for the portion of such  
91 distribution that is includable in gross income and the portion of such  
92 distribution that is not so includable.

          86.1310. The following words and phrases as used in sections 86.1310 to  
2 86.1640 shall have the following meanings unless a different meaning is plainly  
3 required by the context:

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

10 retirement board;

11 (2) "Actuarial cost", the present value of a future payment or series of  
12 payments as calculated by applying the actuarial assumptions established  
13 according to subsection 8 of section 86.1630;

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

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

19 (5) "City" or "cities", any city which now has or may hereafter have a  
20 population of more than three hundred thousand and less than seven hundred  
21 thousand inhabitants, or any city that has made an election under section  
22 86.1320 to continue a civilian employees' retirement system theretofore  
23 maintained under sections 86.1310 to 86.1640;

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

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

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

38 (9) "Employee", any regularly appointed civilian employee of the police  
39 department of the city as specified in sections 86.1310 to 86.1640 who is:

40 (a) Appointed prior to August 28, 2011, and is not eligible to receive a  
41 pension from the police retirement system of said city;

42 (b) Appointed on or after August 28, 2011, and is not eligible to receive  
43 a pension from the police retirement system of such city or from any other  
44 retirement or pension system of such city;

45 (10) "Final compensation", the average annual compensation of a member

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

51 (11) "Internal Revenue Code", the United States Internal Revenue Code  
52 of 1986, as amended;

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

56 (13) "Member", a member of the civilian employees' retirement system as  
57 described in section 86.1480[;]:

58 (a) **"Tier I member", any person who became a member prior to**  
59 **August 28, 2013, and who remains a member on August 28, 2013, shall**  
60 **remain a Tier I member until such member's membership is terminated**  
61 **as described in section 86.1520;**

62 (b) **"Tier I surviving spouse", the surviving spouse of a Tier I**  
63 **member;**

64 (c) **"Tier II member", any person who became a member on or**  
65 **after August 28, 2013;**

66 (d) **"Tier II surviving spouse", the surviving spouse of a Tier II**  
67 **member;**

68 (e) **Any person whose membership is terminated as described in**  
69 **section 86.1520 and who re-enters membership on or after August 28,**  
70 **2013, shall become a member under paragraph (c) of this subdivision;**

71 (14) "Pension", annual payments for life, payable monthly, at the times  
72 described in section 86.1420;

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

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

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



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

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

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

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

92 (c) In the case of any member who both retired and died prior to August  
93 28, 2001, the person who was married to the member at the time of the member's  
94 death and who had not remarried prior to August 28, 2001;

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

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

86.1420. 1. All benefits and all necessary administrative expenses of the  
2 retirement system shall be paid from the funds of the retirement system.

3 2. The base pension of a member who, after August 28, 2011, retires from  
4 or otherwise terminates active service with entitlement to a base pension under  
5 sections 86.1310 to 86.1640 shall commence as of the first day of the month next  
6 following such retirement or termination with no proration of such pension for the  
7 month in which such retirement or termination occurs. The supplemental  
8 retirement benefit of a member who, after August 28, 2011, retires from or  
9 otherwise terminates active service with entitlement to a supplemental  
10 retirement benefit provided in subsection 1 of section 86.1600 shall commence as  
11 of the first day of the month next following such retirement or termination with  
12 no proration of such supplemental retirement benefit for the month in which such  
13 retirement or termination occurs.

14 3. Upon the death of a member in service who leaves a surviving spouse,  
15 as defined in section 86.1310, entitled to benefits, any base pension which such  
16 surviving spouse shall elect under subdivision (2) of subsection 1 of section  
17 86.1610 or under paragraph (b) of subdivision (3) of subsection 1 of section

18 86.1610 shall commence the later of the first day of the month next following such  
19 death or the first day of the month following the date which would have been the  
20 member's earliest possible retirement date permitted under [subsection]  
21 **subsections 2 or 3** of section 86.1540 with no proration of such pension for the  
22 month prior to such commencement date. Any base pension which such surviving  
23 spouse shall elect under paragraph (c) of subdivision (3) of subsection 1 of section  
24 86.1610 shall commence the first day of the month next following such death with  
25 no proration of such pension for the month prior to such commencement date.

26 4. Upon the death of a member who is receiving a base pension under  
27 sections 86.1310 to 86.1640 leaving a surviving spouse, as defined in section  
28 86.1310, entitled to benefits, the pension of such surviving spouse shall commence  
29 on the first day of the month next following such death with no proration for the  
30 month in which such death occurs.

31 5. All payments of any benefit shall be paid on the first business day of  
32 each month for that month. For any benefit under sections 86.1310 to 86.1640,  
33 the retirement system shall withhold payment of such benefit until all requisite  
34 documentation has been filed with the retirement system evidencing the  
35 entitlement of the payee to such payment. The final payment due to a retired  
36 member shall be the payment due on the first day of the month in which such  
37 member's death occurs. The final payment due to any surviving spouse shall be  
38 the payment due on the first day of the month in which such surviving spouse  
39 dies or otherwise ceases to be entitled to benefits under sections 86.1310 to  
40 86.1640.

41 6. If no benefits are otherwise payable to a surviving spouse of a deceased  
42 member or otherwise as provided in this section, the member's accumulated  
43 contributions, to any extent not fully paid to such member prior to the member's  
44 death or to the surviving spouse of such member or otherwise as provided in this  
45 section, shall be paid in one lump sum to the member's beneficiary named by such  
46 member in a writing filed with the retirement system prior to the member's death  
47 for the purpose of receiving such benefit, and if no beneficiary is named, then to  
48 such member's estate. Such payment shall constitute full and final payment of  
49 any and all claims for benefits under the retirement system, except as provided  
50 in section 86.1620.

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

4 leave of absence.

5           2. Except as provided in subsection 3 of this section, a member who served  
6 on active duty in the Armed Forces of the United States and who became a  
7 member, or returned to membership, after discharge under honorable conditions,  
8 may elect prior to retirement to purchase creditable service equivalent to such  
9 service in the Armed Forces, not to exceed two years, provided the member is not  
10 receiving and is not eligible to receive retirement credits or benefits from any  
11 other public or private retirement plan for the service to be purchased, other than  
12 a United States military service retirement system or United States Social  
13 Security benefits attributable to such military service, and an affidavit so stating  
14 is filed by the member with the retirement system. A member electing to make  
15 such purchase shall pay to the retirement system an amount equal to the  
16 actuarial cost of the additional benefits attributable to the additional service  
17 credit to be purchased, as of the date the member elects to make such  
18 purchase. Payment in full of the amount due from a member electing to purchase  
19 creditable service under this subsection shall be made over a period not to exceed  
20 five years, measured from the date of election, or prior to the commencement date  
21 for payment of benefits to the member from the retirement system, whichever is  
22 earlier, including interest on unpaid balances compounded annually at the  
23 interest rate assumed from time to time for actuarial valuations of the retirement  
24 system. If payment in full including interest is not made within the prescribed  
25 period, any partial payments made by the member shall be refunded, and no  
26 creditable service attributable to such election, or as a result of any such partial  
27 payments, shall be allowed; provided that if a benefit commencement date occurs  
28 because of the death or disability of a member who has made an election under  
29 this subsection and if the member is current in payments under an approved  
30 installment plan at the time of the death or disability, such election shall be valid  
31 if the member, the surviving spouse or other person entitled to benefit payments  
32 pays the entire balance of the remaining amount due, including interest to the  
33 date of such payment, within sixty days after the member's death or  
34 disability. The time of a disability shall be deemed to be the time when such  
35 member is determined by the retirement board to be totally and permanently  
36 disabled as provided in section 86.1560.

37           3. Notwithstanding any other provision of sections 86.1310 to 86.1640, a  
38 member who is on leave of absence for military service during any portion of  
39 which leave the United States is in a state of declared war, or a compulsory draft

40 is in effect for any of the military branches of the United States, or any units of  
41 the military reserves of the United States, including the National Guard, are  
42 mobilized for combat military operations, and who becomes entitled to  
43 reemployment rights and other employment benefits under Title 38, Chapter 43  
44 of the U.S. Code, relating to employment and reemployment rights of members  
45 of the uniformed services by meeting the requirements for such rights and  
46 benefits under Section 4312 of said chapter, or the corresponding provisions of  
47 any subsequent applicable federal statute, shall be entitled to service credit for  
48 the time spent in such military service for all purposes of sections 86.1310 to  
49 86.1640 and such member shall not be required to pay any member contributions  
50 for such time. If it becomes necessary for the years of such service to be included  
51 in the calculation of such member's compensation for any purpose, such member  
52 shall be deemed to have received the same compensation throughout such period  
53 of service as the member's base annual salary immediately prior to the  
54 commencement of such leave of absence; **provided, however, that the**  
55 **foregoing provisions of this subsection shall apply only to such portion**  
56 **of such leave with respect to which the cumulative length of the**  
57 **absence and of all previous absences from a position of employment**  
58 **with the employer by reason of service in the uniformed services does**  
59 **not exceed five years except for such period of any such excess as**  
60 **meets the requirements for exceptions to such five-year limitation set**  
61 **forth in the aforesaid Section 4312.**

86.1530. The normal retirement date of a member shall be the later of:

- 2 (1) **Tier I member** - the date such member attains the age of sixty-five
- 3 years, or the tenth anniversary of such member's employment; or
- 4 (2) **Tier II member** - the date such member attains the age of
- 5 **sixty-seven years, or the twentieth anniversary of such member's**
- 6 **employment.**

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

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

7 2. **Tier I** members may elect early retirement as follows:

- 8 (1) Beginning at age fifty-five, if the member has completed at least ten

9 years of creditable service or at any later age after the member has completed at  
10 least ten years of creditable service. Unless subdivision (3) of this subsection  
11 shall be applicable, the benefit as computed under subsection 1 of this section  
12 shall be reduced by one-half of one percent for each full month the initial  
13 payment is prior to the first day of the month following that in which such  
14 member will attain age sixty;

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

22 (3) At any time after the member's total of age and years of creditable  
23 service equals or exceeds eighty, in which event the benefit shall be as computed  
24 under subsection 1 of this section without any reduction. If an election for early  
25 retirement results in a reduced benefit under subdivision (1) or (2) of this  
26 subsection, such reduced benefit shall become the member's base pension, subject  
27 to all other adjustments described in this section.

28 **3. Tier II members may elect early retirement as follows:**

29 **(1) Beginning at age sixty-two, if the member has completed at**  
30 **least five years of creditable service, the benefit as computed under**  
31 **subsection 1 of this section shall be reduced by one-half of one percent**  
32 **for each full month the initial payment is prior to the first day of the**  
33 **month following that in which such member will attain age sixty-seven;**  
34 **or**

35 **(2) At any time after the member has completed at least twenty**  
36 **years of creditable service and is at least sixty-two years of age, in**  
37 **which event the benefit shall be as computed under subsection 1 of this**  
38 **section without any reduction; or**

39 **(3) At any time after the member's total of age and years of**  
40 **creditable service equals or exceeds eighty, and the member is at least**  
41 **fifty-five years of age, in which event the benefit shall be as computed**  
42 **under subsection 1 of this section without any reduction. If an election**  
43 **for early retirement results in a reduced benefit under subdivision (1)**  
44 **of this subsection, such reduced benefit shall become the member's base**

45 **pension, subject to all other adjustments described in this section.**

46 4. (1) A member who is married at the time of retirement may by a  
47 written election, with the written consent of such member's spouse, elect an  
48 optional benefit calculated as follows: such optional benefit shall be a monthly  
49 pension in the initial amount which shall be actuarially equivalent to the  
50 actuarial value of the pension described in subdivision (1) of subsection 1 of this  
51 section for such member at the date of retirement (including the value of  
52 survivorship rights of a surviving spouse, where applicable, under section  
53 86.1610), upon the basis that the initial annuity for the member's spouse, if such  
54 spouse survives the member, shall be the same as the amount being paid the  
55 member on such annuity at the member's death, and, subject to cost-of-living  
56 adjustments thereafter declared on the spouse's base pension under section  
57 86.1590, shall be paid to such surviving spouse for the lifetime of such spouse  
58 without regard to remarriage. If a member who makes an election of an optional  
59 benefit under this subsection has also elected an early retirement under either  
60 subdivision (1) or (2) of subsection 2 of this section **or subdivision (1) of**  
61 **subsection 3 of this section**, any reduction in benefit required for such early  
62 retirement election shall be calculated before calculating the initial amount of the  
63 optional benefit under this subsection.

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

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

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

75 [4.] 5. Subject to the provisions of subsection [6] 7 of this section,  
76 whenever the service of a member is terminated after August 28, 1999, for any  
77 reason prior to death or retirement and the member has five or more years of  
78 creditable service, the member may elect not to withdraw such member's  
79 accumulated contributions and shall become entitled to receive a pension upon  
80 such member's normal retirement date under subdivision (1) of subsection 1 of

81 this section or may elect to receive a pension commencing upon or after any date,  
82 prior to his or her normal retirement date, upon which early retirement would  
83 have been permitted under subsection 2 of this section **for Tier I members or**  
84 **subsection 3 of this section for Tier II member** if such member had  
85 remained a civilian employee of such police department, except that in calculating  
86 any qualification under [subsection] **subsections 2 or 3** of this section, such  
87 member shall not be entitled to count any year of creditable service in excess of  
88 such member's total years of creditable service at the time of such member's  
89 termination of employment. The amount of any pension commenced upon the  
90 basis of a date permitted under [subsection] **subsections 2 or 3** of this section  
91 shall be computed on the basis of the member's final compensation and number  
92 of years of creditable service, subject to such adjustments as may be applicable  
93 under the subdivision of [subsection] **subsections 2 or 3** of this section upon  
94 which such member relies in electing such member's pension and subject to any  
95 other adjustments that such member may elect under this section. The amount  
96 of the initial pension calculated after all applicable adjustments shall be the base  
97 pension for such member, and for such member's spouse if such member shall  
98 elect the optional benefit permitted under subsection [3] 4 of this section, for all  
99 purposes of sections 86.1310 to 86.1640. Payment of any benefits elected under  
100 this subsection shall commence as of the first day of the month next following the  
101 applicable date with no proration of such benefit for any initial partial month.

102 [5.] 6. A member whose service was terminated on or before August 28,  
103 1999, after five or more years of creditable service, and who permitted such  
104 member's accumulated contributions to remain in the pension fund, shall upon  
105 application to the retirement board be appointed as a consultant. For services as  
106 such consultant, such member shall, beginning the later of August 28, 1999, or  
107 the time of such appointment under this subsection, be entitled to elect to receive  
108 compensation in such amount and at such time as such member would have been  
109 entitled to elect under any of the provisions of subsection [4] 5 of this section if  
110 such member had terminated service after August 28, 1999. Such member shall  
111 be entitled to the same cost-of-living adjustments following the commencement  
112 of such compensation as if such member's compensation had been a base pension.

113 [6.] 7. Notwithstanding any other provisions of sections 86.1310 to  
114 86.1640, any member who is convicted of a felony prior to separation from active  
115 service shall not be entitled to any benefit from this retirement system except the  
116 return of such member's accumulated contributions.

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

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

7 (2) Notifies the retirement system of the member's election hereunder at  
8 least thirty days in advance of the retirement date. Following receipt of an initial  
9 notice of a member's retirement date and request for an explanation, the  
10 retirement system shall, at least sixty days in advance of such retirement date,  
11 provide the member a written explanation of such member's rights under this  
12 section and an estimate of the amount by which the member's regular monthly  
13 base pension would be reduced in the event of the member's election of any of the  
14 options available to the member under this section.

15 2. (1) A member entitled to make an election under this section may elect  
16 to receive a lump sum distribution with the member's initial monthly pension  
17 payment under section 86.1540, subject to all the terms of this section. The  
18 member may elect the amount of the member's lump sum distribution from one,  
19 but not more than one, of the following options for which the member qualifies:

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

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

28 (c) A member having three or more years of creditable service after the  
29 member's eligible retirement date may elect a lump sum amount equal to  
30 thirty-six times the initial monthly base pension the member would receive if no  
31 election were made under this section. For purposes of this section, "eligible  
32 retirement date" for a member shall mean the earliest date on which the member  
33 could elect to retire and be entitled to receive a pension under section 86.1540.

34 (2) When a member makes an election to receive a lump sum distribution  
35 under this section, the base pension that the member would have received in the  
36 absence of an election shall be reduced on an actuarially equivalent basis to



37 reflect the payment of the lump sum distribution, and the reduced base pension  
38 shall be the member's base pension thereafter for all purposes relating to base  
39 pension amounts under sections 86.1310 to 86.1640, unless the member has also  
40 elected an optional benefit permitted under subsection [3] 4 of section 86.1540.

41 (3) If a member electing a lump sum distribution under this section has  
42 elected the optional benefit permitted under subsection [3] 4 of section 86.1540,  
43 the calculation of the member's pension shall be made in the following order:

44 (a) The amount of the member's normal pension under subdivision (1) of  
45 subsection 1 of section 86.1540 shall be reduced if applicable by any reductions  
46 required under [subsection] **subsections 2 or 3** of section 86.1540;

47 (b) The amount of the pension as determined under paragraph (a) of this  
48 subdivision shall be reduced to the actuarially equivalent amount to produce the  
49 optional form of benefit described in subdivision (1) of subsection [3] 4 of section  
50 86.1540;

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

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

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

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

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

9 2. Upon the death of a member who has been retired and receiving a

10 pension, and who dies after August 28, 2001, the surviving spouse of such  
11 member entitled to receive a base pension under section 86.1610 shall receive an  
12 immediate percentage cost-of-living adjustment to his or her base pension equal  
13 to the total percentage cost-of-living adjustments received during such member's  
14 lifetime under this section, but such adjustment shall not be deemed to change  
15 the base pension amount to which subsequent cost-of-living adjustments may be  
16 made.

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

18 (1) For a member, the pension computed under the provisions of the law  
19 as of the date of retirement without regard to cost-of-living adjustments, as  
20 adjusted if applicable, for any optional elections made under sections 86.1540 and  
21 86.1580, but in all events not including any supplemental benefit under section  
22 86.1600;

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

28 (3) For a surviving spouse entitled to the continuation of an optional  
29 benefit elected under subsection [3] 4 of section 86.1540, the base pension  
30 determined in accordance with subdivision (3) of subsection [3] 4 of section  
31 86.1540.

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

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

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

5           (1) If the member has less than five years of creditable service, the  
6 member's surviving spouse shall be paid, in one lump sum, the amount of the  
7 member's accumulated contributions. If there is no surviving spouse, the  
8 member's accumulated contributions shall be paid as provided in subsection 6 of  
9 section 86.1420;

10           (2) If the member has at least five but fewer than twenty years of  
11 creditable service, the member's surviving spouse may elect the lump sum  
12 settlement in subdivision (1) of this subsection or a pension. Such pension shall  
13 be fifty percent of the member's accrued pension at date of death as computed in  
14 subdivision (1) of subsection 1 of section 86.1540, commencing as provided in  
15 subsection 3 of section 86.1420;

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

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

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

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

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

24           (5) For the surviving spouse of a member who died in service after August  
25 28, 2001, benefits payable under subsection 1 of this section shall continue for the  
26 lifetime of such surviving spouse without regard to remarriage.

27           2. Upon death of a member after retirement who has not elected the  
28 optional annuity permitted under subsection [3] 4 of section 86.1540, the

29 surviving spouse shall receive a base pension payable for life, equaling fifty  
30 percent of the member's base pension, as of the member's retirement date, subject  
31 to the following:

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

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

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

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

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

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

8 3. The retirement board shall hold in trust the assets of the retirement  
9 system for the exclusive benefit of the members and their beneficiaries and for

10 defraying reasonable administrative expenses of the system. No part of such  
11 assets shall, at any time prior to the satisfaction of all liabilities with respect to  
12 members and their beneficiaries, be used for or diverted to any purpose other  
13 than such exclusive benefit or to any purpose inconsistent with sections 86.1310  
14 to 86.1640.

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

18 (1) The attaining of the age of sixty-five or the member's tenth  
19 anniversary of employment, whichever is later **for any Tier I member, or the**  
20 **attaining of the age of sixty-seven or the member's twentieth**  
21 **anniversary of employment, whichever is later for any Tier II member;**

22 (2) **For any Tier I member** when the total sum of age and years of  
23 **creditable** service equals or exceeds eighty, **or for any Tier II member when**  
24 **the total sum of age and years of creditable service equals or exceeds**  
25 **eighty and such member has reached at least age fifty-five;** or

26 (3) To the extent funded, upon the termination of the system established  
27 under sections 86.1310 to 86.1640 or any partial termination which affects the  
28 member or any complete discontinuance of contributions by the city to the  
29 system. Amounts representing forfeited nonvested benefits of terminated  
30 members shall not be used to increase benefits payable from the system but may  
31 be used to reduce contributions for future plan years.

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

37 6. A member or beneficiary of a member shall not accrue a service  
38 retirement annuity, disability retirement annuity, death benefit, whether death  
39 occurs in the line of duty or otherwise, or any other benefit under sections  
40 86.1310 to 86.1640 in excess of the benefit limits applicable to the fund under  
41 Section 415 of the Internal Revenue Code. The retirement board shall reduce the  
42 amount of any benefit that exceeds the limits of this section by the amount of the  
43 excess. If the total benefits under the retirement system and the benefits and  
44 contributions to which any member is entitled under any other qualified plan or  
45 plans maintained by the board of police commissioners that employs the member

46 would otherwise exceed the applicable limits under Section 415 of the Internal  
47 Revenue Code, the benefits the member would otherwise receive from the  
48 retirement system are reduced to the extent necessary to enable the benefits to  
49 comply with Section 415 of the Internal Revenue Code.

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

56         8. If the amount of any benefit is determined on the basis of actuarial  
57 assumptions that are not specifically set forth for that purpose in sections  
58 86.1310 to 86.1640, the actuarial assumptions to be used are those earnings and  
59 mortality assumptions used on the date of the determination by the retirement  
60 system's actuary and approved by the retirement board. The actuarial  
61 assumptions used at any particular time shall be attached as an addendum to a  
62 copy of the retirement system's statute maintained by the retirement board and  
63 shall be treated for all purposes as part of sections 86.1310 to 86.1640. The  
64 actuarial assumptions may be changed by the retirement system's actuary  
65 annually if approved by the retirement board, but a change in actuarial  
66 assumptions shall not result in any decrease in benefits accrued as of the  
67 effective date of the change.

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

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

75         (1) For the purposes of subsection 9 of this section, an eligible retirement  
76 plan shall also mean an annuity described in Section 403(b) of the Internal  
77 Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue  
78 Code that is maintained by a state, political subdivision of a state, or any agency  
79 or instrumentality of a state or political subdivision of a state and which agrees  
80 to separately account for amounts transferred into such plan from the retirement  
81 system. The definition for eligible retirement plan shall also apply in the case of

82 a distribution to a surviving spouse or to a spouse or former spouse who is the  
83 alternate payee under a qualified domestic relations order, as defined in Section  
84 414(p) of the Internal Revenue Code; and

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

✓

Bill

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