

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

HOUSE BILL NO. 515

98TH GENERAL ASSEMBLY

1053H.01T

2015

AN ACT

To repeal sections 86.200, 86.207, 86.213, 86.237, 86.250, 86.251, 86.257, 86.263, 86.270, 86.320, 86.1110, 86.1270, 86.1500, and 86.1630, RSMo, and to enact in lieu thereof fourteen new sections relating to local government retirement systems.

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

Section A. Sections 86.200, 86.207, 86.213, 86.237, 86.250, 86.251, 86.257, 86.263, 86.270, 86.320, 86.1110, 86.1270, 86.1500, and 86.1630, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 86.200, 86.207, 86.213, 86.237, 86.250, 86.251, 86.257, 86.263, 86.270, 86.320, 86.1110, 86.1270, 86.1500, and 86.1630 to read as follows:

86.200. The following words and phrases as used in sections 86.200 to 86.366, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions", the sum of all mandatory contributions deducted from the compensation of a member and credited to the member's individual account, together with members' interest thereon;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of mortality tables and interest assumptions adopted by the board of trustees;

(3) "Average final compensation":

(a) With respect to a member who earns no creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last three years of creditable service as a police officer, or if the member has had less than three years of creditable service, the average earnable compensation of the member's entire period of creditable service;

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

13 (b) With respect to a member who is not participating in the DROP pursuant to section
14 86.251 on October 1, 2001, who did not participate in the DROP at any time before such date,
15 and who earns any creditable service on or after October 1, 2001, the average earnable
16 compensation of the member during the member's last two years of creditable service as a
17 policeman, or if the member has had less than two years of creditable service, then the average
18 earnable compensation of the member's entire period of creditable service;

19 (c) With respect to a member who is participating in the DROP pursuant to section
20 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns
21 to active participation in the system pursuant to section 86.251, and who terminates employment
22 as a police officer for reasons other than death or disability before earning at least two years of
23 creditable service after such return, the portion of the member's benefit attributable to creditable
24 service earned before DROP entry shall be determined using average final compensation as
25 defined in paragraph (a) of this subdivision; and the portion of the member's benefit attributable
26 to creditable service earned after return to active participation in the system shall be determined
27 using average final compensation as defined in paragraph (b) of this subdivision;

28 (d) With respect to a member who is participating in the DROP pursuant to section
29 86.251 on October 1, 2001, or whose participation in the DROP ended before such date, who
30 returns to active participation in the system pursuant to section 86.251, and who terminates
31 employment as a police officer after earning at least two years of creditable service after such
32 return, the member's benefit attributable to all of such member's creditable service shall be
33 determined using the member's average final compensation as defined in paragraph (b) of this
34 subdivision;

35 (e) With respect to a member who is participating in the DROP pursuant to section
36 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns
37 to active participation in the system pursuant to section 86.251, and whose employment as a
38 police officer terminates due to death or disability after such return, the member's benefit
39 attributable to all of such member's creditable service shall be determined using the member's
40 average final compensation as defined in paragraph (b) of this subdivision; and

41 (f) With respect to the surviving spouse or surviving dependent child of a member who
42 earns any creditable service on or after October 1, 2001, the average earnable compensation of
43 the member during the member's last two years of creditable service as a police officer or, if the
44 member has had less than two years of creditable service, the average earnable compensation of
45 the member's entire period of creditable service;

46 (4) "Beneficiary", any person in receipt of a retirement allowance or other benefit;

47 (5) ["Board of police commissioners", any board of police commissioners, police
48 commissioners and any other officials or boards now or hereafter authorized by law to employ
49 and manage a permanent police force in such cities;

50 (6) "Board of trustees", the board provided in sections 86.200 to 86.366 to administer
51 the retirement system;

52 [(7)] (6) "Creditable service", prior service plus membership service as provided in
53 sections 86.200 to 86.366;

54 [(8)] (7) "DROP", the deferred retirement option plan provided for in section 86.251;

55 [(9)] (8) "Earnable compensation", the annual salary established under section 84.160
56 which a member would earn during one year on the basis of the member's rank or position plus
57 any additional compensation for academic work and shift differential that may be provided by
58 any official or board now or hereafter authorized by law to employ and manage a permanent
59 police force in such cities. Such amount shall include the member's deferrals to a deferred
60 compensation plan pursuant to Section 457 of the Internal Revenue Code or to a cafeteria plan
61 pursuant to Section 125 of the Internal Revenue Code or, effective October 1, 2001, to a
62 transportation fringe benefit program pursuant to Section 132(f)(4) of the Internal Revenue Code.
63 Earnable compensation shall not include a member's additional compensation for overtime,
64 standby time, court time, nonuniform time or unused vacation time. Notwithstanding the
65 foregoing, the earnable compensation taken into account under the plan established pursuant to
66 sections 86.200 to 86.366 with respect to a member who is a noneligible participant, as defined
67 in this subdivision, for any plan year beginning on or after October 1, 1996, shall not exceed the
68 amount of compensation that may be taken into account under Section 401(a)(17) of the Internal
69 Revenue Code, as adjusted for increases in the cost of living, for such plan year. For purposes
70 of this subdivision, a "noneligible participant" is an individual who first becomes a member on
71 or after the first day of the first plan year beginning after the earlier of:

72 (a) The last day of the plan year that includes August 28, 1995; or

73 (b) December 31, 1995;

74 [(10)] (9) "Internal Revenue Code", the federal Internal Revenue Code of 1986, as
75 amended;

76 [(11)] (10) "Mandatory contributions", the contributions required to be deducted from
77 the salary of each member who is not participating in DROP in accordance with section 86.320;

78 [(12)] (11) "Medical board", the [board of three physicians of different disciplines]
79 **health care organization** appointed by the trustees of the police retirement board and
80 responsible for arranging and passing upon all medical examinations required under the
81 provisions of sections 86.200 to 86.366, which [board] shall investigate all essential statements
82 and certificates made by or on behalf of a member in connection with an application for

83 disability retirement and shall report in writing to the board of trustees its conclusions and
84 recommendations[, which can be based upon the opinion of a single member or that of an outside
85 specialist if one is appointed, upon all the matters referred to such medical board];

86 [(13)] (12) "Member", a member of the retirement system as defined by sections 86.200
87 to 86.366;

88 [(14)] (13) "Members' interest", interest on accumulated contributions at such rate as
89 may be set from time to time by the board of trustees;

90 [(15)] (14) "Membership service", service as a policeman rendered since last becoming
91 a member, except in the case of a member who has served in the Armed Forces of the United
92 States and has subsequently been reinstated as a policeman, in which case "membership service"
93 means service as a policeman rendered since last becoming a member prior to entering such
94 armed service;

95 [(16)] (15) "Plan year" or "limitation year", the twelve consecutive-month period
96 beginning each October first and ending each September thirtieth;

97 [(17)] (16) "Policeman" or "police officer", any member of the police force of such cities
98 who holds a rank in such police force;

99 [(18)] (17) "Prior service", all service as a policeman rendered prior to the date the
100 system becomes operative or prior to membership service which is creditable in accordance with
101 the provisions of sections 86.200 to 86.366;

102 [(19)] (18) "Reserve officer", any member of the police reserve force of such cities,
103 armed or unarmed, who works less than full time, without compensation, and who, by his or her
104 assigned function or as implied by his or her uniform, performs duties associated with those of
105 a police officer and who currently receives a service retirement as provided by sections 86.200
106 to 86.366;

107 [(20)] (19) "Retirement allowance", annual payments for life as provided by sections
108 86.200 to 86.366 which shall be payable in equal monthly installments or any benefits in lieu
109 thereof granted to a member upon termination of employment as a police officer and actual
110 retirement;

111 [(21)] (20) "Retirement system", the police retirement system of the cities as defined in
112 sections 86.200 to 86.366;

113 [(22)] (21) "Surviving spouse", the surviving spouse of a member who was the member's
114 spouse at the time of the member's death.

86.207. 1. **Except as provided herein**, all persons who become policemen and all
2 policemen who enter or reenter the service of [the] **any city not within a county** after the first
3 day of October, 1957, become members as a condition of their employment and shall receive no
4 pensions or retirement allowance from any other pension or retirement system supported wholly

5 or in part by the city **not within a county** or the state of Missouri, nor shall they be required to
6 make contributions under any other pension or retirement system of the city **not within a county**
7 or the state of Missouri **for the same period of service**, anything to the contrary
8 notwithstanding. **Any employee of a city not within a county who is earning creditable**
9 **service in a retirement plan established by said city under section 95.540 and subsequently**
10 **becomes a policeman may elect to remain a member of said retirement plan and shall not**
11 **be required to become a member of a police retirement system established under section**
12 **86.200. However, an employee of a city not within a county who is earning creditable**
13 **service in a retirement plan established by said city under section 95.540 and who**
14 **subsequently becomes a policeman may elect to transfer membership and creditable service**
15 **to the police retirement system created under section 86.200. Such transfers are subject**
16 **to the conditions and requirements contained in section 105.691 and are also subject to any**
17 **existing agreements between the said retirement plans; provided however, transfers**
18 **completed prior to January 1, 2016, shall occur without regard to the vesting requirements**
19 **of the receiving plan contained in section 105.691. As part of the transfer process**
20 **described herein, the respective retirement plans may require the employee to acknowledge**
21 **and agree as a condition of transfer that any election made under this section is**
22 **irrevocable, constitutes a waiver of any right to receive retirement and disability benefits**
23 **except as provided by the police retirement system, and that plan terms may be modified**
24 **in the future.**

25 2. If any member ceases to be in service for more than one year unless the member has
26 attained the age of fifty-five or has twenty years or more of creditable service, or if the member
27 withdraws the member's accumulated contributions or if the member receives benefits under the
28 retirement system or dies, the member thereupon ceases to be a member; except in the case of
29 a member who has served in the Armed Forces of the United States and has subsequently been
30 reinstated as a policeman. A member who has terminated employment as a police officer, has
31 actually retired and is receiving retirement benefits under the system shall be considered a retired
32 member.

33 3. A reserve officer shall not be considered a member of the system for the purpose of
34 determining creditable service, nor shall any contributions be due. A reserve officer shall not
35 be entitled to any benefits from the system other than those awarded when the reserve officer
36 originally retired under section 86.250, nor shall service as a reserve officer prohibit distribution
37 of those benefits.

86.213. 1. The general administration and the responsibility for the proper operation of
2 the retirement system and for making effective the provisions of sections 86.200 to 86.366 are
3 hereby vested in a board of trustees of nine persons. The board shall be constituted as follows:

4 (1) The comptroller of the city, ex officio. If the comptroller is absent from any meeting
5 of the board of trustees for any cause whatsoever, the comptroller may be represented by either
6 the deputy comptroller or the first assistant comptroller who in such case shall have full power
7 to act as a member of the said board of trustees;

8 (2) Two members to be appointed by the mayor of the city to serve for a term of two
9 years, except the mayor shall not appoint the police chief of the municipal police force[,] or the
10 city's director of public safety[, or the president of the board of police commissioners of the city];

11 (3) Three members to be elected by the members of the retirement system of the city for
12 a term of three years; provided, however, that the term of office of the first three members so
13 elected shall begin immediately upon their election and one such member's term shall expire one
14 year from the date the retirement system becomes operative, another such member's term shall
15 expire two years from the date the retirement system becomes operative and the other such
16 member's term shall expire three years from the date the retirement system becomes operative;
17 provided, further, that such members shall be members of the system and hold office only while
18 members of the system;

19 (4) Three members who shall be retired members of the retirement system to be elected
20 by the retired members of the retirement system for a term of three years; except that, the term
21 of office of the first two members so elected shall begin immediately upon their election and one
22 such member's term shall expire two years from the date of election and the other such member's
23 term shall expire three years from the date of election.

24 2. Any member elected chairman of the board of trustees may serve without term
25 limitations.

26 3. Each commissioned elected trustee shall be granted travel time by the St. Louis
27 metropolitan police department to attend any and all functions that have been authorized by the
28 board of trustees of the police retirement system of St. Louis. Travel time, with compensation,
29 for a trustee shall not exceed thirty days in any board fiscal year.

86.237. 1. The board of trustees is authorized to use the city counselor of the specified
2 cities as a legal advisor to the board of trustees and may also appoint an attorney-at-law or firm
3 of attorneys-at-law to serve as the legal advisor and consultant to the board of trustees and to
4 represent the system and the board of trustees in all legal proceedings.

5 2. The board of trustees shall designate a [medical director, who] **medical board which**
6 shall [appoint physicians, including himself or herself if appropriate, as he or she deems
7 necessary to] arrange for and pass upon all medical examinations required under the provisions
8 of sections 86.200 to 86.366. Such [physicians] **medical board** shall investigate all essential
9 statements as to physical or mental conditions made by or on behalf of a member in connection
10 with an application for disability retirement and shall report in writing [their] **to the board of**

11 **trustees its** conclusions and recommendations upon all the matters referred to them. [The
12 medical director shall report in writing to the board of trustees conclusions and recommendations
13 concerning all essential statements as to physical or mental conditions made by or on behalf of
14 a member in connection with an application for disability retirement.]

86.250. Retirement of a member on a service retirement allowance shall be made by the
2 board of trustees as follows:

3 (1) Any member may terminate employment as a police officer and actually retire after
4 completing twenty or more years of creditable service or attaining the age of fifty-five upon the
5 member's written application to the board of trustees setting forth at what time, but not more than
6 ninety days subsequent to the execution and filing of the application, the member desires to be
7 retired;

8 (2) Any member in service who has attained the age of sixty-five shall be terminated as
9 a police officer and actually retired forthwith provided that upon request of the [board] **chief** of
10 police [commissioners] the board of trustees may permit such member to remain in service for
11 periods of not to exceed one year from the date of the last request from the [board] **chief** of
12 police [commissioners].

86.251. 1. The board of trustees may develop and establish a deferred retirement option
2 plan (DROP) in which members who are eligible for retirement but who have not terminated
3 employment as police officers and who have not actually retired may participate. The DROP
4 shall be designed to allow members with at least twenty years of creditable service or who have
5 attained the age of fifty-five who have achieved eligibility for retirement and are entitled to a
6 service retirement allowance and other benefits to postpone actual retirement, continue active
7 employment and accumulate a deferred receipt of the service retirement allowance. No one shall
8 participate in the DROP for a period exceeding five years.

9 2. Any member who has at least twenty years of creditable service or has attained the age
10 of fifty-five may elect in writing before retirement to participate in the DROP. A member
11 electing to participate in the DROP shall postpone actual retirement, shall continue in active
12 employment and shall not receive any direct retirement allowance payments or benefits during
13 the period of participation.

14 3. Upon the start of the participation in the DROP, the member shall cease to make any
15 mandatory contributions to the system. No contribution shall be required by the city into the
16 DROP account. During the period of participation in the DROP, the amount that the member
17 would have received as a service retirement allowance if the member had actually retired instead
18 of entering DROP shall be deposited monthly in the member's DROP account which shall be
19 established in the member's name by the board of trustees. The member's service retirement
20 allowance shall not be adjusted for any cost-of-living increases for any period prior to the

21 member's termination of employment as a police officer and actual retirement. Cost-of-living
22 increases, if any, for any period following the member's termination of employment as a police
23 officer and actual retirement shall be applied only to monthly service retirement payments made
24 following termination of employment as a police officer and actual retirement. Service earned
25 during the period of participation in the DROP shall not be creditable service and shall not be
26 counted in determination of any service retirement allowance or surviving spouse's or
27 dependents' benefits. Compensation paid during the period of participation in the DROP shall
28 not be earnable compensation and shall not be counted in the determination of any service
29 retirement allowance or surviving spouse's or dependent's benefits. The member's service
30 retirement allowance shall be frozen as of the date the member enters DROP. Except as
31 specifically provided in sections 86.200 to 86.366, the member's frozen service retirement
32 allowance shall not increase while the member is participating in DROP or after the member's
33 participation in DROP ends, and the member shall not share in any benefit improvement that is
34 enacted or that becomes effective while such member is participating in the DROP.

35 4. A member shall cease participation in the DROP upon the termination of the member's
36 employment as a police officer and actual retirement, or at the end of the five-year period
37 commencing on the first day of the member's participation in the DROP, or as of the effective
38 date[, but in no event prior to October 1, 2001,] of the member's election to return to active
39 participation in the system, whichever occurs first. A member's election to return to active
40 participation in the system before the end of the five-year period commencing on the first day
41 of participation in the DROP shall be made and shall become effective in accordance with
42 procedures established by the board of trustees[, but in no event prior to October 1, 2001]. Upon
43 the member's termination of employment as a police officer and actual retirement, the member
44 shall elect to receive the value of the member's DROP account, in one of the following forms of
45 payment:

46 (a) A lump sum payment; or

47 (b) Equal monthly installments over a ten-year period. Either form of payment should
48 begin within thirty days after the member's notice to the board of trustees that the member has
49 selected a particular option.

50 5. If a member who is participating in the DROP elects to return to active participation
51 in the system or if a member who is participating in the DROP does not terminate employment
52 and actually retires as a police officer in the city for which the retirement system was established
53 pursuant to sections 86.200 to 86.366 at the end of the five-year period commencing on the first
54 day of the member's participation in the DROP, the member shall return to active participation
55 in the system and shall resume making mandatory contributions to the system effective as of the
56 day after participation in the DROP ends [or, if later, October 1, 2001]. The board of trustees

57 shall notify the [police commissioners] **chief of police** to begin deducting mandatory
58 contributions from the member's salary and the member's employment period shall count as
59 creditable service beginning as of the day the member returns to active participation.

60 6. In no event shall a member whose participation in DROP has ended for any reason be
61 eligible to participate in DROP again.

62 7. Upon the member's termination of employment as a police officer and actual
63 retirement, the member's mandatory contributions to the retirement system shall be paid to the
64 member pursuant to subsection 4 of section 86.253.

65 8. If a member dies prior to termination of employment as a police officer and actual
66 retirement while participating in the DROP or before the member has received full withdrawal
67 of the amount in the member's DROP account under the installment optional payment form, the
68 remaining balance of the member's DROP account shall be payable to the member's surviving
69 spouse; or, if the member is then unmarried, to the member's dependent children in equal shares;
70 or, if none, to the member's dependent mother or father; or, if none, to the member's designated
71 beneficiary or, if no such beneficiary is then living, to the member's estate. Payment shall be
72 made in a lump sum within sixty days after receipt by the board of trustees of evidence and proof
73 of the death of a member. In addition, the member's mandatory contributions, if any, that were
74 not already paid to the member pursuant to subsection 4 of section 86.253 shall be paid to the
75 member's surviving spouse pursuant to section 86.288.

76 9. If a member applies for and receives benefits for an accidental disability retirement
77 allowance pursuant to the provisions of section 86.263, the member shall forfeit all rights, claims
78 or interest in the member's DROP account and the member's benefits shall be calculated as if the
79 member has continued in employment and had not elected to participate in the DROP. Any
80 portion of a DROP account that has been forfeited as provided in this subsection shall be a
81 general asset of the system.

82 10. A member's DROP account shall earn interest equal to the rate of return earned by
83 the system's investment portfolio on a market value basis, including realized and unrealized gains
84 and losses, net of investment expense, as certified by the system's actuary. As of the last day of
85 each plan year beginning after DROP participation begins, the member's DROP account balance,
86 determined as of the last day of the prior plan year, shall be credited with interest at the
87 investment rate earned by the assets of the retirement system for such prior plan year. If
88 distribution of the member's DROP account balance is made in a lump sum under subsection 4
89 or 8 of this section, interest for the plan year of distribution shall be credited on the ending
90 balance for the prior plan year at the investment rate earned on the assets of the retirement system
91 for the prior plan year, in proportion to the part of the plan year preceding the date of the
92 member's termination of employment or death, whichever is earlier. If the member's DROP

93 account is paid in equal monthly installments pursuant to subsection 4 of this section, interest
94 during the installment period shall be credited as of the last day of each plan year ending after
95 installment payment begins on the account balance as of the first or last day of the plan year,
96 whichever is lower, at the investment rate earned by the assets of the system for the prior plan
97 year. Interest for the year in which the final installment is paid shall be credited on the balance
98 remaining after the final installment is paid, at the investment rate earned on the assets of the
99 system for the prior plan year, in proportion to the part of the plan year preceding payment of the
100 final installment. Any interest credited to the DROP account during the installment period shall
101 be paid as soon as reasonably possible after the final monthly installment. No interest shall be
102 credited on amounts, if any, added to the member's DROP account during the year in which the
103 distribution of the account is completed.

104 11. The board of trustees shall not incur any liability individually or on behalf of other
105 individuals for any act or omission made in good faith in relation to the DROP or assets credited
106 to DROP accounts established by this section. The provisions of the Internal Revenue Code and
107 regulations promulgated thereunder shall supersede any provision of this section if there is any
108 inconsistency with the Internal Revenue Code or regulation.

109 12. Upon the receipt by the board of trustees of evidence and proof that the death of a
110 member resulted from an event occurring while the member was in the actual performance of
111 duty, and if the member is participating in the DROP, the member's surviving spouse or, if the
112 member is then unmarried, the member's unmarried dependent children, may elect within thirty
113 days after the member's death to have the amount in the member's DROP account paid in the
114 form of a monthly survivor annuity. Payment of the survivor annuity shall begin within sixty
115 days after the election is received. Payment to the member's surviving spouse shall continue
116 until the surviving spouse's death; payment to the member's unmarried dependent children shall
117 be made while any child qualifies as an unmarried dependent child pursuant to section 86.280.
118 The survivor annuity shall be the actuarial equivalent of the member's DROP account as of the
119 date of the member's death. In no event shall the total amount paid pursuant to this subsection
120 be less than the member's DROP account balance as of the date of the member's death.

86.257. 1. Upon the application of the [board] **chief** of police [commissioners or any
2 successor body] **or a member**, any member who has completed ten or more years of creditable
3 service or upon the police retirement system created by sections 86.200 to 86.366 first attaining,
4 after August 28, 2013, a funded ratio, as defined in section 105.660 and as determined by the
5 system's annual actuarial valuation, of at least eighty percent, a member who has completed five
6 or more years of creditable service and who has become permanently unable to perform the
7 duties of a police officer as the result of an injury or illness not exclusively caused or induced
8 by the actual performance of his or her official duties or by his or her own negligence shall be

9 retired by the board of [police commissioners or any successor body] **trustees of the police**
10 **retirement system** upon certification by the medical board of the police retirement system and
11 approval by the board of trustees of the police retirement system that the member is mentally or
12 physically unable to perform the duties of a police officer, that the inability is permanent or likely
13 to become permanent, and that the member should be retired.

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

23 3. If the medical board certifies to the board of trustees that a nonduty disability
24 beneficiary is able to perform the duties of a police officer, and if the board of trustees concurs
25 on the report, then such beneficiary's nonduty disability pension shall cease.

26 4. If upon cessation of a disability pension under subsection 3 of this section, the former
27 disability beneficiary is restored to active service, he or she shall again become a member, and
28 he or she shall contribute thereafter at the same rate as other members. Upon his or her
29 subsequent retirement, he or she shall be credited with all of his or her active retirement, but not
30 including any time during which the former disability beneficiary received a disability pension
31 under this section.

86.263. 1. Any member in active service who is permanently unable to perform the full
2 and unrestricted duties of a police officer as the natural, proximate, and exclusive result of an
3 accident occurring within the actual performance of duty at some definite time and place, through
4 no negligence on the member's part, shall be retired by the board of [police commissioners or any
5 successor body] **trustees of the police retirement system** upon certification by [one or more
6 physicians of] the medical board that the member is mentally or physically unable to perform the
7 full and unrestricted duties of a police officer, that the inability is permanent or likely to become
8 permanent, and that the member should be retired. The inability to perform the "full and
9 unrestricted duties of a police officer" means the member is unable to perform all the essential
10 job functions for the position of police officer as established by the [board] **chief** of police
11 [commissioners or any successor body].

12 2. No member shall be approved for retirement under the provisions of subsection 1 of
13 this section unless the application was made and submitted [to the board of police commissioners

14 or any successor body] **by the chief of police or a member** no later than five years following
15 the date of accident, provided, that if the accident was reported within five years of the date of
16 the accident and an examination made of the member within thirty days of the date of accident
17 by a health care provider whose services were provided through the [board] **chief** of police
18 [commissioners] with subsequent examinations made as requested, then an application made
19 more than five years following the date of the accident shall be considered timely.

20 3. Once each year during the first five years following a member's retirement, and at least
21 once in every three-year period thereafter, the board of trustees may require any disability
22 beneficiary who has not yet attained sixty years of age to undergo a medical examination or
23 medical examinations at a place designated by the medical board or such physicians as the
24 medical board appoints. If any disability beneficiary who has not attained sixty years of age
25 refuses to submit to a medical examination, his or her disability pension may be discontinued by
26 the board of trustees of the police retirement system until his or her withdrawal of such refusal,
27 and if his or her refusal continues for one year, all rights in and to such pension may be revoked
28 by the board of trustees.

29 4. If the medical board certifies to the board of trustees that a disability beneficiary is
30 able to perform the duties of a police officer, then such beneficiary's disability pension shall
31 cease.

32 5. If upon cessation of a disability pension under subsection 4 of this section, the former
33 disability beneficiary is restored to active service, he or she shall again become a member, and
34 he or she shall contribute thereafter at the same rate as other members. Upon his or her
35 subsequent retirement, he or she shall be credited with all of his or her active service time as a
36 member including the service time prior to receiving disability retirement, but not including any
37 time during which the former disability beneficiary received a disability pension under this
38 section.

39 6. If upon cessation of a disability pension under subsection 4 of this section, the former
40 disability beneficiary is not restored to active service, such former disability beneficiary shall be
41 entitled to the retirement benefit to which such former disability beneficiary would have been
42 entitled if such former disability beneficiary had terminated service for any reason other than
43 dishonesty or being convicted of a felony at the time of such cessation of such former disability
44 beneficiary's disability pension. For purposes of such retirement benefits, such former disability
45 beneficiary shall be credited with all of the former disability beneficiary's active service time as
46 a member, but not including any time during which the former disability beneficiary received a
47 disability beneficiary pension under this section.

86.270. 1. Any determination of whether a member is disabled under the provisions of
2 section 86.257 or 86.263 shall consist of an investigation of the member's physical and mental
3 condition by the medical [director] **board** of the police retirement system [and all physicians
4 appointed by the medical director] under the provisions of section 86.237 and an investigation

5 by the board of trustees of the police retirement system of any other matter relevant to determine
6 whether the member satisfies the applicable requirements of section 86.257 or 86.263. The
7 board of trustees may authorize the use of staff of the police retirement system and other persons
8 not employed by the police retirement system to assist in its investigation. The board of trustees
9 of the police retirement system and the medical [director] **board** of the police retirement system
10 and any such physicians appointed by the medical [director] **board** under the provisions of
11 section 86.237 may communicate with each other as to matters relevant to determine whether
12 the member satisfies the applicable requirements of section 86.257 or 86.263.

13 2. The board of trustees shall require each member who applies for disability benefits
14 and any disability beneficiary to be reexamined under the provisions of section 86.257 or 86.263
15 to undergo medical examinations at places designated by the medical [director] **board** and any
16 physicians appointed by the medical [director] **board** under the provisions of section 86.237.
17 [The examination shall be made by the medical director or by any physicians appointed by the
18 medical director under the provisions of section 86.237.]

86.320. 1. The board of trustees shall certify to the [board] **chief** of police
2 [commissioners and the board of police commissioners] **who** shall cause to be deducted from
3 the salary of each member on each and every payroll for each and every pay period, seven
4 percent of the compensation of each member who is not participating in the DROP, including
5 each member whose participation in the DROP has ended and who has returned to active
6 participation in the system pursuant to section 86.251, and zero percent of the compensation of
7 each member who is participating in the DROP or whose participation in the DROP has ended
8 but who has not returned to active participation in the system pursuant to section 86.251.

9 2. The deductions provided for in this section shall be made notwithstanding that the
10 minimum compensation provided by law for any member shall be reduced thereby. Every
11 member shall be deemed to consent to the deductions made and provided for in this section, and
12 shall receipt for the member's full salary or compensation and payment of salary or compensation
13 less such deduction shall be a full and complete discharge and acquittance of all claims and
14 demands whatsoever for services rendered during the period covered by the payment except as
15 to benefits provided by sections 86.200 to 86.366. The [board] **chief** of police [commissioners]
16 shall certify to the board of trustees on each and every payroll or in such other manner as the
17 board of trustees shall prescribe the amount deducted, and such amounts shall be paid into the
18 system and shall be credited together with members' interest thereon to the individual account
19 of the member from whose compensation such deduction was made.

20 3. The board of trustees is authorized to grant additional benefits for such parts of
21 contributions as were made prior to the adoption of the seven-percent rate for all members which
22 were in excess of the compulsory contributions required of each member.

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

2. Except as provided in subsection 3 of this section, a member who served on active duty in the Armed Forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the Armed Forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial cost of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse, or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is retired by the board of police commissioners for reason of disability as provided in sections 86.900 to 86.1280.

3. Notwithstanding any other provision of sections 86.900 to 86.1280, **on or after August 28, 2015**, a member who [is on leave of absence for military service during any portion of which leave the United States is in a state of declared war, or a compulsory draft is in effect for any of the military branches of the United States, or any units of the military reserves of the United States, including the National Guard, are mobilized for combat military operations,] **returns to service from a leave of absence for active duty military service** and who becomes entitled to reemployment rights and other employment benefits under Title 38, Chapter 43 of the U.S. Code, relating to employment and reemployment rights of members of the uniformed

39 services by meeting the requirements for such rights and benefits under Section 4312 of said
40 chapter, or the corresponding provisions of any subsequent applicable federal statute, shall be
41 entitled to service credit for the time spent in such military service for all purposes of sections
42 86.900 to 86.1280 [and such member shall not be required to pay any member contributions for
43 such time. If it becomes necessary for the years of such service to be included in the calculation
44 of such member's compensation for any purpose, such member shall be deemed to have received
45 the same compensation throughout such period of service as the member's base annual salary
46 immediately prior to the commencement of such leave of absence; provided, however, that the
47 foregoing provisions of this subsection shall apply only to such portion of such leave with
48 respect to which the cumulative length of the absence and of all previous absences from a
49 position of employment with the employer by reason of service in the uniformed services does
50 not exceed five years except for such period of any such excess as meets the requirements for
51 exceptions to such five-year limitation set forth in the aforesaid Section 4312] **only to the extent**
52 **such member pays any required member contributions for such time. The amount of**
53 **required member contributions shall be calculated on the base compensation the member**
54 **would have received during such leave period. The total amount of service credit that will**
55 **be granted at the member contribution rate is limited to a maximum of five years. The**
56 **retirement board may waive the required contributions for military leave of absence, not**
57 **to exceed three years of creditable service, if the member provides duty orders under Title**
58 **10 or Title 32 U.S.C. and discharge from active duty documentation in the form of a DD214**
59 **or NGB23.**

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

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

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

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

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

17 (2) Age sixty for any Tier I member who has completed at least ten years of creditable
18 service or age sixty for any Tier II member who has completed at least fifteen years of creditable
19 service;

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

21 (4) To the extent funded, upon the termination of the system established under sections
22 86.900 to 86.1280 or any partial termination which affects the members or any complete
23 discontinuance of contributions by the city to the system. Amounts representing forfeited
24 nonvested benefits of terminated members shall not be used to increase benefits payable from
25 the system but may be used to reduce contributions for future plan years.

26 5. Distribution of benefits shall begin not later than April first of the year following the
27 later of the calendar year during which the member becomes seventy and one-half years of age
28 or the calendar year in which the member retires, and shall otherwise conform to Section
29 401(a)(9) of the Internal Revenue Code.

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

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

46 8. If the amount of any benefit is to be determined on the basis of actuarial assumptions
47 that are not otherwise specifically set forth for that purpose in sections 86.900 to 86.1280, the
48 actuarial assumptions to be used are those earnings and mortality assumptions being used on the
49 date of the determination by the retirement system's actuary and approved by the retirement
50 board. The actuarial assumptions being used at any particular time shall be attached as an
51 addendum to a copy of the retirement system's statute that is maintained by the retirement board
52 and shall be treated for all purposes as a part of sections 86.900 to 86.1280. The actuarial
53 assumptions may be changed by the retirement system's actuary annually if approved by the

54 retirement board, but a change in actuarial assumptions shall not result in any decrease in
55 benefits accrued as of the effective date of the change.

56 9. Any member or beneficiary who is entitled to receive any distribution that is an
57 eligible rollover distribution, as defined by Section 402(c)(4) of the Internal Revenue Code, is
58 entitled to have that distribution transferred directly to another eligible retirement plan of the
59 member's or beneficiary's choice upon providing direction to the secretary of this retirement
60 system regarding the transfer in accordance with procedures established by the retirement board.
61 **Effective for distributions made on or after January 1, 2010, a nonspouse beneficiary may**
62 **elect to directly rollover an eligible rollover distribution to an individual retirement**
63 **account under Section 408(a) of the Internal Revenue Code of 1986, as amended; to an**
64 **individual retirement annuity under Section 408(b) of the Internal Revenue Code of 1986,**
65 **as amended; or if the participant satisfies the requirements for making a Roth contribution**
66 **under Section 408(A)(c)(3)(B) of the Internal Revenue Code of 1986, as amended, to a Roth**
67 **individual retirement account.**

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

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

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

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

4 2. Except as provided in subsection 3 of this section, a member who served on active
5 duty in the Armed Forces of the United States and who became a member, or returned to
6 membership, after discharge under honorable conditions, may elect prior to retirement to

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

31 3. Notwithstanding any other provision of sections 86.1310 to 86.1640, **on or after**
32 **August 28, 2015**, a member who [is on leave of absence for military service during any portion
33 of which leave the United States is in a state of declared war, or a compulsory draft is in effect
34 for any of the military branches of the United States, or any units of the military reserves of the
35 United States, including the National Guard, are mobilized for combat military operations,]
36 **returns to service from a leave of absence for active duty military service** and who becomes
37 entitled to reemployment rights and other employment benefits under Title 38, Chapter 43 of the
38 U.S. Code, relating to employment and reemployment rights of members of the uniformed
39 services by meeting the requirements for such rights and benefits under Section 4312 of said
40 chapter, or the corresponding provisions of any subsequent applicable federal statute, shall be
41 entitled to service credit for the time spent in such military service for all purposes of sections
42 86.1310 to 86.1640 [and such member shall not be required to pay any member contributions for
43 such time. If it becomes necessary for the years of such service to be included in the calculation
44 of such member's compensation for any purpose, such member shall be deemed to have received

45 the same compensation throughout such period of service as the member's base annual salary
46 immediately prior to the commencement of such leave of absence; provided, however, that the
47 foregoing provisions of this subsection shall apply only to such portion of such leave with
48 respect to which the cumulative length of the absence and of all previous absences from a
49 position of employment with the employer by reason of service in the uniformed services does
50 not exceed five years except for such period of any such excess as meets the requirements for
51 exceptions to such five-year limitation set forth in the aforesaid Section 4312] **only to the extent**
52 **such member pays any required member contributions for such time. The amount of**
53 **required member contributions shall be calculated on the base compensation the member**
54 **would have received during such leave period. The total amount of service credit that will**
55 **be granted at the member contribution rate is limited to a maximum of five years. The**
56 **retirement board may waive the required contributions for military leave of absence, not**
57 **to exceed three years of creditable service, if the member provides duty orders under Title**
58 **10 or Title 32 U.S.C. and discharge from active duty documentation in the form of a DD214**
59 **or NGB23.**

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

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

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

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

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

(2) For any Tier I member when the total sum of age and years of creditable service
19 equals or exceeds eighty, or for any Tier II member when the total sum of age and years of
20 creditable service equals or exceeds eighty-five; or

(3) To the extent funded, upon the termination of the system established under sections
22 86.1310 to 86.1640 or any partial termination which affects the member or any complete
23 discontinuance of contributions by the city to the system. Amounts representing forfeited

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

26 5. Distribution of benefits shall begin not later than April first of the year following the
27 later of the calendar year during which the member becomes seventy and one-half years of age
28 or the calendar year in which the member retires, and shall otherwise conform to Section
29 401(a)(9) of the Internal Revenue Code.

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

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

46 8. If the amount of any benefit is determined on the basis of actuarial assumptions that
47 are not specifically set forth for that purpose in sections 86.1310 to 86.1640, the actuarial
48 assumptions to be used are those earnings and mortality assumptions used on the date of the
49 determination by the retirement system's actuary and approved by the retirement board. The
50 actuarial assumptions used at any particular time shall be attached as an addendum to a copy of
51 the retirement system's statute maintained by the retirement board and shall be treated for all
52 purposes as part of sections 86.1310 to 86.1640. The actuarial assumptions may be changed by
53 the retirement system's actuary annually if approved by the retirement board, but a change in
54 actuarial assumptions shall not result in any decrease in benefits accrued as of the effective date
55 of the change.

56 9. Any member or beneficiary who is entitled to receive any distribution that is an
57 eligible rollover distribution, as defined by Section 402(c)(4) of the Internal Revenue Code, is
58 entitled to have that distribution transferred directly to another eligible retirement plan of the
59 member's or beneficiary's choice upon providing direction to the secretary of the retirement
60 system regarding the transfer in accordance with procedures established by the retirement board.
61 **Effective for distributions made on or after January 1, 2010, a nonspouse beneficiary may**

62 **elect to directly rollover an eligible rollover distribution to an individual retirement**
63 **account under Section 408(a) of the Internal Revenue Code of 1986, as amended; to an**
64 **individual retirement annuity under Section 408(b) of the Internal Revenue Code of 1986,**
65 **as amended; or if the participant satisfies the requirements for making a Roth contribution**
66 **under Section 408(A)(c)(3)(B) of the Internal Revenue Code of 1986, as amended, to a Roth**
67 **individual retirement account.**

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

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

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

✓