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W. D. Brown 4/18

FILED MAR 1 1979

SENATE FILE 331

BY COMMITTEE ON LABOR AND INDUSTRIAL RELATIONS

Approved 3/1 (p. 618)

See H. J. 680

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to age discrimination including the maximum
2 age of employment in certain occupations and in pension
3 plans.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Chapter eighty (80), Code 1979, is amended
2 by adding the following new section:

3 NEW SECTION. MAXIMUM AGE. The maximum age for a per-
4 son to be employed as a peace officer in the divisions of
5 highway safety and uniformed force, criminal investigation
6 and bureau of identification, drug law enforcement, and beer
7 and liquor law enforcement is sixty-five years of age.

8 Sec. 2. Section ninety-seven A point six (97A.6), sub-
9 section one (1), Code 1979, is amended by striking paragraph
10 b.

11 Sec. 3. Section ninety-seven B point forty-five (97B.45),
12 Code 1979, is amended to read as follows:

13 97B.45 RETIREMENT AGE AT SIXTY-FIVE. A member's normal
14 retirement date shall be the first of the month in which a
15 member attains the age of sixty-five years. A member may
16 retire after the member's sixty-fifth birthday ~~except~~ as
17 ~~otherwise~~ provided in section 97B.46. A member retiring on
18 or after the normal retirement date, as provided in section
19 97B.46, shall submit a written notice to the department setting
20 forth the date the retirement is to become effective, provided
21 that such date shall be on the first day of a month after
22 the member's last day of service and not before the first
23 day of the sixth calendar month preceding the month in which
24 the notice is filed, except that credit for service shall
25 cease when contributions cease as provided in section 97B.11.

26 ~~Notwithstanding the provisions of this section and section~~
27 ~~97B.46, an employer may adopt policies which prescribe~~
28 ~~retirement at an age not less than sixty-five years.~~

29 ~~The provisions of this section shall not be construed to~~
30 ~~render invalid any provisions of a policy established by an~~
31 ~~employer which prescribes retirement at an age not less than~~
32 ~~sixty-five years.~~

33 An employer may adopt rules which require retirement at
34 the age of seventy years or older.

35 Sec. 4. Section ninety-seven B point forty-six (97B.46),

1 Code 1979, is amended to read as follows:

2 97B.46 SERVICE AFTER AGE SIXTY-FIVE. A member may, ~~on~~
 3 ~~the request of the employer,~~ remain in the active employ of
 4 the employer beyond the date the member attains the age of
 5 sixty-five until attaining the age of seventy, and may remain
 6 in service after attaining the age of seventy for such period
 7 or periods as the employer from time to time shall approve,
 8 ~~provided,~~ however, that credit for such service shall cease
 9 when contributions cease as provided in section 97B.11 and
 10 the member shall retire on the first day of the month following
 11 the last approved period. ~~The member shall retire at the~~
 12 ~~end of the last approved period, on the first day of the month~~
 13 ~~in which the member retires, except that such date shall be~~
 14 ~~after the last day of service.~~ A member remaining in service
 15 after attaining the age of seventy years shall be entitled
 16 to receive a retirement allowance under section 97B.49 as
 17 applicable commencing with payment for the calendar month
 18 within which the written notice is submitted to the department,
 19 except that if the member fails to submit the notice on a
 20 timely basis, retroactive payments shall be made for no more
 21 than six months immediately preceding the month in which the
 22 written notice is submitted.

23 Sec. 5. Chapter three hundred sixty-two (362), Code 1979,
 24 is amended by adding the following new section:

25 NEW SECTION. POLICE OFFICERS AND FIRE FIGHTERS. The
 26 maximum age for a police officer or fire fighter employed
 27 for police duty or the duty of fighting fires is sixty-five
 28 years of age.

29 Sec. 6. Section four hundred point seventeen (400.17),
 30 unnumbered pararaph three (3), Code 1979, is amended to read
 31 as follows:

32 A person shall not be appointed, promoted, discharged,
 33 or demoted to or from a civil service position or in any other
 34 way favored or discriminated against in that position because
 35 of political or religious opinions or affiliations, race,

1 national origin, sex, or age. However, the maximum age for
2 a police officer or fire fighter covered by this chapter and
3 employed for police duty or the duty of fighting fires is
4 sixty-five years of age.

5 Sec. 7. Section four hundred ten point six (410.6),
6 unnumbered paragraph two (2), Code 1979, is amended by striking
7 the unnumbered paragraph.

8 Sec. 8. Section four hundred eleven point six (411.6),
9 subsection one (1), paragraph b, Code 1979, is amended by
10 striking the paragraph.

11 Sec. 9. Section six hundred one A point six (601A.6),
12 subsections three (3), four (4), and five (5), Code 1979,
13 are amended by striking the subsections and inserting in lieu
14 thereof the following new subsection:

15 NEW SUBSECTION. The prohibition of this section against
16 age discrimination in employment applies only to persons who
17 are over the age of forty years or under the age of seventy
18 years, and does not apply to the following:

19 a. Activities or programs under federal contracts and
20 grants or public employment programs carried out by this state
21 designed exclusively to provide employment for or to encourage
22 the employment of persons with special employment problems.

23 b. Age discrimination in bona fide apprenticeship employ-
24 ment programs.

25 Sec. 10. Section six hundred one A point thirteen
26 (601A.13), Code 1979, is amended by adding the following new
27 unnumbered paragraphs:

28 NEW UNNUMBERED PARAGRAPH. However, a retirement plan or
29 benefit system shall not require the involuntary retirement
30 of a person under the age of seventy because of that person's
31 age. This paragraph does not prohibit the following:

32 a. The involuntary retirement of a person who has at-
33 tained the age of sixty-five and has for the two prior years
34 been employed in a bona fide executive or high policy-making
35 position and who is entitled to an immediate, nonforfeitable

1 annual retirement benefit from a pension, profit-sharing,
2 savings or deferred compensation plan of the employer which
3 equals twenty-seven thousand dollars. This retirement benefit
4 test may be adjusted according to the regulations prescribed
5 by the United States secretary of labor pursuant to Public
6 Law ninety-five dash two hundred fifty-six (95-256), section
7 three (3).

8 b. The involuntary retirement of a person who has at-
9 tained the age of sixty-five and who is serving under a con-
10 tract of unlimited tenure or similar arrangement providing
11 for unlimited tenure at an institution of higher learning.
12 This exemption does not apply after July 1, 1982.

13 c. The involuntary retirement of a person covered by a
14 collective bargaining agreement which was entered into by
15 a labor organization and was in effect on September 1, 1977.
16 This exemption does not apply after the termination of that
17 agreement or January 1, 1980, whichever first occurs.

18 NEW UNNUMBERED PARAGRAPH. For purposes of this section,
19 "retirement plan" means any plan, fund, or program which was
20 heretofore or is hereafter established or maintained by an
21 employer or by an employee organization or both, to the extent
22 that by its express terms or as a result of surrounding circum-
23 stances such plan, fund or program:

- 24 1. Provides retirement income to employees, or
- 25 2. Results in a deferral of income by employees for periods
26 extending to the termination of covered employment or beyond,
27 regardless of the method of calculating the contributions
28 made to the plan, the method of calculating the benefits under
29 the plan or the method of distributing benefits from the plan.

30 "Benefit system" means any plan, fund, or program which was
31 heretofore or is hereafter established or maintained by an
32 employer or by an employee organization, or by both, to the
33 extent such plan, fund or program was established or is
34 maintained for the purpose of providing for its participants
35 or their beneficiaries through the purchase of insurance or

1 otherwise, medical, surgical, or hospital care or benefits,
2 or benefits in the event of sickness, accident, disability,
3 death or unemployment, or vacation benefits, apprenticeship
4 or other training programs or day care centers, scholarship
5 funds, or prepaid legal services.

6 EXPLANATION

7 This bill changes the mandatory retirement laws and age
8 discrimination laws in response to the 1978 amendments to
9 the federal Age Discrimination in Employment Act of 1967.

10 Section 1 of this bill establishes, as an occupational
11 qualification, a maximum age for the peace officers in the
12 named divisions of the department of public safety.

13 Section 2 removes the mandatory retirement age from the
14 department of public safety peace officer's retirement system.

15 Sections 3 and 4 raise the age at which employees in IPERS
16 may stay at their own option from sixty-five to seventy.
17 After age seventy the consent of the employer is required.

18 Sections 5 and 6 establish, as an occupational quali-
19 fication, a maximum age for police officers and fire fighters
20 whether they are covered by civil service or not.

21 Section 7 removes the mandatory retirement age provision
22 from the pension system for police officers and fire fighters
23 who entered employment prior to March 2, 1934.

24 Section 8 removes the mandatory retirement age provision
25 from the pension system for police officers and fire fighters
26 covered by a civil service system.

27 Section 9 narrows the coverage of the state's age
28 discrimination in employment provisions to the minimum coverage
29 required under federal law and removes the prohibition of
30 age discrimination in bona fide apprenticeship programs between
31 the ages eighteen and forty-five.

32 Section 10 prohibits pension plans from requiring mandatory
33 retirement prior to age seventy. The exemptions are the same
34 as those provided by federal law. This section also redefines
35 the retirement plan or benefit system to provide that a benefit

1 system is one which does not provide retirement benefits but
2 provides other benefits.

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SENATE FILE 331

S-3266

1 Amend Senate File 331 as follows:

2 1. Page 3, by striking line 25 through page 5,
3 line 5, and inserting in lieu thereof the following:

4 "Sec. 10. Section six hundred one A point thirteen
5 (601A.13), Code 1979, is amended by striking the
6 section and inserting in lieu thereof the following:

7 601A.13 APPLICABILITY TO BENEFIT SYSTEMS AND
8 RETIREMENT PLANS.

9 1. The provisions of this chapter relating to
10 discrimination because of sex or age shall not be
11 construed to apply to a benefit system or retirement
12 plan of an employer which meets the requirements of
13 this section unless that system or plan is a mere
14 subterfuge adopted for the purpose of evading the
15 provisions of this chapter.

16 2. A benefit system or a retirement plan may
17 provide for unequal contributions by the employer
18 for employees of one sex only if equal benefits are
19 provided for employees of both sexes. A retirement
20 plan may provide unequal benefits to employees of
21 one sex only if the employer contributes equally to
22 the system or plan for both sexes. Pregnancy shall
23 not be excluded from the coverage of a benefit system
24 covering disability or illness and shall be treated
25 in the same manner as any other disability or illness.
26 A retirement plan shall not require unequal employee
27 contributions on the basis of sex.

28 3. A benefit system or retirement plan shall not
29 require the involuntary retirement of a person under
30 the age of seventy because of that person's age.
31 This paragraph does not prohibit the following:

32 a. The involuntary retirement of a person who
33 has attained the age of sixty-five and has for the
34 two prior years been employed in a bona fide executive
35 or high policy-making position and who is entitled
36 to an immediate, nonforfeitable annual retirement
37 benefit from a pension, profit-sharing, savings or
38 deferred compensation plan of the employer which
39 equals twenty-seven thousand dollars. This retirement
40 benefit test may be adjusted according to the
41 regulations prescribed by the United States secretary
42 of labor pursuant to Pub. L. No. 95-256, s. 3.

43 b. The involuntary retirement of a person who
44 has attained the age of sixty-five and who is serving
45 under a contract of unlimited tenure or similar
46 arrangement providing for unlimited tenure at an
47 institution of higher learning. This exemption does
48 not apply after July 1, 1982.

49 c. The involuntary retirement of a person covered
50 by a collective bargaining agreement which was entered

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1 into by a labor organization and was in effect on
2 September 1, 1977. This exemption does not apply
3 after the termination of that agreement or January
4 1, 1980, whichever first occurs."

S-3266 FILED
MARCH 22, 1979

BY COMMITTEE ON STATE GOVERNMENT
JOHN NYSTROM, CHAIRPERSON