

SENATE FILE 238

FILED FEB 19 1938

BY READINGER

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

A BILL FOR

1 An Act relating to city civil service and incorporating a
2 penalty, with an effective date.

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

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SF 238

1 Section 1. NEW SECTION. 400.32 PUBLIC POLICY.

2 The general assembly declares that it is the public policy
3 of the state to promote harmonious and cooperative
4 relationships between city governments and their employees, to
5 protect the health, safety, and welfare of citizens of the
6 cities by assuring effective and orderly operations of
7 government, and to provide for personnel systems based on
8 sound principles of public employment.

9 Sec. 2. NEW SECTION. 400.33 APPLICABILITY -- EXCEPTIONS.

10 This chapter applies to permanent full-time police officers
11 and fire fighters in cities having a population of more than
12 eight thousand, and to all appointive permanent full-time
13 employees in cities having a population of more than fifteen
14 thousand except:

15 1. Persons appointed to fill vacancies in elective offices
16 and members of boards and commissions.

17 2. The city clerk, chief deputy city clerk, city
18 attorneys, city treasurer, city auditor, city engineer, and
19 city health officer.

20 3. The city manager or city administrator and assistant
21 city managers or assistant city administrators.

22 4. The head and principal assistant of each department,
23 including police and fire chiefs and assistant police and fire
24 chiefs, except assistant police chiefs in a city with a police
25 department of at least two hundred fifty members. However,
26 sections 400.13 and 400.14 apply to police and fire chiefs.

27 5. The principal secretary to the city manager or city ad-
28 ministrator, the principal secretary to the mayor, and the
29 principal secretary to each of the department heads.

30 6. Employees of boards of trustees or commissioners es-
31 tablished pursuant to state law or city ordinances.

32 7. Employees whose positions are funded by state or fed-
33 eral grants or other temporary revenues.

34 Sec. 3. NEW SECTION. 400.34 ORDINANCE AND RULES
35 REQUIRED.

1 Each city subject to this chapter shall adopt a personnel
2 ordinance within one year of the date the city becomes subject
3 to this chapter. The ordinance shall assign responsibility
4 for the adoption and administration of rules governing re-
5 cruitment, posting and advertising job vacancies, selection,
6 testing, appointment, promotion, discipline, suspension, dis-
7 charge, demotion, layoff, and appeals. Copies of the per-
8 sonnel ordinance and the rules shall be available for public
9 inspection in the office of the city clerk and in addition
10 shall be posted in a place regularly used by employees
11 affected by the ordinance and rules. The personnel ordinance
12 shall be followed in all personnel decisions involving the
13 civil service rights of employees covered by this chapter.

14 Sec. 4. NEW SECTION. 400.35 APPOINTMENT OF COMMISSION.

15 The personnel ordinance shall establish a civil service
16 commission. Members of the commission must be citizens of
17 Iowa, eligible electors of the city, and shall serve without
18 compensation. A commissioner shall not hold or be a candidate
19 for a political office. The commission shall be composed as
20 provided in either of the following:

21 1. The mayor, with the approval of the council, shall
22 appoint three commissioners for six-year terms which expire on
23 the first Monday in April of even-numbered years.

24 2. A city may enter into an agreement under chapter 28E
25 with one or more civil service cities to establish a joint
26 civil service commission to perform the duties required by
27 this chapter. In the appointment of members to the joint
28 commission, each city shall be equally represented by a city
29 resident or the appointment shall be made only upon the
30 agreement of the mayor and city council from each city that is
31 a party to the agreement.

32 Sec. 5. NEW SECTION. 400.36 CHAIRPERSON, RECORDS.

33 The commission shall elect a chairperson from among its
34 members. The commission shall keep a record of its meetings.
35 When duly certified by the clerk of the commission, copies of

1 all records and entries or papers pertaining to the records
2 are admissible in evidence with the same force and effect as
3 the originals.

4 Sec. 6. NEW SECTION. 400.37 FACILITIES, EQUIPMENT,
5 CLERK, AND COUNSEL.

6 The city shall provide the commission with the facilities
7 and equipment necessary to enable it to properly perform its
8 duties. The city clerk or the clerk's designated
9 representative shall serve as clerk for the commission. The
10 commission may seek counsel of an attorney other than the city
11 attorney when in the opinion of the commission there is a
12 conflict between the commission and the city council. The
13 city shall pay the costs incurred by the commission in
14 employing an attorney under this section.

15 Sec. 7. NEW SECTION. 400.38 PREFERENCE BY SERVICE.

16 An employee regularly serving in or holding a position at
17 the time the position becomes subject to this chapter shall
18 retain the position and have full civil service rights in the
19 position under any of the following conditions:

20 1. The employee meets the minimum qualifications
21 established for the position held, and has completed the
22 required probationary period for the position.

23 2. The employee has served satisfactorily in the position
24 for a period equal to the probationary period of the position,
25 and passes a qualifying noncompetitive examination for the
26 position but does not meet the minimum qualifications
27 established for the position held.

28 3. An employee who has not completed the required proba-
29 tionary period but who otherwise meets the requirements of
30 subsection 1 or 2 shall receive full civil service rights in
31 the position on the completion of the probationary period.
32 Appointments made subsequent to the time this chapter becomes
33 applicable in any city are subject to this chapter.

34 Sec. 8. NEW SECTION. 400.39 EXAMINATION -- APPOINTMENTS.

35 The personnel ordinance shall require that examinations be

1 held to determine the qualifications of applicants for
2 positions under civil service. The examination shall be
3 practical in character and shall relate to matters that will
4 fairly test the mental and physical ability of the applicant
5 to discharge the duties of the position to which the applicant
6 seeks appointment.

7 Physical examination of the applicants for appointment to
8 the positions of police officer or fire fighter shall be held
9 under the direction of and as specified by the respective
10 board of trustees of the fire and police retirement system
11 established in section 411.5. The cost of the physical
12 examination required under this section shall be paid from the
13 trust and agency fund of the city.

14 Sec. 9. NEW SECTION. 400.40 NAMES CERTIFIED -- TEMPORARY
15 APPOINTMENTS.

16 The personnel ordinance shall require a certified list of
17 the names of persons who qualify for a position as a result of
18 each examination in order of their standing. Vacancies in
19 positions that occur before the beginning of the next
20 examination for the position shall be filled from the list, or
21 from the preferred list existing as provided for in case of
22 diminution of employees. The ordinance shall also state for
23 each job classification the number of names that comprise an
24 entrance and a promotion list and the length of time each type
25 of list will be maintained.

26 Sec. 10. NEW SECTION. 400.41 EMPLOYEES UNDER CIVIL
27 SERVICE -- QUALIFICATIONS.

28 1. Recruiting, selecting, retaining, and promoting em-
29 ployees shall be done on the basis of their relative
30 abilities, knowledge, and skills. A person shall not be
31 appointed to a position that is covered by civil service,
32 until the person passes a civil service examination and has
33 been certified as being eligible for employment. However, in
34 an emergency in which the peace and order of the city is
35 threatened by reason of fire, flood, storm, or mob violence,

1 requiring additional protection of life and property the
2 appointing authority may make temporary appointments without
3 examinations. The personnel ordinance shall specify the
4 probationary period for each job classification which shall
5 not exceed twelve months.

6 2. A city shall not require an employee to be a resident
7 of the city. A city may require police officers,
8 firefighters, and other critical employees designated in the
9 personnel ordinance to live within reasonable maximum
10 distances from the city limits.

11 Sec. 11. NEW SECTION. 400.42 PROMOTIONS.

12 Vacancies in civil service grades shall be filled by
13 promotion of current city employees to the extent that the
14 city employees qualify for the position. When promoted an
15 employee shall hold full civil service rights in the position.

16 Sec. 12. NEW SECTION. 400.43 REMOVAL, DEMOTION, OR
17 SUSPENSION.

18 1. A person holding civil service rights as provided in
19 this chapter shall not be removed, demoted, or suspended
20 except for neglect of duty, disobedience, misconduct, or
21 failure to properly perform assigned duties..

22 2. A person removed or discharged during a probationary
23 period shall, at the time of discharge, be given a notice in
24 writing stating the reason or reasons for the dismissal.

25 Sec. 13. NEW SECTION. 400.44 APPEAL.

26 A person holding civil service rights may appeal a
27 suspension, demotion, or discharge to the civil service
28 commission. The notice of appeal shall be in writing signed
29 by the employee and submitted to the clerk of the commission
30 no later than twenty days after the employee received written
31 notice of the suspension, demotion, or discharge.

32 Sec. 14. NEW SECTION. 400.45 CHARGES.

33 Within five days of the filing of a notice of appeal the
34 city shall file with the commission written specifications of
35 the charges and grounds upon which the suspension, demotion,

1 or discharge was based. If the charges are not filed within
2 five days the person suspended, demoted, or discharged may
3 present an affidavit to the commission setting forth this
4 fact, and the commission shall immediately enter an order
5 reinstating the person.

6 Sec. 15. NEW SECTION. 400.46 HEARING.

7 Within ten days after the specifications are filed, the
8 commission shall fix the time, which shall be not less than
9 five nor more than twenty days from the filing of
10 specifications, and a place for hearing the appeal and shall
11 notify the parties in writing of the time and place, and the
12 notice shall contain a copy of the specifications.

13 Sec. 16. NEW SECTION. 400.47 OATHS AND SUBPOENAS.

14 The presiding officer of the commission may administer
15 oaths in the same manner and with like effect and under the
16 same penalties as in the case of magistrates exercising
17 criminal or civil jurisdiction. The presiding officer of the
18 commission shall cause subpoenas to be issued for witnesses
19 and the production of books and papers as either party
20 designates. The subpoenas shall be signed by the presiding
21 officer of the commission.

22 Sec. 17. NEW SECTION. 400.48 PUBLIC TRIAL.

23 1. The trial of all appeals shall be public, and the
24 parties may be represented by counsel.

25 2. The record before the civil service commission shall
26 include the notice of appeal, the written specifications, any
27 pleading, motions, or intermediate rulings, all evidence re-
28 ceived or considered and all other submissions, a statement of
29 matters officially noticed, questions and offers of proofs,
30 and objections and rulings thereon, and the decision of the
31 commission.

32 3. Oral proceedings shall be recorded either by mechanized
33 means or by a certified shorthand reporter. Oral proceedings
34 or any part thereof shall be transcribed at the request of a
35 party with the expense of transcription charged to the

1 requesting party. The recorded proceedings shall be
2 maintained by the commission for at least five years from the
3 date of the decision.

4 4. Findings of fact shall be based solely on the evidence
5 in the record and on matters officially noticed in the record.

6 Sec. 18. NEW SECTION. 400.49

7 If a witness is duly subpoenaed and refuses to attend, or
8 appears and refuses to testify or to produce required books or
9 papers, the commission shall, in writing, report the refusal
10 to the district court of the county, and the court shall
11 proceed with the person or witness as though the refusal had
12 occurred in a proceeding legally pending before the court.

13 Sec. 19. NEW SECTION. 400.50 APPEAL TO DISTRICT COURT.

14 The city or a civil service employee has a right to appeal
15 the final ruling or decision of the civil service commission
16 to the district court of the county in which the city is
17 located. The appeal shall be perfected by filing a notice of
18 appeal with the clerk of the district court and with the clerk
19 of the commission within thirty days from the date of the
20 final decision.

21 Within thirty days after the notice of appeal is filed, or
22 within further time allowed by the court, the commission shall
23 transmit to the district court the original or a certified
24 copy of the entire record made before the commission. By
25 agreement of all parties, the record may be shortened, and a
26 party unreasonably refusing to agree may be taxed by the court
27 for the additional cost.

28 The district court shall not hear any further evidence with
29 respect to those issues of fact determined by the commission.
30 The court shall review the record made before the commission
31 and may affirm the commission, or the court shall reverse,
32 modify, or grant other appropriate relief from the commission
33 action if substantial rights of the appellant have been
34 prejudiced because the commission decision violates con-
35 stitutional or statutory provisions, was made upon unlawful

1 procedure, was affected by other error of law, was unsupported
2 by substantial evidence in the record viewed as a whole, or
3 was unreasonable, arbitrary, or capricious.

4 If the ruling or decision of the commission is reversed by
5 the district court, the appellant, if an employee, shall be
6 reinstated as of the date of the suspension, demotion, or
7 discharge, and is entitled to compensation from the date of
8 the suspension, demotion, or discharge.

9 Sec. 20. Section 400.10, Code 1985, is amended to read as
10 follows:

11 400.10 PREFERENCES.

12 In all examinations and appointments under ~~the provisions~~
13 ~~of this chapter, other than~~ excluding promotions and excluding
14 appointments of the chief of the police department and the
15 chief of the fire department, honorably discharged individuals
16 from the military or naval forces of the United States in any
17 war in which the United States was or is now engaged,
18 including the Philippine Insurrection, China Relief Expedition
19 and the Korean Conflict at any time between June 25, 1950 and
20 January 31, 1955, both dates inclusive, and the Vietnam
21 Conflict beginning August 5, 1964, and ending ~~on the date the~~
22 ~~armed forces of the United States are directed by formal order~~
23 ~~of the government of the United States to cease hostilities~~
24 May 7, 1975, both dates inclusive, and who are citizens and
25 residents of this state, shall ~~be given the preference, if~~
26 otherwise qualified have five points added to the grade or
27 score attained on the examination. Honorably discharged
28 veterans who have a service connected disability or are
29 receiving compensation, disability, or pension benefits under
30 laws administered by the veterans administration or who were
31 awarded the purple heart for disabilities incurred in action
32 shall have ten points added to the grade or score attained on
33 the examination.

34 For the purposes of this section World War II shall be from
35 December 7, 1941, to December 31, 1946, both dates inclusive.

1 Sec. 21. Section 400.12, unnumbered paragraph 3, Code
2 1985, is amended to read as follows:

3 A list of all civil service employees shall be prepared and
4 posted in the city hall ~~by the civil service commission~~ on or
5 before July 1 of each year, indicating the civil service
6 standing of each employee as to the employee's seniority.

7 Sec. 22. Section 400.28, unnumbered paragraph 1, Code
8 1985, is amended to read as follows:

9 Whenever the public interests may require a diminution of
10 employees in any classification or grade under civil service,
11 the city council, ~~by resolution and acting in good faith, and~~
12 ~~after notifying the commission of such action,~~ may either:

13 Sec. 23. Section 400.28, subsection 2, unnumbered
14 paragraph 3, Code 1985, is amended to read as follows:

15 In case of such removal or suspension, the ~~civil service~~
16 ~~commission~~ city shall issue to each person so affected a
17 certificate showing the person's comparative seniority or
18 length of service in each classification or grade from which
19 the person is ~~so~~ removed and the fact that the person has been
20 honorably so removed, and the person's name shall be carried
21 for a period of not less than three years after ~~such~~ the
22 suspension or removal, on a preferred list and all
23 appointments or promotions made during ~~said~~ the period to the
24 person's former duties in ~~such~~ the classification or grade
25 shall be made in the order of greater seniority from ~~such~~ the
26 preferred lists.

27 Sec. 24. Section 80B.11, subsection 5, Code 1985, is
28 amended to read as follows:

29 5. Minimum standards of mental fitness which shall govern
30 the initial recruitment, selection and appointment of law
31 enforcement officers. The rules shall include, but are not
32 limited to, providing a battery of psychological tests to
33 determine cognitive skills, personality characteristics and
34 suitability of an applicant for a law enforcement career.
35 However, this battery of tests need only be given to

1 applicants being considered in the final selection process for
2 a law enforcement position. For original appointments to law
3 enforcement officer positions under chapter 400, the "final
4 selection process" means the point in the examination process
5 of section 400.8 which is just prior to the certification to
6 the city council of the list of names of the persons who
7 qualify with the highest standing pursuant to section 400.11.

8 Sec. 25. Sections 400.1 through 400.9, 400.11, 400.15
9 through 400.27, and 400.31, Code 1985, are repealed.

10 Sec. 26. Notwithstanding other provisions of this Act, of
11 the initial appointments to a commission, one person shall be
12 appointed to a term ending on the first Monday in April of the
13 next even-numbered year, one person shall be appointed to a
14 term ending on the first Monday in April of the second
15 following even-numbered year, and one person shall be
16 appointed to a term ending on the first Monday in April of the
17 third following even-numbered year.

18 Sec. 27. Notwithstanding section 3 of this Act, a city
19 subject to chapter 400 on the effective date of this Act shall
20 adopt a personnel ordinance within one year of the effective
21 date of this Act.

22 EXPLANATION

23 This bill rewrites most of the city civil service law. The
24 rewrite requires the city to adopt a personnel ordinance
25 assigning responsibility for adopting and administering rules
26 governing the system. The statute prescribes minimum
27 procedures and guidelines and leaves the specifics to be
28 determined by the ordinance.

29 The bill applies to all permanent full-time police officers
30 and fire fighters in cities over 8,000 and to all permanent
31 full-time appointive employees in cities over 15,000 with
32 stated exceptions. It removes the option given to cities
33 under 8,000 to adopt the provisions of the law. It appears
34 these cities may have home rule in this area and could opt for
35 coverage anyway.

1 The bill specifies the veteran's preference shall be five
2 points on the qualifying exam and ten points if the person has
3 a service related disability.

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