

Senate File 2325 - Reprinted

SENATE FILE 2325
BY COMMITTEE ON LOCAL
GOVERNMENT

(SUCCESSOR TO SF 457)

(SUCCESSOR TO SF 231)

(As Amended and Passed by the Senate March 4, 2024)

A BILL FOR

1 An Act relating to city civil service employees and related
2 procedures and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 364.3, Code 2024, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 18. A city with a civil service commission
4 established under chapter 400 shall not adopt, enforce, or
5 otherwise administer an ordinance, motion, resolution, or
6 amendment, or use any other means, to establish a board or
7 other entity for the purpose of citizen review of the conduct
8 of police officers.

9 Sec. 2. Section 400.1, subsection 1, Code 2024, is amended
10 to read as follows:

11 1. In cities having a population of eight thousand or over
12 and having a paid fire department or a paid police department,
13 the mayor, one year after a regular city election, with the
14 approval of the council, shall appoint three civil service
15 commissioners. The mayor shall publish notice of the names
16 of persons selected for appointment no less than thirty days
17 prior to a vote by the city council. Commissioners shall hold
18 office, one until the first Monday in April of the second year,
19 one until the first Monday in April of the third year, and one
20 until the first Monday in April of the fourth year after such
21 appointment, whose successors shall be appointed for a term
22 of four years. In cities having a population of more than
23 ~~seventy~~ fifty thousand, the city council ~~may~~ shall establish,
24 by ordinance, the number of civil service commissioners at not
25 less than ~~three~~ five but not more than seven.

26 Sec. 3. Section 400.18, subsections 1 and 3, Code 2024, are
27 amended to read as follows:

28 1. A person holding civil service rights as provided in
29 this chapter shall ~~not~~ only be removed, discharged, demoted,
30 or suspended ~~arbitrarily, but may be removed, discharged,~~
31 ~~demoted, or suspended due to any act or failure to act by~~
32 with just cause and upon a finding by a preponderance of the
33 evidence that an act or failure to act by the employee that is
34 in contravention violation of law, city policies, or standard
35 operating procedures, or that in the judgment of the person

1 ~~having the appointing power as provided in this chapter, or the~~
2 ~~chief of police or chief of the fire department, is sufficient~~
3 ~~to show that the employee is unsuitable or unfit for employment~~
4 ~~rules, or that the employee is physically or mentally unfit as~~
5 ~~determined under guidelines established pursuant to section~~
6 ~~400.8A. This subsection shall not be construed to modify the~~
7 ~~rights, requirements, or procedures provided in section 400.8A~~
8 ~~or other rights, requirements, or procedures provided by law.~~

9 3. The city shall have the burden to prove that the act or
10 failure to act by the employee was in ~~contravention~~ violation
11 of law, city policies, or ~~standard operating procedures~~, or is
12 ~~sufficient to show that the employee is unsuitable or unfit for~~
13 ~~employment department rules. For purposes of this chapter,~~
14 ~~the city shall establish each element of the charges specified~~
15 ~~under section 400.22 by a preponderance of the evidence. The~~
16 ~~city shall have the burden to prove that the punishment imposed~~
17 ~~upon the employee is proportionate, reasonable, and just in the~~
18 ~~totality of the circumstances under the factors provided in~~
19 ~~section 400.27, subsection 1, paragraph "b".~~

20 Sec. 4. Section 400.19, Code 2024, is amended to read as
21 follows:

22 **400.19 Removal, discharge, demotion, or suspension of**
23 **subordinates.**

24 The person having the appointing power as provided in
25 this chapter, or the chief of police or chief of the fire
26 department, may, upon presentation of reasonable and just
27 grounds for such action to the subordinate in writing,
28 peremptorily remove, discharge, demote, or suspend a
29 subordinate then under the person's or chief's direction
30 due to any act or failure to act by the employee that is in
31 ~~contravention~~ violation of law, city policies, or ~~standard~~
32 ~~operating procedures~~, or that in the judgment of the person or
33 ~~chief~~ department rules, and is sufficient deemed reasonably
34 anticipated to be detrimental to show that the employee is
35 ~~unsuitable or unfit for employment public. This section~~

1 shall not be construed to modify the rights, requirements,
2 or procedures provided in section 400.8A or other rights,
3 requirements, or procedures provided by law.

4 Sec. 5. NEW SECTION. 400.22A Exculpatory evidence.

5 A person shall not knowingly withhold exculpatory evidence
6 from an employee subject to a written specification of charges
7 filed under section 400.22.

8 Sec. 6. Section 400.23, Code 2024, is amended to read as
9 follows:

10 **400.23 Time and place of hearing.**

11 Within ten days after such specifications are filed, the
12 commission shall fix the time for a hearing, which shall be not
13 less than five nor more than twenty days thereafter, and the
14 place for hearing the appeal and. The commission shall notify
15 the parties in writing of the time and place so fixed, and the
16 notice shall contain a copy of the specifications so filed.
17 Hearings under this section shall be held during normal city
18 business hours unless otherwise agreed to by the parties and
19 the commission. The commission in its discretion may grant a
20 continuance or stay of a hearing upon request.

21 Sec. 7. Section 400.24, Code 2024, is amended to read as
22 follows:

23 **400.24 Oaths — books and papers — procedures.**

24 1. The presiding officer of the commission or the council,
25 as the case may be, shall have power to administer oaths in the
26 same manner and with like effect and under the same penalties
27 as in the case of magistrates exercising criminal or civil
28 jurisdiction.

29 2. The council or commission shall cause subpoenas to be
30 issued for such witnesses and the production of such books and
31 papers as either party may designate. Issuance of subpoenas
32 shall be consistent with the Iowa rules of civil procedure.
33 The subpoenas shall be signed by the chairperson of the
34 commission or mayor, as the case may be, or by an attorney
35 representing a party before the commission. The council or

1 commission shall provide a copy of each subpoena to both
2 parties upon issuance. A party, or an attorney representing
3 a party, shall provide copies of any material produced in
4 response to a subpoena to the opposing party upon receipt of
5 such material.

6 3. The parties shall have the right to engage in discovery
7 including the filing of interrogatories, requests for
8 production of documents, and the taking of depositions. The
9 commission shall hear and render rulings on any discovery
10 disputes consistent with the Iowa rules of civil procedure.

11 Sec. 8. Section 400.26, Code 2024, is amended to read as
12 follows:

13 **400.26 Public trial.**

14 The trial of all appeals shall be public, and the parties
15 may be represented by counsel or by the parties' authorized
16 collective bargaining representative. However, upon the
17 request of the employee, the deliberations of the commission
18 in a city with a population of less than two hundred thousand
19 shall be held in closed session.

20 Sec. 9. Section 400.27, subsections 1, 2, and 3, Code 2024,
21 are amended to read as follows:

22 1. a. The civil service commission has jurisdiction to hear
23 and determine matters involving the rights of civil service
24 employees under [this chapter](#), and may affirm, modify, or
25 reverse any case on its merits.

26 b. If the commission determines that the city proved the
27 employee committed the charge as specified, the commission
28 shall determine whether the removal, discharge, demotion, or
29 suspension of the employee was with just cause based upon
30 the totality of the circumstances. For the purposes of this
31 subsection, the commission shall consider factors including
32 the nature of the conduct at issue in the circumstances, the
33 proportionality of the punishment to the conduct at issue,
34 the employee's work history, whether the employee reasonably
35 could comply with the policy or rule in the circumstances and

1 whether the employee's conduct was objectively reasonable in
2 the circumstances, the employee's defenses or justifications,
3 any mitigating or aggravating factors, whether the punishment
4 is reasonably calculated to correct the employee's behavior or
5 conduct, if the punishment is necessary to protect the public
6 interest, whether the city, its employees, or the appointing
7 authority acted in accordance with the law, city policies,
8 department rules, or standard operating procedures, or if the
9 policy failed in the circumstances. The commission shall only
10 consider, order, or impose discipline upon the employee for
11 charges proven by the city.

12 c. The commission shall reverse the city's decision and
13 dismiss a specific charge with prejudice if the city fails to
14 meet its burden of proof as to that charge.

15 d. The final decision of the commission shall be based upon
16 a majority vote of the commission, shall be made in writing,
17 and shall include findings of fact and conclusions relied upon,
18 and reasoning or rationale for the decision, separately stated.
19 The commission shall render and serve its final decision upon
20 the parties by certified mail within thirty days of the close
21 of the record or trial unless the parties consent to a later
22 date in writing or on the record. The final decision may be
23 served upon an employee by electronic mail with the consent of
24 the employee.

25 2. a. The Except as otherwise provided in this section,
26 the city attorney or solicitor shall be the attorney for the
27 commission or when requested by the commission shall present
28 matters concerning civil service employees to the commission,
29 except the commission may hire a counselor or an attorney
30 on a per diem basis to represent it when in the opinion of
31 the commission there is a conflict of interest between the
32 commission and the city council. The counselor or attorney
33 hired by the commission shall not be the city attorney or
34 solicitor. The city shall pay the costs incurred by the
35 commission in employing an attorney under ~~this section.~~

1 b. Upon the filing of a notice of appeal pursuant to section
2 400.21, a city attorney, assistant city attorney, or solicitor
3 who represents or has represented the commission shall not
4 represent the city or its officers or employees in an appeal
5 pending before the commission unless the employee waives the
6 conflict of interest in writing or on the record. If the
7 commission is required to hire a counselor or attorney that
8 is not a city attorney, assistant city attorney, or solicitor
9 as provided in this subsection, the city shall pay the costs
10 incurred by the commission in employing a counselor or attorney
11 under this section, and the commission shall independently seek
12 and retain such an attorney.

13 c. A counselor or attorney who represents the commission
14 in an appeal before the commission shall be fair and impartial
15 toward the parties. The counselor or attorney representing the
16 commission may provide advice and counsel to the commission
17 on matters before it and assist the commission with its
18 proceedings and trial as may be necessary or requested.

19 3. The city or any civil service employee shall have a
20 right to appeal to the district court from the final ruling or
21 decision of the civil service commission. The appeal shall be
22 taken within thirty days from the filing service of the formal
23 decision of the commission. The district court of the county
24 in which the city is located shall have full jurisdiction
25 of the appeal. The scope of review for the appeal shall be
26 ~~limited to a trial de novo appellate review without a trial or~~
27 ~~additional evidence.~~

28 Sec. 10. Section 400.27, Code 2024, is amended by adding the
29 following new subsections:

30 NEW SUBSECTION. 2A. The commission shall provide for the
31 production of evidence and exchange of exhibits in advance of
32 trial. The city shall mark its exhibits with numbers. The
33 employee shall mark its exhibits with letters.

34 NEW SUBSECTION. 6. In addition to any other remedies and
35 relief, upon application, the district court may award an

S.F. 2325

1 employee who substantially prevails reasonable attorney fees,
2 expert fees, and costs and expenses. The city civil service
3 employee shall bear the burden to prove that the employee
4 substantially prevailed in the judgment.

5 Sec. 11. EFFECTIVE DATE. This Act, being deemed of
6 immediate importance, takes effect upon enactment.