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SENATE FILE 163
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO SSB 145)

Passed Senate, Date 3/30/93 Passed House, Date 4/27/93 (P. 1708)
Vote: Ayes 44 Nays 4 Vote: Ayes 98 Nays 0
Approved May 20, 1993

A BILL FOR

1 An Act relating to civil service.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF163

1 Section 1. Section 400.3, unnumbered paragraph 2, Code
2 1993, is amended to read as follows:

3 Whenever If the city council of a city having a population
4 less than eight thousand appoints a commission, it may, by
5 ordinance, abolish it, and the commission shall stand
6 abolished sixty days from the date of the ordinance and the
7 powers and duties of the commission shall revert to the city
8 council ~~except whenever a city having a population of less~~
9 ~~than eight thousand provides for the appointment of a civil~~
10 ~~service commission, it may by ordinance abolish such officer,~~
11 ~~but said ordinance shall not take effect until it has been~~
12 ~~submitted to the voters at a regular municipal election and~~
13 ~~approved by a majority of the voters at such election. The~~
14 ~~ordinance shall be published once each week for two~~
15 ~~consecutive weeks preceding the date of said election in a~~
16 ~~newspaper published in and having a general circulation in~~
17 ~~said city. In the event there is no newspaper published in~~
18 ~~such city, publication may be made in any newspaper having~~
19 ~~general circulation in the county.~~

20 Sec. 2. Section 400.3, Code 1993, is amended by adding the
21 following new unnumbered paragraph:

22 NEW UNNUMBERED PARAGRAPH. Cities and counties may agree,
23 pursuant to chapter 28E, to establish a combined civil service
24 commission. Matters pertinent to the operation of the
25 commission, including the appointment of qualified
26 commissioners, shall be contained in the agreement. A city
27 need not be within a county with which it establishes an
28 agreement.

29 Sec. 3. Section 400.5, Code 1993, is amended to read as
30 follows:

31 400.5 ROOMS AND SUPPLIES.

32 The council shall provide suitable rooms in which the
33 commission may hold its meetings and supply the commission
34 with all necessary equipment and a qualified shorthand
35 reporter or an electronic voice recording device to enable it

1 to properly to perform its duties.

2 Sec. 4. Section 400.6, unnumbered paragraph 1, Code 1993,
3 is amended to read as follows:

4 This chapter applies to permanent regular full-time police
5 officers and fire fighters in cities having a population of
6 more than eight thousand, ~~and-to-all-appointive-permanent~~
7 ~~full-time-employees-in-cities-having-a-population-of-more-than~~
8 ~~fifteen-thousand-except:~~ except that it need not apply to the
9 head of each department and the principal assistants of each
10 department. However, this chapter does not prohibit a city
11 from enacting an ordinance providing broader civil service
12 coverage or different categories of civil service coverage for
13 other regular employees.

14 Sec. 5. Section 400.6, subsections 1 through 7, Code 1993,
15 are amended by striking the subsections.

16 Sec. 6. Section 400.8, subsections 1 and 3, Code 1993, are
17 amended to read as follows:

18 1. The commission, when necessary under the rules,
19 including minimum and maximum age limits, which shall be
20 prescribed and published in advance by the commission and
21 posted in the city hall, shall hold examinations for the
22 purpose of determining the qualifications of applicants for
23 positions under civil service, other than promotions, which
24 examinations shall be practical in character and shall relate
25 to matters which will fairly test the mental and physical
26 ability of the applicant to discharge the duties of the
27 position to which the applicant seeks appointment. However,
28 ~~the~~ The physical examination of applicants for appointment to
29 the positions of police officer, police matron, or fire
30 fighter shall be held under the direction of ~~and-as-specified~~
31 ~~by-the-boards-of-trustees-of-the-fire-or-police-retirement~~
32 ~~systems-established-by-section-411-5-and~~ the commission. The
33 commission may conduct a medical examination of an applicant
34 after a conditional offer of employment has been made to the
35 applicant. An applicant shall not be discriminated against on

1 the basis of height, weight, sex, or race in determining
2 physical or mental ability of the applicant. Reasonable rules
3 relating to strength, agility, and general health of
4 applicants shall be prescribed. The costs of the physical
5 examination required under this subsection shall be paid from
6 the trust and agency fund of the city.

7 3. All appointments ~~to such positions shall be conditional~~
8 ~~upon a probation period of not to exceed six months, and in~~
9 ~~the case of police patrol officers and fire fighters shall be~~
10 conditional upon a probation period not to exceed twelve
11 months, during which time the appointee may be removed or
12 discharged from ~~such~~ the position by the appointing person or
13 body without the right of appeal to the commission. A person
14 removed or discharged during a probationary period shall, at
15 the time of discharge, be given a notice in writing stating
16 the reason or reasons for the dismissal. A copy of ~~such~~ the
17 notice shall be promptly filed with the commission.
18 Continuance in the position after the expiration of ~~such~~ the
19 probationary period shall constitute a permanent regular
20 appointment.

21 Sec. 7. Section 400.10, unnumbered paragraph 1, Code 1993,
22 is amended to read as follows:

23 In all examinations and appointments under this chapter,
24 ~~other than promotions and appointments of chief of the police~~
25 ~~department and chief of the fire department,~~ honorably
26 discharged veterans from the military or naval forces of the
27 United States in any war in which the United States has been
28 engaged, including the Korean Conflict at any time between
29 June 25, 1950, and January 31, 1955, both dates inclusive, the
30 Vietnam Conflict beginning August 5, 1964, and ending May 7,
31 1975, both dates inclusive, and the Persian Gulf Conflict
32 beginning August 2, 1990, and ending on the date specified by
33 the president or the Congress of the United States as the date
34 of permanent cessation of hostilities, both dates inclusive,
35 and who are citizens and residents of this state, shall have

1 five points added to the veteran's grade or score attained in
2 qualifying examinations for appointment to positions and five
3 additional points added to the grade or score if the veteran
4 has a service-connected disability or is receiving
5 compensation, disability benefits or pension under laws
6 administered by the veterans administration. However, if the
7 Congress of the United States enacts a date different from
8 August 2, 1990, as the beginning of the Persian Gulf Conflict
9 to determine the eligibility of a veteran for military
10 benefits as a veteran of the Persian Gulf Conflict, the date
11 enacted by the Congress of the United States shall be
12 substituted for August 2, 1990. An honorably discharged
13 veteran who has been awarded the Purple Heart for disabilities
14 incurred in action shall be considered to have a service-
15 connected disability. However, the points shall be given only
16 upon passing the exam and shall not be the determining factor
17 in passing.

18 Sec. 8. Section 400.11, Code 1993, is amended to read as
19 follows:

20 400.11 NAMES CERTIFIED -- TEMPORARY APPOINTMENT.

21 The commission, within ninety days after the beginning of
22 each competitive examination for original appointment or for
23 promotion, shall certify to the city council a list of the
24 names of ~~the ten persons who qualify with the highest standing~~
25 as a result of each examination for the position they seek to
26 ~~fill, or the number which have qualified if less than ten, in~~
27 ~~the order of their standing, and all~~ All newly created offices
28 or other vacancies in positions under civil service which
29 occur before the beginning of the next examination for the
30 positions shall be filled from the lists, or from the
31 preferred list existing as provided for in case of diminution
32 of employees, within thirty days. ~~If a tie occurs in the~~
33 ~~examination scores which would qualify persons for the tenth~~
34 ~~position on the list, the list of the names of the persons who~~
35 ~~qualify with the highest standing as a result of each~~

1 ~~examination shall include all persons who qualify for the~~
2 ~~tenth position.~~ Preference for temporary service in civil
3 service positions shall be given those on the lists. However,
4 the commission may certify a list of names eligible for
5 appointment subject to successfully completing a medical
6 examination. The medical examination shall be provided
7 pursuant to commission rules adopted under section 400.8.

8 ~~In cities of fifty thousand or more population, the~~
9 ~~commission shall hold in reserve a second list of the ten~~
10 ~~persons next highest in standing, in order of their grade, or~~
11 ~~such number as may qualify and, thereafter, if the list of ten~~
12 ~~persons provided in the first paragraph hereof be exhausted~~
13 ~~within one year, may certify such second list of persons to~~
14 ~~the council as eligible for appointment to fill such vacancies~~
15 ~~as may exist.~~

16 Except where the preferred list exists, persons on the
17 certified eligible list for promotion shall hold preference
18 for promotion for two years following the date of
19 certification, except for certified eligible lists of fire
20 fighters as defined in section 411.1, subsection 3 9, which
21 lists shall hold preference for three years upon approval of
22 the commission, after which the lists shall be canceled and
23 promotion to the grade shall not be made until a new list has
24 been certified eligible for promotion.

25 When there is no such preferred list or certified eligible
26 list, or when the eligible list ~~shall be~~ is exhausted, the
27 person or body having the appointing power may temporarily
28 fill a newly created office or other vacancy only until an
29 examination can be held and the names of qualified persons be
30 certified by the commission, ~~and such temporary appointments.~~
31 Temporary appointments, other than seasonal appointments made
32 for the period between April 15 and October 15, are hereby
33 limited to ninety days for any one person in the same vacancy,
34 but such the limitation shall not apply to persons temporarily
35 acting in positions regularly held by another. Any person

1 temporarily filling a vacancy in a position of higher grade
2 for twenty days or more, shall receive the salary paid in such
3 the higher grade.

4 Sec. 9. Section 400.13, unnumbered paragraphs 1 and 2,
5 Code 1993, are amended to read as follows:

6 ~~The chief of the fire department and the chief of the~~
7 ~~police department shall be appointed from the chiefs' civil~~
8 ~~service eligible lists. Such lists shall be determined by~~
9 ~~original examination open to all persons applying, whether or~~
10 ~~not members of the employing city. The A city may by~~
11 resolution elect to establish chiefs' civil service eligible
12 lists. To be eligible, the chief of a fire department shall
13 have had a minimum of five years' experience in a fire
14 department, or three years experience in a fire department and
15 two years of comparable experience or educational training.
16 The chief of a police department shall have had a minimum of
17 five years experience in a public law enforcement agency, or
18 three years experience in a public law enforcement agency and
19 two years of comparable experience or educational training. A
20 chief of a police department or fire department shall maintain
21 civil service rights as determined by section 400.12.

22 Any person who becomes chief of police or chief of the fire
23 department shall be allowed to transfer all rights the person
24 may have acquired under chapter 410 or 411 ~~including employer~~
25 ~~contributions during the person's years of service in a city,~~
26 ~~employee contributions, and interest, to the retirement system~~
27 ~~of the city that hires the person as chief. Such person and~~
28 shall also transfer the number of years served as seniority
29 toward other benefits provided by the city which hires the
30 person. If a chief of a police or fire department is relieved
31 of that position, the person shall be entitled to remain in
32 the department for which the person was chief at a position
33 reasonably commensurate with the person's civil service
34 ~~status, even if this means that the city must create a~~
35 ~~position for the person to fill until a regular position~~

1 becomes-vacant.

2 Sec. 10. Section 400.15, unnumbered paragraph 3, Code
3 1993, is amended to read as follows:

4 All such appointments or promotions shall promptly be
5 reported to the clerk of the commission by the appointing
6 officer. ~~An appointing authority may transfer an employee,
7 other than police officers and fire fighters, with the
8 employee's consent without coercion, from one department to
9 the same civil service classification in another department,
10 and such employee shall retain the same civil service status.~~

11 Sec. 11. Section 400.17, unnumbered paragraph 1,
12 subsections 1 through 3, and unnumbered paragraph 2, Code
13 1993, are amended to read as follows:

14 Except as otherwise provided, a person shall not be
15 appointed or employed in any capacity in the fire or police
16 department, ~~or any department which is governed by the civil
17 service,~~ until the person has passed a civil service
18 examination as provided in this chapter, and has been
19 certified to the city council as being eligible for the
20 appointment. However, in an emergency in which the peace and
21 order of the city is threatened by reason of fire, flood,
22 storm, or mob violence, making additional protection of life
23 and property necessary, the person having the appointing power
24 may deputize additional persons, without examination, to act
25 as peace officers until the emergency has passed. A person
26 may be appointed to a position subject to successfully
27 completing a civil service medical examination. A person
28 shall not be appointed or employed in any capacity in the fire
29 or police department, ~~or any department which is governed by
30 civil service, unless the person:~~

- 31 ~~1. -- is of good moral character;~~
- 32 ~~2. -- is able to read and write the English language;~~
- 33 ~~3. -- is not a liquor or drug addict~~ if the person fails to
34 comply with reasonable physical condition, training, and
35 experience requirements, is a habitual criminal, is addicted

1 to narcotics or alcohol and has not been rehabilitated for a
2 period of one year or more, or has attempted a deception or
3 fraud in connection with a civil service examination.

4 ~~Employees shall not be required to be a resident of the~~
5 ~~city in which they are employed, but they~~ shall become a
6 resident of the state at the time such appointment or
7 employment begins and shall remain a resident of the state
8 during employment. Cities may ~~set reasonable maximum~~
9 ~~distances outside of the corporate limits of the city that~~
10 ~~police officers, fire fighters and other critical municipal~~
11 establish residency requirements for city employees may have.

12 Sec. 12. Section 400.19, Code 1993, is amended to read as
13 follows:

14 400.19 REMOVAL OR DISCHARGE OF SUBORDINATES.

15 The A person having the appointing power as provided in
16 this chapter, or the chief of police or chief of the fire
17 department, may peremptorily suspend, demote, or discharge a
18 subordinate then under the person's or chief's direction for
19 neglect of duty, disobedience of orders, misconduct, or
20 failure to properly perform the subordinate's duties.

21 Sec. 13. Section 400.27, unnumbered paragraphs 1 and 3,
22 Code 1993, are amended to read as follows:

23 The civil service commission has jurisdiction to hear and
24 determine ~~matters~~ cases involving ~~the rights of civil service~~
25 removal, demotion, or suspension of employees under this
26 chapter, and may affirm, modify, or reverse any case on its
27 merits.

28 The city or any civil service employee ~~shall have~~ has a
29 right to appeal to the district court from the final ruling or
30 decision of the civil service commission. The appeal shall be
31 taken within thirty days from the filing of the formal
32 decision of the commission. The district court of the county
33 in which the city is located shall have ~~full~~ jurisdiction of
34 the appeal and the ~~said~~ appeal shall be ~~a trial de novo as an~~
35 equitable action in the district court limited to the record

1 made before the commission.

2 Sec. 14. TRANSITION. An employee regularly serving in or
3 holding a position when the civil service system under which
4 the position is classified is changed shall retain the
5 position and shall retain all accrued vacation, accrued sick
6 leave, or longevity. If necessary, provision for transfer of
7 vested rights and benefits shall be addressed in the
8 regulations governing the new civil service system.

9 EXPLANATION

10 This bill eliminates the referendum requirement for a city
11 of less than 8,000 population, according to the 1980 federal
12 decennial census, seeking to abolish its civil service
13 commission and also allows cities and counties to establish
14 combined civil service commissions. The bill also allows a
15 civil service commission to use an electronic voice recording
16 device rather than a shorthand reporter at its meetings.

17 This bill eliminates the mandated applicability of the
18 statute to all appointive permanent full-time employees in
19 cities of over 15,000 population and allows cities to
20 determine the type of coverage for employees other than police
21 officers and fire fighters.

22 This bill provides that physical examination of police
23 officer/matron and fire fighter applicants shall be held under
24 the direction of the civil service commission, rather than
25 both the civil service commission and the boards of trustees
26 of the fire or police retirement system.

27 This bill adds appointments of chief of police and chief of
28 the fire department to the veterans preference section. The
29 bill also eliminates the use of two lists of applicants who
30 have taken the examination and qualified for a civil service
31 appointment in cities over 50,000 population and eliminates
32 the requirement that only the top 10 be listed. The bill also
33 excludes seasonal appointments from the requirement that
34 temporary appointments be limited to 90 days.

35 This bill allows local officials to determine the process

1 by which a police chief or fire chief is appointed and
2 eliminates the requirement that a city create a special
3 position for a former chief of police or fire chief.

4 The bill also rewrites and adds to the standards required
5 of civil service applicants and allows cities to establish
6 residency requirements for civil service employees. Finally,
7 the bill specifies that the civil service commission has
8 jurisdiction to hear cases involving the removal, demotion, or
9 suspension of civil service employees and appeal of commission
10 decisions shall be limited to the record made before the
11 commission, rather than de novo review. The bill includes a
12 transition provision covering accrued leave and vested rights
13 and benefits.

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SEVENTY-FIFTH GENERAL ASSEMBLY
1993 REGULAR SESSION
DAILY
SENATE CLIP SHEET
MARCH 22, 1993

SENATE FILE 163

S-3167

- 1 Amend Senate File 163 as follows:
- 2 1. Page 1, by striking lines 20 through 28.
- 3 2. Page 2, by striking lines 2 through 15.
- 4 3. Page 2, line 16, by striking the words and
- 5 figures "subsections 1 and 3, Code 1993, are" and
- 6 inserting the following: "subsection 1, Code 1993,
- 7 is".
- 8 4. By striking page 3, line 7, through page 9,
- 9 line 8, and inserting the following:
- 10 "Sec. ____ . Section 400.11, unnumbered paragraph 2,
- 11 Code 1993, is amended to read as follows:
- 12 ~~In cities of fifty thousand or more population, the~~
- 13 ~~The~~ commission shall may hold in reserve a second
- 14 list, for original appointments only, additional lists
- 15 of the ten persons each next highest in standing, in
- 16 order of their grade, or such number as may qualify
- 17 and, thereafter, if less than ten. If the list of ten
- 18 persons provided in the first paragraph hereof be is
- 19 exhausted within one year, the commission may certify
- 20 such second-list additional lists of ten persons each,
- 21 in order of their standing, to the council as eligible
- 22 for appointment to fill such vacancies as may exist.
- 23 Sec. ____ . Section 400.13, unnumbered paragraph 1,
- 24 Code 1993, is amended to read as follows:
- 25 ~~The chief of the fire department and the chief of~~
- 26 ~~the police department shall be appointed from the~~
- 27 ~~chiefs' civil service eligible lists. Such lists~~
- 28 ~~shall be determined by original examination open to~~
- 29 ~~all persons applying, whether or not members of the~~
- 30 ~~employing city. The A city may by resolution elect to~~
- 31 establish chiefs' civil service eligible lists. To be
- 32 eligible, the chief of a fire department shall have
- 33 had a minimum of five ten years' experience in a full-
- 34 time, paid fire department, or three seven years of
- 35 experience in a full-time, paid fire department and
- 36 two three years of comparable experience or
- 37 educational training. In no case shall the chief of a
- 38 fire department have less than five years' experience
- 39 in the area of fire suppression. The chief of a
- 40 police department shall have had a minimum of five
- 41 years experience in a public law enforcement agency,
- 42 or three years experience in a public law enforcement
- 43 agency and two years of comparable experience or
- 44 educational training. A chief of a police department
- 45 or fire department shall maintain civil service rights
- 46 as determined by section 400.12.
- 47 Sec. ____ . Section 400.17, unnumbered paragraph 1,
- 48 and subsections 1 through 3, Code 1993, are amended to
- 49 read as follows:
- 50 Except as otherwise provided in section 400.7, a

S-3167

S-3167

Page 2

1 person shall not be appointed, promoted, or employed
2 in any capacity, including a new classification, in
3 the fire or police department, or any department which
4 is governed by the civil service, until the person has
5 passed a civil service examination as provided in this
6 chapter, and has been certified to the city council as
7 being eligible for the appointment. However, in an
8 emergency in which the peace and order of the city is
9 threatened by reason of fire, flood, storm, or mob
10 violence, making additional protection of life and
11 property necessary, the person having the appointing
12 power may deputize additional persons, without
13 examination, to act as peace officers until the
14 emergency has passed. A person may be appointed to a
15 position subject to successfully completing a civil
16 service medical examination. A person shall not be
17 appointed or employed in any capacity in the fire or
18 police department, or any department which is governed
19 by civil service, unless the person:

20 1. -- is of good moral character;

21 2. -- is able to read and write the English language;

22 3. -- is not a liquor or drug addict if the person is
23 unable to meet reasonable physical condition training
24 requirements and reasonable level of experience
25 requirements necessary for the performance of the
26 position; if the person is a habitual criminal; if the
27 person is addicted to narcotics or alcohol and has not
28 been rehabilitated for a period of one year or more,
29 or is not presently undergoing treatment; or if the
30 person has attempted a deception or fraud in
31 connection with a civil service examination.

32 Sec. ____ . Section 400.17, Code 1993, is amended by
33 adding the following new unnumbered paragraph after
34 unnumbered paragraph 1:

35 NEW UNNUMBERED PARAGRAPH. Except as otherwise
36 provided in this section and section 400.7, a person
37 shall not be appointed or employed in any capacity in
38 any department which is governed by civil service if
39 the person is unable to meet reasonable physical
40 condition training requirements and reasonable level
41 of experience requirements necessary for the
42 performance of the position; if the person is addicted
43 to narcotics or alcohol and has not been rehabilitated
44 for a period of one year or more, or is not presently
45 undergoing treatment; or if the person has attempted a
46 deception or fraud in connection with a civil service
47 examination."

48 5. Title page, by striking line 1 and inserting
49 the following: "An Act relating to abolition of
50 certain civil service commissions, use of electronic

S-3167

-2-

S-3167

Page 3

- 1 voice recording devices at civil service meetings, and
- 2 relating to qualifications and requirements for
- 3 appointment, promotion, or employment in positions
- 4 governed by civil service."
- 5 6. By renumbering as necessary.

By TOM VILSACK

S-3167 FILED MARCH 19, 1993

*Adopted 3-30-93**(P.889)*

SENATE FILE 163

S-3287

1 Amend Senate File 163 as follows:

- 2 1. Page 2, by striking lines 30 through 33 and
- 3 inserting the following: "fighter shall be held under
- 4 ~~the direction of and as specified in accordance with~~
- 5 medical protocols established by the board of
- 6 trustees of the fire or police retirement systems
- 7 system established by section 411.5 and the. The
- 8 commission may shall conduct a medical examination of
- 9 an applicant for the position of police officer,
- 10 police matron, or fire fighter".

By TOM VILSACK

S-3287 FILED MARCH 29, 1993

*Adopted 3-30-93**(P.889)*

1 Section 1. Section 400.3, unnumbered paragraph 2, Code
2 1993, is amended to read as follows:

3 Whenever If the city council of a city having a population
4 less than eight thousand appoints a commission, it may, by
5 ordinance, abolish it, and the commission shall stand
6 abolished sixty days from the date of the ordinance and the
7 powers and duties of the commission shall revert to the city
8 council ~~except whenever a city having a population of less~~
9 ~~than eight thousand provides for the appointment of a civil~~
10 ~~service commission, it may by ordinance abolish such office,~~
11 ~~but said ordinance shall not take effect until it has been~~
12 ~~submitted to the voters at a regular municipal election and~~
13 ~~approved by a majority of the voters at such election.--The~~
14 ~~ordinance shall be published once each week for two~~
15 ~~consecutive weeks preceding the date of said election in a~~
16 ~~newspaper published in and having a general circulation in~~
17 ~~said city.--In the event there is no newspaper published in~~
18 ~~such city, publication may be made in any newspaper having~~
19 ~~general circulation in the county.~~

* 20 Sec. 2. Section 400.5, Code 1993, is amended to read as
21 follows:

22 400.5 ROOMS AND SUPPLIES.

23 The council shall provide suitable rooms in which the
24 commission may hold its meetings and supply the commission
25 with all necessary equipment and a qualified shorthand
26 reporter or an electronic voice recording device to enable it
27 to properly to perform its duties.

* 28 Sec. 3. Section 400.8, subsection 1, Code 1993, is amended
29 to read as follows:

30 1. The commission, when necessary under the rules,
31 including minimum and maximum age limits, which shall be
32 prescribed and published in advance by the commission and
33 posted in the city hall, shall hold examinations for the
34 purpose of determining the qualifications of applicants for
35 positions under civil service, other than promotions, which

1 examinations shall be practical in character and shall relate
2 to matters which will fairly test the mental and physical
3 ability of the applicant to discharge the duties of the
4 position to which the applicant seeks appointment. However,
5 the The physical examination of applicants for appointment to
6 the positions of police officer, police matron, or fire
7 fighter shall be held under-the-direction-of-and-as-specified
8 in accordance with medical protocols established by the boards
9 board of trustees of the fire or police retirement systems
10 system established by section 411.5 and-the. The commission
11 may shall conduct a medical examination of an applicant for
12 the position of police officer, police matron, or fire fighter
13 after a conditional offer of employment has been made to the
14 applicant. An applicant shall not be discriminated against on
15 the basis of height, weight, sex, or race in determining
16 physical or mental ability of the applicant. Reasonable rules
17 relating to strength, agility, and general health of
18 applicants shall be prescribed. The costs of the physical
19 examination required under this subsection shall be paid from
20 the trust and agency fund of the city.

21 Sec. 4. Section 400.11, unnumbered paragraph 2, Code 1993,
22 is amended to read as follows:

23 In-cities-of-fifty-thousand-or-more-population,-the The
24 commission shall may hold in reserve a-second-list, for
25 original appointments only, additional lists of the ten
26 persons each next highest in standing, in order of their
27 grade, or such number as may qualify and,-thereafter, if less
28 than ten. If the list of ten persons provided in the first
29 paragraph hereof-be is exhausted within one year, the
30 commission may certify such second-list additional lists of
31 ten persons each, in order of their standing, to the council
32 as eligible for appointment to fill such vacancies as may
33 exist.

34 Sec. 5. Section 400.13, unnumbered paragraph 1, Code 1993,
35 is amended to read as follows:

1 ~~The chief of the fire department and the chief of the~~
2 ~~police department shall be appointed from the chiefs' civil~~
3 ~~service eligible lists. Such lists shall be determined by~~
4 ~~original examination open to all persons applying, whether or~~
5 ~~not members of the employing city. The A city may by~~
6 ~~resolution elect to establish chiefs' civil service eligible~~
7 ~~lists. To be eligible, the chief of a fire department shall~~
8 ~~have had a minimum of five ten years' experience in a full-~~
9 ~~time, paid fire department, or three seven years of experience~~
10 ~~in a full-time, paid fire department and two three years of~~
11 ~~comparable experience or educational training. In no case~~
12 ~~shall the chief of a fire department have less than five~~
13 ~~years' experience in the area of fire suppression. The chief~~
14 ~~of a police department shall have had a minimum of five years~~
15 ~~experience in a public law enforcement agency, or three years~~
16 ~~experience in a public law enforcement agency and two years of~~
17 ~~comparable experience or educational training. A chief of a~~
18 ~~police department or fire department shall maintain civil~~
19 ~~service rights as determined by section 400.12.~~

20 Sec. 6. Section 400.17, unnumbered paragraph 1, and
21 subsections 1 through 3, Code 1993, are amended to read as
22 follows:

23 Except as otherwise provided in section 400.7, a person
24 shall not be appointed, promoted, or employed in any
25 capacity, including a new classification, in the fire or
26 police department, or any department which is governed by the
27 civil service, until the person has passed a civil service
28 examination as provided in this chapter, and has been
29 certified to the city council as being eligible for the
30 appointment. However, in an emergency in which the peace and
31 order of the city is threatened by reason of fire, flood,
32 storm, or mob violence, making additional protection of life
33 and property necessary, the person having the appointing power
34 may deputize additional persons, without examination, to act
35 as peace officers until the emergency has passed. A person

1 may be appointed to a position subject to successfully
2 completing a civil service medical examination. A person
3 shall not be appointed or employed in any capacity in the fire
4 or police department, or any department which is governed by
5 civil service, unless the person:
6 1.---is of good moral character.
7 2.---is able to read and write the English language.
8 3.---is not a liquor or drug addict if the person is unable
9 to meet reasonable physical condition training requirements
10 and reasonable level of experience requirements necessary for
11 the performance of the position; if the person is a habitual
12 criminal; if the person is addicted to narcotics or alcohol
13 and has not been rehabilitated for a period of one year or
14 more, or is not presently undergoing treatment; or if the
15 person has attempted a deception or fraud in connection with a
16 civil service examination.

17 Sec. 7. Section 400.17, Code 1993, is amended by adding
18 the following new unnumbered paragraph after unnumbered
19 paragraph 1:

20 NEW UNNUMBERED PARAGRAPH. Except as otherwise provided in
21 this section and section 400.7, a person shall not be
22 appointed or employed in any capacity in any department which
23 is governed by civil service if the person is unable to meet
24 reasonable physical condition training requirements and
25 reasonable level of experience requirements necessary for the
26 performance of the position; if the person is addicted to
27 narcotics or alcohol and has not been rehabilitated for a
28 period of one year or more, or is not presently undergoing
29 treatment; or if the person has attempted a deception or fraud
30 in connection with a civil service examination.

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SENATE FILE 163

H-3844

1 Amend Senate File 163, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 1 through 19.

4 2. Page 2, line 25, by striking the word "only"
5 and inserting the following: "and for promotions".

6 3. Page 2, line 33, by inserting after the word
7 "exist." the following: "However, for original
8 appointments only, no more than four lists of ten
9 persons each shall be certified for each one-year
10 period of eligibility."

11 4. By striking page 2, line 34, through page 3,
12 line 19.

13 5. Page 4, by inserting after line 30, the
14 following:

15 "Sec. ____ . TRANSITION. Notwithstanding section 4
16 of this Act, if a list for promotion is certified
17 between July 1, 1992, and June 30, 1993, and is not
18 exhausted within one year, the commission shall
19 certify an additional list of ten persons in order of
20 their standing as of the date of certification of the
21 initial list in anticipation of additional vacancies
22 for the eligibility period. This additional list
23 shall be certified to the council as eligible for
24 appointment to fill such vacancies as may exist."

25 6. By renumbering as necessary.

By COMMITTEE ON LOCAL GOVERNMENT
IVERSON of Wright, Chairperson

H-3844 FILED APRIL 12, 1993

Adopted 4/27/93 (p. 1707)

HOUSE AMENDMENT TO
SENATE FILE 163

S-3658

1 Amend Senate File 163, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 1 through 19.

4 2. Page 2, line 25, by striking the word "only"
5 and inserting the following: "and for promotions".

6 3. Page 2, line 33, by inserting after the word
7 "exist." the following: "However, for original
8 appointments only, no more than four lists of ten
9 persons each shall be certified for each one-year
10 period of eligibility."

11 4. By striking page 2, line 34, through page 3,
12 line 19.

13 5. Page 4, by inserting after line 30, the
14 following:

15 "Sec. ____ . TRANSITION. Notwithstanding section 4
16 of this Act, if a list for promotion is certified
17 between July 1, 1992, and June 30, 1993, and is not
18 exhausted within one year, the commission shall
19 certify an additional list of ten persons in order of
20 their standing as of the date of certification of the
21 initial list in anticipation of additional vacancies
22 for the eligibility period. This additional list
23 shall be certified to the council as eligible for
24 appointment to fill such vacancies as may exist."

25 6. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-3658 FILED APRIL 27, 1993

Senate Concurred 4/28/93 (p. 1397)

VILSACK, CH.
SZYMONIAK
RITTMER

SSB 145
LOCAL GOVERNMENT

SENATE FILE 163
BY (PROPOSED COMMITTEE ON LOCAL
GOVERNMENT BILL BY CHAIRPERSON
SORENSEN)

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

A BILL FOR

1 An Act relating to civil service.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. _____ H.F. _____

1 Section 1. Section 400.3, unnumbered paragraph 2, Code
2 1993, is amended to read as follows:

3 Whenever If the city council of a city having a population
4 less than eight thousand appoints a commission, it may, by
5 ordinance, abolish it, and the commission shall stand
6 abolished sixty days from the date of the ordinance and the
7 powers and duties of the commission shall revert to the city
8 council ~~except whenever a city having a population of less~~
9 ~~than eight thousand provides for the appointment of a civil~~
10 ~~service commission, it may by ordinance abolish such office,~~
11 ~~but said ordinance shall not take effect until it has been~~
12 ~~submitted to the voters at a regular municipal election and~~
13 ~~approved by a majority of the voters at such election.--The~~
14 ~~ordinance shall be published once each week for two~~
15 ~~consecutive weeks preceding the date of said election in a~~
16 ~~newspaper published in and having a general circulation in~~
17 ~~said city.--In the event there is no newspaper published in~~
18 ~~such city, publication may be made in any newspaper having~~
19 ~~general circulation in the county.~~

20 Sec. 2. Section 400.3, Code 1993, is amended by adding the
21 following new unnumbered paragraph:

22 NEW UNNUMBERED PARAGRAPH. Cities and counties may agree,
23 pursuant to chapter 28E, to establish a combined civil service
24 commission. Matters pertinent to the operation of the
25 commission, including the appointment of qualified
26 commissioners, shall be contained in the agreement. A city
27 need not be within a county with which it establishes an
28 agreement.

29 Sec. 3. Section 400.5, Code 1993, is amended to read as
30 follows:

31 400.5 ROOMS AND SUPPLIES.

32 The council shall provide suitable rooms in which the
33 commission may hold its meetings and supply the commission
34 with all necessary equipment and a qualified shorthand
35 reporter or an electronic voice recording device to enable it

1 to properly to perform its duties.

2 Sec. 4. Section 400.6, unnumbered paragraph 1, Code 1993,
3 is amended to read as follows:

4 This chapter applies to permanent regular full-time police
5 officers and fire fighters in cities having a population of
6 more than eight thousand, ~~and-to-all-appointive-permanent~~
7 ~~full-time-employees-in-cities-having-a-population-of-more-than~~
8 ~~fifteen-thousand-except:~~ except that it need not apply to the
9 head of each department and the principal assistants of each
10 department. However, this chapter does not prohibit a city
11 from enacting an ordinance providing broader civil service
12 coverage or different categories of civil service coverage for
13 other regular employees.

14 Sec. 5. Section 400.6, subsections 1 through 7, Code 1993,
15 are amended by striking the subsections.

16 Sec. 6. Section 400.8, subsections 1 and 3, Code 1993, are
17 amended to read as follows:

18 1. The commission, when necessary under the rules,
19 including minimum and maximum age limits, which shall be
20 prescribed and published in advance by the commission and
21 posted in the city hall, shall hold examinations for the
22 purpose of determining the qualifications of applicants for
23 positions under civil service, other than promotions, which
24 examinations shall be practical in character and shall relate
25 to matters which will fairly test the mental and physical
26 ability of the applicant to discharge the duties of the
27 position to which the applicant seeks appointment. ~~However,~~
28 ~~the~~ The physical examination of applicants for appointment to
29 the positions of police officer, police matron, or fire
30 fighter shall be held under the direction of ~~and-as-specified~~
31 ~~by-the-boards-of-trustees-of-the-fire-or-police-retirement~~
32 ~~systems-established-by-section-411-5-and~~ the commission. The
33 commission may conduct a medical examination of an applicant
34 after a conditional offer of employment has been made to the
35 applicant. An applicant shall not be discriminated against on

S.F. _____ H.F. _____

1 the basis of height, weight, sex, or race in determining
2 physical or mental ability of the applicant. Reasonable rules
3 relating to strength, agility, and general health of
4 applicants shall be prescribed. The costs of the physical
5 examination required under this subsection shall be paid from
6 the trust and agency fund of the city.

7 3. All appointments ~~to such positions shall be conditional~~
8 ~~upon a probation period of not to exceed six months, and in~~
9 ~~the case of police patrol officers and fire fighters shall be~~
10 conditional upon a probation period not to exceed twelve
11 months, during which time the appointee may be removed or
12 discharged from such the position by the appointing person or
13 body without the right of appeal to the commission. A person
14 removed or discharged during a probationary period shall, at
15 the time of discharge, be given a notice in writing stating
16 the reason or reasons for the dismissal. A copy of such the
17 notice shall be promptly filed with the commission.
18 Continuance in the position after the expiration of such the
19 probationary period shall constitute a permanent regular
20 appointment.

21 Sec. 7. Section 400.9, subsection 3, Code 1993, is amended
22 to read as follows:

23 3. Vacancies in civil service promotional grades shall be
24 filled by lateral transfer, voluntary demotion, or promotion
25 of employees of the city to the extent that the city employees
26 qualify for the positions. When laterally transferred,
27 voluntarily demoted, or promoted, an employee shall hold full
28 civil service rights in the position. If an employee of the
29 city does not pass ~~one-of-two-successive~~ the promotional
30 examinations examination and otherwise qualify for a vacated
31 position, or if an employee of the city does not apply for a
32 vacated position, an entrance examination may be used to fill
33 the vacancy.

34 Sec. 8. Section 400.10, unnumbered paragraph 1, Code 1993,
35 is amended to read as follows:

1 In all examinations and appointments under this chapter,
2 ~~other-than-promotions-and-appointments-of-chief-of-the-police~~
3 ~~department-and-chief-of-the-fire-department~~, honorably
4 discharged veterans from the military or naval forces of the
5 United States in any war in which the United States has been
6 engaged, including the Korean Conflict at any time between
7 June 25, 1950, and January 31, 1955, both dates inclusive, the
8 Vietnam Conflict beginning August 5, 1964, and ending May 7,
9 1975, both dates inclusive, and the Persian Gulf Conflict
10 beginning August 2, 1990, and ending on the date specified by
11 the president or the Congress of the United States as the date
12 of permanent cessation of hostilities, both dates inclusive,
13 and who are citizens and residents of this state, shall have
14 five points added to the veteran's grade or score attained in
15 qualifying examinations for appointment to positions and five
16 additional points added to the grade or score if the veteran
17 has a service-connected disability or is receiving
18 compensation, disability benefits or pension under laws
19 administered by the veterans administration. However, if the
20 Congress of the United States enacts a date different from
21 August 2, 1990, as the beginning of the Persian Gulf Conflict
22 to determine the eligibility of a veteran for military
23 benefits as a veteran of the Persian Gulf Conflict, the date
24 enacted by the Congress of the United States shall be
25 substituted for August 2, 1990. An honorably discharged
26 veteran who has been awarded the Purple Heart for disabilities
27 incurred in action shall be considered to have a service-
28 connected disability. However, the points shall be given only
29 upon passing the exam and shall not be the determining factor
30 in passing.

31 Sec. 9. Section 400.11, Code 1993, is amended to read as
32 follows:

33 400.11 NAMES CERTIFIED -- TEMPORARY APPOINTMENT.

34 The commission, within ninety days after the beginning of
35 each competitive examination for original appointment or for

1 promotion, shall certify to the city council a list of the
2 names of the-ten persons who qualify with-the-highest-standing
3 as a result of each examination for the position they seek to
4 fill, ~~or the number which have qualified if less than ten, in~~
5 ~~the order of their standing, and all~~ All newly created offices
6 or other vacancies in positions under civil service which
7 occur before the beginning of the next examination for the
8 positions shall be filled from the lists, or from the
9 preferred list existing as provided for in case of diminution
10 of employees, within thirty days. ~~If a tie occurs in the~~
11 ~~examination scores which would qualify persons for the tenth~~
12 ~~position on the list, the list of the names of the persons who~~
13 ~~qualify with the highest standing as a result of each~~
14 ~~examination shall include all persons who qualify for the~~
15 ~~tenth position.~~ Preference for temporary service in civil
16 service positions shall be given those on the lists. However,
17 the commission may certify a list of names eligible for
18 appointment subject to successfully completing a medical
19 examination. The medical examination shall be provided
20 pursuant to commission rules adopted under section 400.8.

21 ~~In cities of fifty thousand or more population, the~~
22 ~~commission shall hold in reserve a second list of the ten~~
23 ~~persons next highest in standing, in order of their grade, or~~
24 ~~such number as may qualify and, thereafter, if the list of ten~~
25 ~~persons provided in the first paragraph hereof be exhausted~~
26 ~~within one year, may certify such second list of persons to~~
27 ~~the council as eligible for appointment to fill such vacancies~~
28 ~~as may exist.~~

29 Except where the preferred list exists, persons on the
30 certified eligible list for promotion shall hold preference
31 for promotion for two years following the date of
32 certification, except for certified eligible lists of fire
33 fighters as defined in section 411.1, subsection 3, which
34 lists shall hold preference for three years upon approval of
35 the commission, after which the lists shall be canceled and

1 promotion to the grade shall not be made until a new list has
2 been certified eligible for promotion.

3 When there is no such preferred list or certified eligible
4 list, or when the eligible list ~~shall-be~~ is exhausted, the
5 person or body having the appointing power may temporarily
6 fill a newly created office or other vacancy ~~only~~ until an
7 examination can be held and the names of qualified persons be
8 certified by the commission, ~~and such temporary appointments.~~
9 Temporary appointments, other than seasonal appointments made
10 for the period between April 15 and October 15, are hereby
11 limited to ninety days for any one person in the same vacancy,
12 but such the limitation shall not apply to persons temporarily
13 acting in positions regularly held by another. Any person
14 temporarily filling a vacancy in a position of higher grade
15 for twenty days or more, shall receive the salary paid in such
16 the higher grade.

17 Sec. 10. Section 400.13, unnumbered paragraphs 1 and 2,
18 Code 1993, are amended to read as follows:

19 ~~The chief of the fire department and the chief of the~~
20 ~~police department shall be appointed from the chiefs' civil~~
21 ~~service eligible lists. Such lists shall be determined by~~
22 ~~original examination open to all persons applying, whether or~~
23 ~~not members of the employing city. The A city may by~~
24 resolution elect to establish chiefs' civil service eligible
25 lists. To be eligible, the chief of a fire department shall
26 have had a minimum of five years' experience in a fire
27 department, or three years experience in a fire department and
28 two years of comparable experience or educational training.
29 The chief of a police department shall have had a minimum of
30 five years experience in a public law enforcement agency, or
31 three years experience in a public law enforcement agency and
32 two years of comparable experience or educational training. A
33 chief of a police department or fire department shall maintain
34 civil service rights as determined by section 400.12.

35 Any person who becomes chief of police or chief of the fire

1 department shall be allowed to transfer all rights the person
2 may have acquired under chapter 410 or 411, ~~including employer~~
3 ~~contributions during the person's years of service in a city,~~
4 ~~employee contributions, and interest, to the retirement system~~
5 ~~of the city that hires the person as chief.~~ --Such person and
6 shall also transfer the number of years served as seniority
7 toward other benefits provided by the city which hires the
8 person. If a chief of a police or fire department is relieved
9 of that position, the person shall be entitled to remain in
10 the department for which the person was chief at a position
11 reasonably commensurate with the person's civil service
12 ~~status, even if this means that the city must create a~~
13 ~~position for the person to fill until a regular position~~
14 ~~becomes vacant.~~

15 Sec. 11. Section 400.15, unnumbered paragraph 3, Code
16 1993, is amended to read as follows:

17 All such appointments or promotions shall promptly be
18 reported to the clerk of the commission by the appointing
19 officer. ~~An appointing authority may transfer an employee,~~
20 ~~other than police officers and fire fighters, with the~~
21 ~~employee's consent without coercion, from one department to~~
22 ~~the same civil service classification in another department,~~
23 ~~and such employee shall retain the same civil service status.~~

24 Sec. 12. Section 400.17, unnumbered paragraph 1,
25 subsections 1 through 3, and unnumbered paragraph 2, Code
26 1993, are amended to read as follows:

27 Except as otherwise provided, a person shall not be
28 appointed or employed in any capacity in the fire or police
29 department, ~~or any department which is governed by the civil~~
30 ~~service,~~ until the person has passed a civil service
31 examination as provided in this chapter, and has been
32 certified to the city council as being eligible for the
33 appointment. However, in an emergency in which the peace and
34 order of the city is threatened by reason of fire, flood,
35 storm, or mob violence, making additional protection of life

1 and property necessary, the person having the appointing power
 2 may deputize additional persons, without examination, to act
 3 as peace officers until the emergency has passed. A person
 4 may be appointed to a position subject to successfully
 5 completing a civil service medical examination. A person
 6 shall not be appointed or employed in any capacity in the fire
 7 or police department, ~~or any department which is governed by~~
 8 ~~civil service, unless the person:~~

9 ~~1.---is of good moral character.~~

10 ~~2.---is able to read and write the English language.~~

11 ~~3.---is not a liquor or drug addict~~ if the person fails to
 12 comply with reasonable physical condition, training, and
 13 experience requirements, is a habitual criminal, is addicted
 14 to narcotics or alcohol and has not been rehabilitated for a
 15 period of one year or more, or has attempted a deception or
 16 fraud in connection with a civil service examination.

17 ~~Employees shall not be required to be a resident of the~~
 18 ~~city in which they are employed, but they shall become a~~
 19 resident of the state at the time such appointment or
 20 employment begins and shall remain a resident of the state
 21 during employment. ~~Cities may set reasonable maximum~~
 22 ~~distances outside of the corporate limits of the city that~~
 23 ~~police officers, fire fighters and other critical municipal~~
 24 establish residency requirements for city employees may live.

25 Sec. 13. Section 400.18, Code 1993, is amended by striking
 26 the section and inserting in lieu thereof the following:

27 400.18 REMOVAL, DEMOTION, OR SUSPENSION.

28 A person holding civil service rights as provided in this
 29 chapter may be removed or discharged, suspended without pay,
 30 demoted, or reduced in rank, or deprived of vacation
 31 privileges or other privileges after a hearing by and a
 32 majority vote of the civil service commission for any of the
 33 following reasons:

34 1. Incompetency, inefficiency, or inattention to or
 35 dereliction of duty.

S.F. _____ H.F. _____

1 2. Dishonesty, intemperance, immoral conduct,
2 insubordination, discourteous treatment of the public or a
3 fellow employee, or any other act of omission or commission
4 tending to injure the public or any other willful failure to
5 properly conduct oneself, or any willful violation of a
6 provision of this chapter or the rules adopted pursuant to
7 this chapter.

8 3. Mental or physical unfitness for the position held.

9 4. Dishonest, disgraceful, or prejudicial conduct.

10 5. On duty intoxication or habitual use of intoxicating
11 liquor, or use of narcotics, or any other habit-forming drug,
12 liquid, preparation, or controlled substance except as
13 prescribed.

14 6. Conviction of a felony or a misdemeanor involving moral
15 turpitude.

16 7. Any other act of failure to act or to follow reasonable
17 regulations which in the judgment of the commission is
18 sufficient to show the offender to be unsuitable or unfit for
19 employment.

20 Sec. 14. Section 400.19, Code 1993, is amended to read as
21 follows:

22 400.19 REMOVAL OR DISCHARGE OF SUBORDINATES.

23 The A person having the appointing power as provided in
24 this chapter, or the chief of police or chief of the fire
25 department, may peremptorily suspend, demote, or discharge a
26 subordinate then under the person's or chief's direction for
27 neglect of duty, disobedience of orders, misconduct, or
28 failure to properly perform the subordinate's duties.

29 Sec. 15. Section 400.27, unnumbered paragraphs 1 and 3,
30 Code 1993, are amended to read as follows:

31 The civil service commission has jurisdiction to hear and
32 determine matters cases involving the-rights-of-civil-service
33 removal, demotion, or suspension of employees under this
34 chapter, and may affirm, modify, or reverse any case on its
35 merits.

1 The city or any civil service employee ~~shall~~has a
2 right to appeal to the district court from the final ruling or
3 decision of the civil service commission. The appeal shall be
4 taken within thirty days from the filing of the formal
5 decision of the commission. The district court of the county
6 in which the city is located shall have ~~full~~ jurisdiction of
7 the appeal and the ~~said~~ appeal shall be ~~a-trial-de-novo-as-an~~
8 equitable-action-in-the-district-court limited to the record
9 made before the commission.

10 Sec. 16. TRANSITION. An employee regularly serving in or
11 holding a position when the civil service system under which
12 the position is classified is changed shall retain the
13 position and shall retain all accrued vacation, accrued sick
14 leave, or longevity. If necessary, provision for transfer of
15 vested rights and benefits shall be addressed in the
16 regulations governing the new civil service system.

17 EXPLANATION

18 This bill eliminates the referendum requirement for a city
19 of less than 8,000 population, according to the 1980 federal
20 decennial census, seeking to abolish its civil service
21 commission and also allows cities and counties to establish
22 combined civil service commissions. The bill also allows a
23 civil service commission to use an electronic voice recording
24 device rather than a shorthand reporter at its meetings.

25 This bill eliminates the mandated applicability of the
26 statute to all appointive permanent full-time employees in
27 cities of over 15,000 population and allows cities to
28 determine the type of coverage for employees other than police
29 officers and fire fighters.

30 This bill provides that physical examination of police
31 officer/matron and fire fighter applicants shall be held under
32 the direction of the civil service commission, rather than
33 both the civil service commission and the boards of trustees
34 of the fire or police retirement system. The bill also
35 provides that a city may fill a civil service vacancy with an

1 entrance examination if an employee of the city does not pass
2 the promotional examination, rather than one of two
3 promotional examinations.

4 This bill adds appointments of chief of police and chief of
5 the fire department to the veterans preference section. The
6 bill also eliminates the use of two lists of applicants who
7 have taken the examination and qualified for a civil service
8 appointment in cities over 50,000 population and eliminates
9 the requirement that only the top 10 be listed. The bill also
10 excludes seasonal appointments from the requirement that
11 temporary appointments be limited to 90 days.

12 This bill allows local officials to determine the process
13 by which a police chief or fire chief is appointed and
14 eliminates the requirement that a city create a special
15 position for a former chief of police or fire chief.

16 The bill also rewrites and adds to the standards required
17 of civil service applicants and allows cities to establish
18 residency requirements for civil service employees. The bill
19 also rewrites the section on removal, demotion, or suspension
20 of civil service employees, specifying what types of conduct
21 can result in removal, demotion, or suspension. Finally, the
22 bill specifies that the civil service commission has
23 jurisdiction to hear cases involving the removal, demotion, or
24 suspension of civil service employees and appeal of commission
25 decisions shall be limited to the record made before the
26 commission, rather than de novo review. The bill includes a
27 transition provision covering accrued leave and vested rights
28 and benefits.

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SENATE FILE 163

AN ACT

RELATING TO ABOLITION OF CERTAIN CIVIL SERVICE COMMISSIONS,
USE OF ELECTRONIC VOICE RECORDING DEVICES AT CIVIL
SERVICE MEETINGS, AND RELATING TO QUALIFICATIONS AND
REQUIREMENTS FOR APPOINTMENT, PROMOTION, OR EMPLOYMENT
IN POSITIONS GOVERNED BY CIVIL SERVICE.

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

Section 1. Section 400.5, Code 1993, is amended to read as follows:

400.5 ROOMS AND SUPPLIES.

The council shall provide suitable rooms in which the commission may hold its meetings and supply the commission with all necessary equipment and a qualified shorthand reporter or an electronic voice recording device to enable it to properly to perform its duties.

Sec. 2. Section 400.8, subsection 1, Code 1993, is amended to read as follows:

1. The commission, when necessary under the rules, including minimum and maximum age limits, which shall be prescribed and published in advance by the commission and posted in the city hall, shall hold examinations for the purpose of determining the qualifications of applicants for positions under civil service, other than promotions, which examinations shall be practical in character and shall relate to matters which will fairly test the mental and physical ability of the applicant to discharge the duties of the position to which the applicant seeks appointment. ~~However, the~~ The physical examination of applicants for appointment to the positions of police officer, police matron, or fire fighter shall be held ~~under the direction of and as specified in accordance with medical protocols established by the boards~~

board of trustees of the fire or police retirement systems system established by section 411.5 ~~and the~~. The commission ~~may shall~~ conduct a medical examination of an applicant for the position of police officer, police matron, or fire fighter after a conditional offer of employment has been made to the applicant. An applicant shall not be discriminated against on the basis of height, weight, sex, or race in determining physical or mental ability of the applicant. Reasonable rules relating to strength, agility, and general health of applicants shall be prescribed. The costs of the physical examination required under this subsection shall be paid from the trust and agency fund of the city.

Sec. 3. Section 400.11, unnumbered paragraph 2, Code 1993, is amended to read as follows:

~~in cities of fifty thousand or more population, the~~ The commission shall ~~may~~ hold in reserve ~~a second list, for~~ original appointments and for promotions, additional lists of the ten persons each next highest in standing, in order of their grade, or such number as may qualify and, thereafter, if less than ten. If the list of ten persons provided in the first paragraph hereof be is exhausted within one year, the ~~commission~~ may certify such ~~second list additional lists of~~ ten persons each, in order of their standing, to the council as eligible for appointment to fill such vacancies as may exist. However, for original appointments only, no more than four lists of ten persons each shall be certified for each one-year period of eligibility.

Sec. 4. Section 400.17, unnumbered paragraph 1, and subsections 1 through 3, Code 1993, are amended to read as follows:

Except as otherwise provided in section 400.7, a person shall not be appointed, promoted, or employed in any capacity, including a new classification, in the fire or police department, or any department which is governed by the civil service, until the person has passed a civil service examination as provided in this chapter, and has been certified to the city council as being eligible for the

appointment. However, in an emergency in which the peace and order of the city is threatened by reason of fire, flood, storm, or mob violence, making additional protection of life and property necessary, the person having the appointing power may deputize additional persons, without examination, to act as peace officers until the emergency has passed. A person may be appointed to a position subject to successfully completing a civil service medical examination. A person shall not be appointed or employed in any capacity in the fire or police department ~~or any department which is governed by civil service, unless the person:~~

~~1. is of good moral character;~~

~~2. is able to read and write the English language;~~

~~3. is not a liquor or drug addict if the person is unable to meet reasonable physical condition training requirements and reasonable level of experience requirements necessary for the performance of the position; if the person is a habitual criminal; if the person is addicted to narcotics or alcohol and has not been rehabilitated for a period of one year or more, or is not presently undergoing treatment; or if the person has attempted a deception or fraud in connection with a civil service examination.~~

Sec. 5. Section 400.17, Code 1993, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. Except as otherwise provided in this section and section 400.7, a person shall not be appointed or employed in any capacity in any department which is governed by civil service if the person is unable to meet reasonable physical condition training requirements and reasonable level of experience requirements necessary for the performance of the position; if the person is addicted to narcotics or alcohol and has not been rehabilitated for a period of one year or more, or is not presently undergoing treatment; or if the person has attempted a deception or fraud in connection with a civil service examination.

Sec. 6. TRANSITION. Notwithstanding section 4 of this Act, if a list for promotion is certified between July 1, 1992, and June 30, 1993, and is not exhausted within one year, the commission shall certify an additional list of ten persons in order of their standing as of the date of certification of the initial list in anticipation of additional vacancies for the eligibility period. This additional list shall be certified to the council as eligible for appointment to fill such vacancies as may exist.

LEONARD L. BOSWELL

President of the Senate

HAROLD VAN HAANEN

Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 163, Seventy-fifth General Assembly.

JOHN F. DWYER

Secretary of the Senate

Approved May 20, 1993

TERRY E. BRANSTAD

Governor