

F I N A L R E P O R T

JOINT SUBCOMMITTEE ON MANDATORY RETIREMENT
OF THE
STANDING COMMITTEES ON LABOR AND INDUSTRIAL RELATIONS

December, 1978

The membership of the Joint Subcommittee includes the following:

Senator Milo Meritt, Co-chairman
Representative John Connors, Co-chairman
Senator James Calhoon
Senator Merlin Hulse
Representative Charles Poncy
Representative Patricia Thompson

The first meeting of the Joint Subcommittee was held on September 20, 1978. The Joint Subcommittee received testimony from Mr. Don Chleborad, Assistant Area Director, Wage and Hour Division of the United States Department of Labor, explaining the 1978 amendments to the Age Discrimination in Employment Act (ADEA). The Joint Subcommittee also heard testimony by Ms. Judy Perkins, Legislative Director, AFSCME; Representative Gregory Cusack; Mr. Glenn Bowles, Director, Commission on Aging; Mr. Gene Vernon, Employee Relations Director of Iowa; and Mr. Ed Longnecker, Director, IPERS Division, Department of Job Service. The Joint Subcommittee directed the Legislative Service Bureau to draft a bill showing the changes necessary to bring Iowa's pension and age discrimination laws into compliance with the 1978 amendments to the ADEA and presenting the options available to the Joint Subcommittee.

The second meeting of the Joint Subcommittee occurred on November 17, 1978. The Joint Subcommittee reviewed the bill draft and received statements from Mr. Donald Hauser, Iowa Manufacturers Association; Mr. Dave Long, Iowa League of Municipalities; and Mr. Wayne Beal, Iowa Association of School Boards. The Joint Subcommittee also heard from four actuaries, Messrs. Charles Farr, William Barber, Thomas Gibson and Marvin Vande Lunde. The Joint Subcommittee approved and recommended to the Legislative Council a bill draft which would accomplish the following:

1. Increase the mandatory retirement age for employees under IPERS from 65 to 70.
2. Remove the mandatory retirement age requirement from the pension plans for Department of Public Safety peace officers and for police officers and fire fighters.
3. Establish a maximum age of 65 as an occupational qualification for peace officers, police officers and fire fighters.

4. Prohibit employee benefit plans in this state from requiring retirement on the basis of age prior to age 70.

The bill draft is attached.

PROPOSED HOUSE FILE _____

By (PROPOSED JOINT LABOR AND
INDUSTRIAL RELATIONS SUB-
COMMITTEE ON MANDATORY
RETIREMENT BILL)

Passed House, Date _____ Passed Senate, 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), Code
6 1979, is amended by striking unnumbered paragraph two (2).

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

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

14 NEW SUBSECTION. The prohibition of this section against
15 age discrimination in employment applies only to persons who
16 are legally adults and does not apply to the following:

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

21 b. Age discrimination past age forty-five in bona fide
22 apprenticeship employment programs.

23 Sec. 10. Section six hundred one A point twelve (601A.12),
24 Code 1979, is amended by adding the following new unnumbered
25 paragraph:

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

30 a. The involuntary retirement of a person who has at-
31 tained the age of sixty-five and has for the two prior years
32 been employed in a bona fide executive or high policy-making
33 position and who is entitled to an immediate, nonforfeitable
34 annual retirement benefit from a pension, profit-sharing,
35 savings or deferred compensation plan of the employer which

1 equals twenty-seven thousand dollars. This retirement benefit
2 test may be adjusted according to the regulations prescribed
3 by the United States secretary of labor pursuant to Public
4 Law ninety-five dash two hundred fifty-six (95-256), section
5 three (3).

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

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

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EXPLANATION

17 This bill changes the mandatory retirement laws and age
18 discrimination laws in response to the 1978 amendments to
19 the federal Age Discrimination in Employment Act of 1967.

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

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

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

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

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

34 Section 8 removes the mandatory retirement age provision
35 from the pension system for police officers and fire fighters

1 covered by a civil service system.

2 Section 9 recodifies existing age discrimination provi-
3 sions passed during the last general assembly.

4 Section 10 prohibits pension plans from requiring mandatory
5 retirement prior to age seventy. The exemptions are the same
6 as those provided by federal law.

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