

F I N A L R E P O R T  
CITY CIVIL SERVICE SUBCOMMITTEE

January, 1982

The Legislative Council authorized the appointment of a Subcommittee of the Senate and House Standing Committees on Cities to study the issues and problems relating to city civil service and personnel policies, including Senate File 354, legislation introduced in 1981, which revises chapter 400 of the Code relating to city civil service.

Members serving on the Subcommittee were:

Senator David Readinger  
Senator Clarence Carney  
Senator George Kinley  
Senator Tom Slater  
Senator Arne Waldstein  
Representative Phillip Tyrrell  
Representative Frank Crabb  
Representative John Connors  
Representative Marvin Diemer  
Representative Dennis Renaud

Senator Readinger and Representative Tyrrell served as Co-chairpersons. One meeting day was originally authorized by the Council and two more were approved in November at the Subcommittee's request. Meetings were held on October 27, November 23, and December 15 in Des Moines.

Chapter 400--Current Law

Chapter 400 of the Code relating to city civil service was enacted in 1937 and has not been substantially amended since that time. The statute applies to most employees in cities over 15,000 population with the exceptions of elected officials and their personal secretaries, unskilled labor, members of boards and commissions, and some part-time or seasonal employees. In addition, paid police and firefighters in cities over 8,000 population must be classified under civil service. (See attachment A for a list of those cities that meet these population requirements for civil service.) Chapter 400 requires all covered cities to appoint a civil service commission which is responsible for developing and offering qualifying and promotional examinations, establishing the list of eligibles for classified positions and hearing appeals from hiring, promotion, suspension and discharge decisions affecting civil service employees.

The state statute is quite specific in its application, with the primary argument of proponents of Senate File 354 being the need to

allow the cities more flexibility in personnel administration so that individual municipal problems and situations might be addressed. The specific requirements of chapter 400 regarding promotions, lists of eligibles, veteran's preference, and appeals will be discussed separately under the Issues and Amendments portion of this report. It should suffice to note at this point, that the law imposes requirements in these areas which covered cities are obliged to observe.

In the 1970's a study committee appointed to review municipal laws in the wake of the home rule amendment to the Constitution declined to recommend revision of chapter 400 but did suggest that future general assemblies study and ultimately revise the statute. While some changes have been suggested since that time, Senate File 354 is the first attempt at a general revision.

Another development that should be discussed and may in fact have been the single event that prompted recent efforts toward a complete revision of the law was a report issued by the Office of Citizens' Aide/Ombudsman in 1980 in response to a complaint that revealed that only eleven out of the twenty-five cities over 15,000 population were in full compliance with the law. Reasons subsequently cited by those cities in noncompliance included that the law was too vague, too restrictive, antiquated in light of modern personnel practices or has been supplanted by collective bargaining and is unnecessary. While some cities in noncompliance have since sought assistance and taken steps toward compliance, others indicated that they had no intention of changing a personnel administration system that was functioning smoothly and adequately meeting their needs. In Critical Report 80-1 the Citizens' Aide/Ombudsman recommended that the General Assembly review the situation "with an eye toward either: (1) the need to support the Civil Service mandate with a penalty section for non-compliance, or, if justified, (2) a reassessment of the need for a Code chapter mandating Civil Service at the municipal level considering alternative modern personnel systems and the possible inconsistent philosophical balance between municipal home rule as provided in the Constitution for the State of Iowa, 1968 Amendment #2, and a state mandate requiring Civil Service by statute."

Following the issuance of the Critical Report, the League of Iowa Municipalities established a committee composed of personnel directors, attorneys and other city officials to study chapter 400 with the result being legislation from which Senate File 354 arose. The bill was introduced in both houses in 1981 and remained in subcommittees of the respective Committees on Cities at the close of the 1981 legislative session.

### Summary of Activities

The Subcommittee spent its first meeting receiving testimony from persons interested in and affected by Senate File 354. Comments were not limited to the bill itself and included several proposed amendments to chapter 400 to be considered in lieu of

Senate File 354. Representatives from the following groups presented testimony, copies of which are on file in the Legislative Service Bureau: League of Iowa Municipalities, Iowa Association of Chiefs of Police and Peace Officers, Iowa Association of Professional Firefighters, Iowa Policemen's Association, Office of the Citizens' Aide/Ombudsman, Iowa Civil Rights Commission, and the American Association of State, County, and Municipal Employees. In addition, persons employed in various positions in city government including personnel officers, city attorneys, a fire chief, and a city civil service commissioner shared their opinions and expertise with the Subcommittee. A complete list of those persons who presented testimony is on file in the Legislative Service Bureau.

Comments ranged from support of Senate File 354 in its entirety as a necessary revision of an antiquated law which would provide cities the flexibility to implement modern systems of personnel administration to opposition to any change in the current law. Support came primarily from the League of Iowa Municipalities and many individual cities. Opponents of Senate File 354 included the police and firefighter organizations which generally argued that the current law is adequately meeting their civil service needs, and that absent any complaints from employees, whose rights the law was designed to protect, change is both unnecessary and undesirable.

Additional specific comments and disagreements with Senate File 354 are discussed under the Issues and Amendments segment of this report.

The Subcommittee also received a document from the Legislative Service Bureau summarizing civil service laws in other states. The report lists the twenty-five states that require cities to adopt a civil service system, and reflects thresholds on city population and types of employees required to be included under the classified service. The report revealed that in most cases, state statutory requirements are of limited applicability, that is, the law applies only in cities of a certain size or to limited groups of employees. Members of the Subcommittee also received at their request an addendum to the report which provides information on what types of personnel practices or systems are being used in states that do not have a mandatory state requirement for municipal civil service. This further survey of states chosen at random revealed that "large" cities generally have some type of system for classifying and hiring employees; however, it was difficult to compare practices among the states because of large differences in city populations.

Prior to the Subcommittee's second meeting, a questionnaire developed by the House Majority Caucus staff at the direction of Co-chairperson Tyrrell was sent to fourteen selected cities. The cities were asked to comment on Senate File 354, to provide any additional comments regarding problems they have with civil service in general, and to note any conflicts they are having implementing both civil service and collective bargaining. At the

Subcommittee's request, the League of Iowa Municipalities also solicited comments from additional cities on Senate File 354. As a result of the inquiries written testimony from more than twenty cities is on file in the Legislative Service Bureau.

The Subcommittee spent its second and third meetings reviewing this additional information and discussing each section of Senate File 354, including proposed amendments.

### Recommendation

The Subcommittee recommends that the chairpersons of the House and Senate Standing Committees on Cities appoint a joint subcommittee to meet during the 1982 Session to consider the attached legislation revising chapter 400. The attached bill is essentially Senate File 354 with amendments adopted by the Subcommittee on December 15 incorporated. Those amendments are discussed separately in the Issues and Amendments portion of this report. At the Subcommittee's request, this form is being used so that only one document is under consideration.

### Issues and Amendments

The following is a discussion of the major issues the Subcommittee encountered considering Senate File 354, and includes any recommendations of the Subcommittee on each issue.

#### 1. ADMINISTRATIVE FLEXIBILITY--PERSONNEL ORDINANCE

Senate File 354 requires a city to adopt a personnel ordinance assigning responsibility for the adoption and administration of rules governing recruiting practices, testing, certification, promotion, discipline, discharge, suspension, layoffs, and appeals, in essence the implementation of chapter 400 requirements and options. This represents a major change from the current law under which all of these functions are required to be performed by the civil service commission. By contrast, Senate File 354 specifically assigns only the appeals function to the commission. Proponents of Senate File 354 support this approach because they say it allows the city the flexibility to respond to its specific personnel problems in the manner most effective and appropriate to the city. They argue that the requirement that personnel policies be in ordinance form adequately protects the rights of the employees by providing public notice of policies and insuring consistency in decision making. Opponents object to the flexibility Senate File 354 allows the city council, which they point out is a political body, in the area of personnel administration and particularly with regard to the protection of employee rights.

**RECOMMENDATION:** The Subcommittee adopted an amendment that would require posting of the personnel ordinance and rules in a place regularly used by employees affected by the ordinance and rules. (Section 4)

## 2. PROBATIONARY PERIODS

Chapter 400 currently establishes a probationary period of not more than six months for most employees, the exception being police and firefighters for which the law establishes a twelve-month maximum. Senate File 354 requires that probation be addressed in the personnel ordinance with the philosophy being again one of allowing cities the flexibility to respond to differences in job classifications and responsibilities. It was suggested that a probationary employee should have the right to a hearing on a discharge decision. Current law does not afford such civil service rights to nonclassified employees.

**RECOMMENDATION:** The attached bill incorporates the following Subcommittee amendments:

1. A requirement that the ordinance specify a probationary period for each job classification not exceeding twelve months. (Section 11)
2. A provision that a person removed or discharged during the probationary period be given written notice of the reasons for the action. (Section 13)

## 3. CERTIFICATION--PREFERENCES

Chapter 400 requires eligibility lists of ten names which must be maintained for two years or until the applicable list is exhausted. Senate File 354 leaves to the city the decision of how many names should be on a list for a particular classification. It is argued that some positions experience greater turnover and more names may be desirable; also, that a city may want to continually replenish a list as does the Iowa Merit Employment Department to insure, proponents assert, that the best qualified individual is considered for the position. Opponents, however, object that by not specifying the length of time a list must be maintained, Senate File 354 encourages administrators to abolish a list until the name of a particular individual appears. Another suggestion the Subcommittee received regarding lists of eligibles was that lists be maintained for three rather than two years and that selection from a list be based on seniority. Chapter 400 also includes an absolute preference for veterans. Senate File 354 changes that preference to five points on the qualifying exam for a veteran and ten points for a service-related disability, which are the same preferences afforded to veterans applying for state employment.

**RECOMMENDATION:** The attached bill includes a Subcommittee amendment requiring the ordinance to state for each job classification the number of names that will be on an entrance or promotion list and the length of time each type of list will be maintained. (Section 14)

#### 4. PROMOTIONS

Chapter 400 specifies that all vacancies in the civil service grades above the entry level must be filled by promotion of subordinates when subordinates qualify for the position. Current section 400.9 gives current employees two chances to pass a promotional examination before eligibility is denied. Senate File 354 removes the language concerning promotion from within and eliminates the current requirement that employees be allowed two opportunities to pass a promotional examination. The rationale given by supporters of this change is that it would encourage hiring the most qualified applicant. Opponents point out that other regulated professions allow prospective licensees more than one opportunity to take the licensing exam.

RECOMMENDATION: The attached bill includes a Subcommittee amendment (Section 12) that requires vacancies to be filled by promotion of subordinates who qualify for the position. The amendment does not reinstate the preference given to current employees in passing the exam.

#### 5. APPEALS

The Subcommittee devoted considerable time to hearing testimony and discussing changes made by Senate File 354 in the appeals process. In addition to removing the current right of the employer to request a hearing, Senate File 354 eliminates the right of de novo review by the district court of a decision of a civil service commission. The procedures specified in the bill require the commission to make a decision based on the evidence. Grounds for appeal would be the same as is currently the case for other administrative agency decisions; that is, errors of law or lack of substantial evidence to support the decision. This change was supported by proponents as a way to cut costs and unnecessary duplication while still affording the employee due process. Opponents argue that civil service commissioners are generally not trained in the law and rules of evidence and that de novo review is necessary to insure a fair and appropriate decision is made based on the evidence and the law in a case as important as a person's livelihood. The attached bill makes no change in Senate File 354 regarding the appeals process.

#### 6. COLLECTIVE BARGAINING

As previously noted, one of the complaints raised by cities found by the Citizens' Aide office to be in noncompliance with chapter 400 and echoed by several cities presenting testimony before the Subcommittee was that civil service and collective bargaining requirements and procedures are in conflict. Section 20.9 of the Code relating to collective bargaining reads in part:

"Nothing in this section shall diminish the authority and power of the merit employment department, board of regents' merit system, educational radio and television facility board's merit system, or

any civil service commission established by constitutional provision, statute, charter or special act to recruit employees, prepare, conduct and grade examinations, rate candidates in order of their relative scores for certification for appointment or promotion or for other matters of classification, reclassification or appeal rights in the classified service of the public employer served."

Proponents of Senate File 354 acknowledged that conflicts may arise but also pointed out that the flexibility Senate File 354 gives a city in personnel administration allows the city to respond to any conflicts between the two processes. Proponents further asserted that while disciplinary and discharge procedures can be subjects in a collective bargaining agreement, they are not mandatory subjects of negotiation and the city may refuse to negotiate in either area.

One specific example of conflict between chapters 20 and 400 was in the area of layoffs. The Subcommittee was told that civil service provides for layoffs by seniority within classifications which, though it may be appropriate to police and fire, may discriminate against women and minority groups by not counting prior service in other positions. Several unions, the Subcommittee was told, negotiated contracts including seniority provisions based on total years of service only to find that this conflicted with chapter 400 requirements. As layoffs are a mandatory subject of bargaining it was pointed out that a conflict exists which needs to be remedied.

#### Other Amendments

The attached bill also makes the following changes in Senate File 354:

1. It clarifies confusion regarding the applicability of civil service to certain police and fire chiefs and assistants. (Section 3) The intent is that the current law remain unchanged with police and fire chiefs and assistants exempt except for assistant police chiefs in departments of 250 members or more.

2. It changes the date by which the personnel ordinance must be adopted to January 1, 1983. (Section 4)

3. Section 5 of the attached bill includes new language allowing joint civil service commissions through chapter 28E agreements.

4. Language is added in section 7 which specifies that the city shall pay the costs when the commission employs an outside attorney.

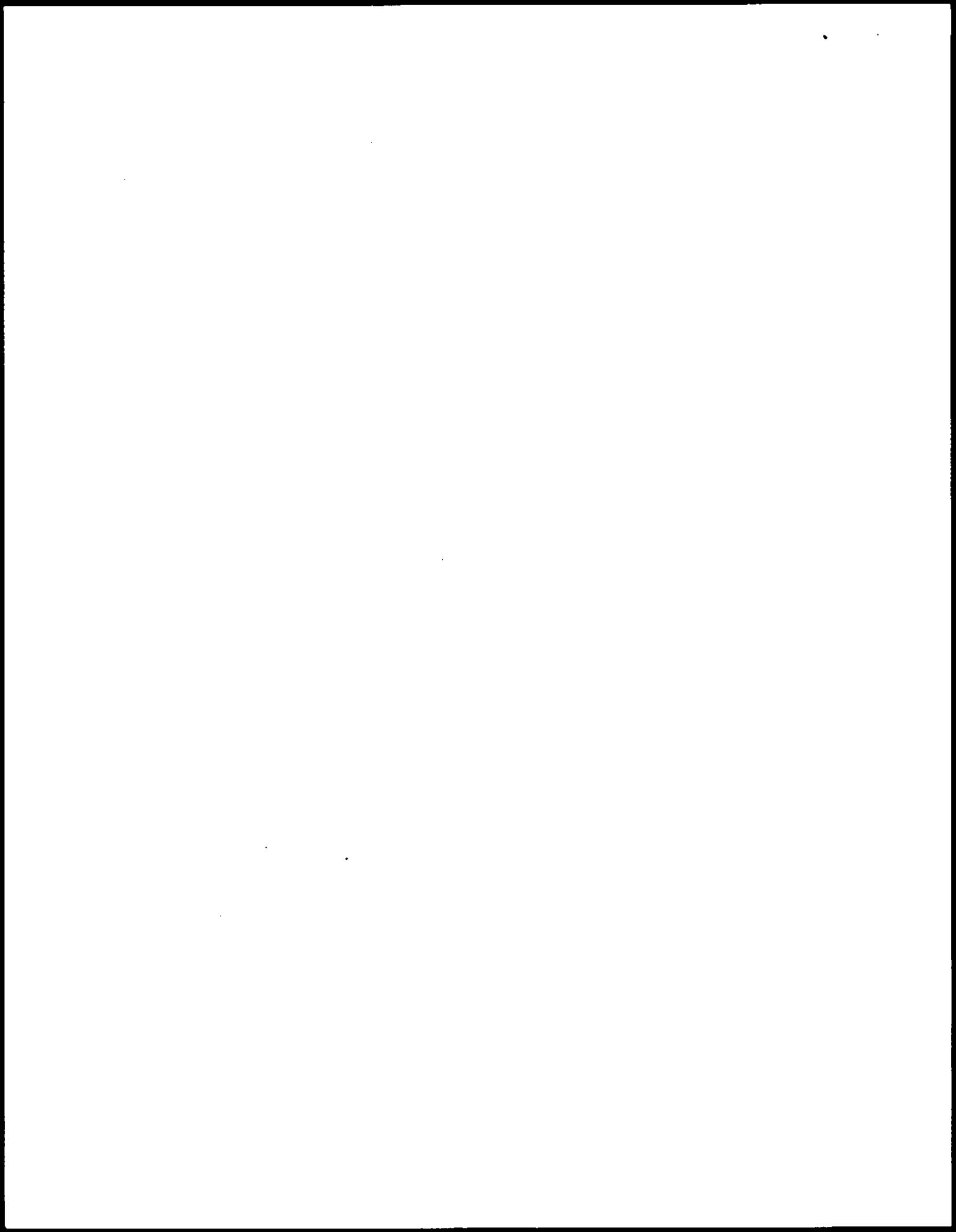
5. Section 11 of the attached bill reinstates current Code language prohibiting a city from establishing residency requirements for employees with certain exceptions for "critical" and public trust employees.

6. In section 13 of the attached bill the words "or other proper cause" which appear in Senate File 354 (section 12) have been eliminated as a reason for removing, demoting or suspending an employee.

## IOWA CITIES OVER 8,000 POPULATION\*

Des Moines	191,033	Urbandale	17,869
Cedar Rapids	110,243	Ankeny	15,429
Davenport	103,264	Newton	15,292
Sioux City	82,003	Keokuk	13,536
Waterloo	75,985	Fort Madison	13,520
Dubuque	62,321	Boone	12,602
Council Bluffs	56,449	Spencer	11,726
Iowa City	50,508	Indianola	10,843
Ames	45,775	Oskaloosa	10,629
Cedar Falls	36,322	Carroll	9,705
Clinton	32,828	Fairfield	9,428
Mason City	30,144	Grinnell	8,868
Burlington	29,529	Storm Lake	8,814
Fort Dodge	29,428	Charles City	8,778
Bettendorf	27,381	Webster City	8,572
Ottumwa	27,381	Waverly	8,444
Marshalltown	26,938	Creston	8,429
Muscatine	23,467	Pella	8,349
West Des Moines	21,894	LeMars	8,276
Marion	19,474	Knoxville	8,143

\*1980 Census



PROPOSED SENATE/HOUSE FILE \_\_\_\_\_

BY (RECOMMENDED BY THE CITY  
CIVIL SERVICE SUBCOMMITTEE  
FOR FURTHER STUDY)

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 a January 1 effective date.

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

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1 Section 1. Chapter 400, Code 1981, is amended by adding  
2 sections 2 through 17 of this Act.

3 Sec. 2. NEW SECTION. PUBLIC POLICY. The general assem-  
4 bly declares that it is the public policy of the state to  
5 promote harmonious and cooperative relationships between city  
6 governments and their employees, to protect the health, safety,  
7 and welfare of citizens of the cities by assuring effective  
8 and orderly operations of government, and to provide for per-  
9 sonnel systems based on sound principles of public employment.

10 Sec. 3. NEW SECTION. APPLICABILITY--EXCEPTIONS. This  
11 chapter applies to permanent full-time police officers and  
12 fire fighters in cities having a population of more than eight  
13 thousand, and to all appointive permanent full-time employees  
14 in cities having a population of more than fifteen thousand  
15 except:

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

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

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

23 4. The head and principal assistant of each department,  
24 including police and fire chiefs and assistant police and  
25 fire chiefs, except assistant police chiefs in a city with  
26 a police department of at least two hundred fifty members.  
27 However, sections 440.13 and 400.14 apply to police and fire  
28 chiefs.

29 5. The principal secretary to the city manager or city  
30 administrator, the principal secretary to the mayor, and the  
31 principal secretary to each of the department heads.

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

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

1     Sec. 4. NEW SECTION. ORDINANCE AND RULES REQUIRED. Each  
2 city subject to this chapter shall adopt a personnel ordinance  
3 within one year of the date the city becomes subject to this  
4 chapter, except that a city subject to this chapter on the  
5 effective date of this Act shall adopt a personnel ordinance  
6 by January 1, 1983. The ordinance shall assign responsibility  
7 for the adoption and administration of rules governing re-  
8 cruitment, posting and advertising job vacancies, selection,  
9 testing, appointment, promotion, discipline, suspension, dis-  
10 charge, demotion, layoff, and appeals. Copies of the per-  
11 sonnel ordinance and the rules shall be available for public  
12 inspection in the office of the city clerk and in addition  
13 shall be posted in a place regularly used by employees affected  
14 by the ordinance and rules. The personnel ordinance shall  
15 be followed in all personnel decisions involving the civil  
16 service rights of employees covered by this chapter.

17     Sec. 5. NEW SECTION. APPOINTMENT OF COMMISSION. The  
18 personnel ordinance shall establish a civil service commission.  
19 Members of the commission must be citizens of Iowa, eligible  
20 electors of the city, and shall serve without compensation.  
21 A commissioner shall not hold or be a candidate for a political  
22 office. The commission shall be composed as provided in  
23 either of the following:

24     1. The mayor, with the approval of the council, shall  
25 appoint three commissioners for six-year terms which expire  
26 on the first Monday in April of even numbered years. Of the  
27 initial appointments to a commission, one person shall be  
28 appointed to a term ending on the first Monday in April of  
29 the next even numbered year, one person shall be appointed  
30 to a term ending on the first Monday in April of the second  
31 following even numbered year, and one person shall be appointed  
32 to a term ending on the first Monday in April of the third  
33 following even numbered year.

34     2. A city may enter into an agreement under chapter 28E  
35 with one or more civil service cities to establish a joint

1 civil service commission to perform the duties required by  
2 this chapter. In the appointment of members to the joint  
3 commission, each city shall be equally represented by a city  
4 resident or the appointment shall be made only upon the  
5 agreement of the mayor and city council from each city that  
6 is a party to the agreement.

7 Sec. 6. NEW SECTION. CHAIRPERSON, RECORDS. The commission  
8 shall elect a chairperson from among its members. The commis-  
9 sion shall keep a record of its meetings. When duly certified  
10 by the clerk of the commission, copies of all records and  
11 entries or papers pertaining to the records are admissible  
12 in evidence with the same force and effect as the originals.

13 Sec. 7. NEW SECTION. FACILITIES, EQUIPMENT, CLERK, AND  
14 COUNSEL. The city shall provide the commission with the fa-  
15 cilities and equipment necessary to enable it to properly  
16 perform its duties. The city clerk or the clerk's designated  
17 representative shall serve as clerk for the commission. The  
18 commission may seek counsel of an attorney other than the  
19 city attorney when in the opinion of the commission there  
20 is a conflict between the commission and the city council.  
21 The city shall pay the costs incurred by the commission in  
22 employing an attorney under this section.

23 Sec. 8. NEW SECTION. PREFERENCE BY SERVICE. An employee  
24 regularly serving in or holding a position at the time the  
25 position becomes subject to this chapter shall retain the  
26 position and have full civil service rights in the position  
27 under any of the following conditions:

28 1. The employee meets the minimum qualifications  
29 established for the position held, and has completed the  
30 required probationary period for the position.

31 2. The employee has served satisfactorily in the position  
32 for a period equal to the probationary period of the position,  
33 and passes a qualifying noncompetitive examination for the  
34 position but does not meet the minimum qualifications  
35 established for the position held.

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

7 Sec. 9. NEW SECTION. EXAMINATION--APPOINTMENTS. The  
8 personnel ordinance shall require that examinations be held  
9 to determine the qualifications of applicants for positions  
10 under civil service. The examination shall be practical in  
11 character and shall relate to matters that will fairly test  
12 the mental and physical ability of the applicant to discharge  
13 the duties of the position to which the applicant seeks  
14 appointment.

15 Physical examination of the applicants for appointment  
16 to the positions of police officer or fire fighters shall  
17 be held under the direction of and as specified by the  
18 respective board of trustees of the fire and police retirement  
19 system established in section 411.5. The cost of the physical  
20 examination required under this section shall be paid from  
21 the trust and agency fund of the city.

22 Sec. 10. NEW SECTION. NAMES CERTIFIED--TEMPORARY APPOINT-  
23 MENTS. The personnel ordinance shall require a certified  
24 list of the names of persons who qualify for a position as  
25 a result of each examination in order of their standing.  
26 Vacancies in positions that occur before the beginning of  
27 the next examination for the position shall be filled from  
28 the list, or from the preferred list existing as provided  
29 for in case of diminution of employees. The ordinance shall  
30 also state for each job classification the number of names  
31 that compose an entrance and a promotion list and the length  
32 of time each type of list will be maintained.

33 Sec. 11. NEW SECTION. EMPLOYEES UNDER CIVIL SERVICE--  
34 QUALIFICATIONS.

35 1. Recruiting, selecting, retaining, and promoting em-

1 ployees shall be on the basis of their relative abilities,  
2 knowledge, and skills. A person shall not be appointed to  
3 a position that is covered by civil service, until the person  
4 passes a civil service examination and has been certified  
5 as being eligible for employment. However, in an emergency  
6 in which the peace and order of the city is threatened by  
7 reason of fire, flood, storm, or mob violence, requiring  
8 additional protection of life and property the appointing  
9 authority may make temporary appointments without examinations.  
10 The personnel ordinance shall specify the probationary period  
11 for each job classification which shall not exceed twelve  
12 months.

13 2. A city shall not require an employee to be a resident  
14 of the city. A city may require police officers, firefighters,  
15 and other critical employees designated in the personnel  
16 ordinance to live within reasonable maximum distances from  
17 the city limits.

18 Sec. 12. NEW SECTION. PROMOTIONS. Vacancies in civil  
19 service grades shall be filled by promotion of current city  
20 employees to the extent that the city employees qualify for  
21 the position. When promoted the employee shall hold full  
22 civil service rights in the position.

23 Sec. 13. NEW SECTION. REMOVAL, DEMOTION, OR SUSPENSION.

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

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

31 Sec. 14. NEW SECTION. APPEAL. A person holding civil  
32 service rights may appeal a suspension, demotion, or discharge  
33 to the civil service commission. The notice of appeal shall  
34 be in writing signed by the employee and submitted to the  
35 clerk of the commission no later than twenty days after the

1 employee received written notice of the suspension, demotion,  
2 or discharge.

3     Sec. 15. NEW SECTION. CHARGES. Within five days of the  
4 filing of a notice of appeal the city shall file with the  
5 commission written specifications of the charges and grounds  
6 upon which the suspension, demotion, or discharge was based.  
7 If the charges are not filed within five days the person sus-  
8 pended, demoted, or discharged may present an affidavit to  
9 the commission setting forth this fact, and the commission  
10 shall immediately enter an order reinstating the person.

11     Sec. 16. NEW SECTION. PUBLIC TRIAL.

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

14     2. The record before the civil service commission shall  
15 include the notice of appeal, the written specifications,  
16 any pleading, motions, or intermediate rulings, all evidence  
17 received or considered and all other submissions, a statement  
18 of matters officially noticed, questions and offers of proofs,  
19 and objections and rulings thereon, and the decision of the  
20 commission.

21     3. Oral proceedings shall be recorded either by mechanized  
22 means or by a certified shorthand reporter. Oral proceedings  
23 or any part thereof shall be transcribed at the request of  
24 a party with the expense of transcription charged to the  
25 requesting party. The recorded proceedings shall be maintained  
26 by the commission for at least five years from the date of  
27 the decision.

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

30     Sec. 17. NEW SECTION. APPEAL TO DISTRICT COURT. The  
31 city or a civil service employee has a right to appeal the  
32 final ruling or decision of the civil service commission to  
33 the district court of the county in which the city is located.  
34 The appeal shall be perfected by filing a notice of appeal  
35 with the clerk of the district court and with the clerk of

1 the commission within thirty days from the date of the final  
2 decision.

3 Within thirty days after the notice of appeal is filed,  
4 or within further time allowed by the court, the commission  
5 shall transmit to the district court the original or a  
6 certified copy of the entire record made before the commission.  
7 By agreement of all parties, the record may be shortened,  
8 and a party unreasonably refusing to agree may be taxed by  
9 the court for the additional cost.

10 The district court shall not hear any further evidence  
11 with respect to those issues of fact determined by the commis-  
12 sion. The court shall review the record made before the  
13 commission and may affirm the commission, or the court shall  
14 reverse, modify, or grant other appropriate relief from the  
15 commission action if substantial rights of the appellant have  
16 been prejudiced because the commission decision violates con-  
17 stitutional or statutory provisions, was made upon unlawful  
18 procedure, was affected by other error of law, was unsupported  
19 by substantial evidence in the record viewed as a whole, or  
20 was unreasonable, arbitrary, or capricious.

21 If the ruling or decision of the commission is reversed  
22 by the district court, the appellant, if an employee, shall  
23 be reinstated as of the date of the suspension, demotion,  
24 or discharge and is entitled to compensation from the date  
25 of the suspension, demotion, or discharge.

26 Sec. 18. Section 400.10, Code 1981, is amended to read  
27 as follows:

28 400.10 PREFERENCES. In all examinations and appointments  
29 under ~~the provisions of~~ this chapter, ~~other than~~ except  
30 promotions and appointments of chief of the police department  
31 and chief of the fire department, honorably discharged men  
32 and women from the military or naval forces of the United  
33 States in any war in which the United States was or is now  
34 engaged, including the Philippine Insurrection, China Relief  
35 Expedition and the Korean Conflict at any time between June

1 25, 1950 and January 31, 1955, both dates inclusive, and the  
 2 Vietnam Conflict beginning August 5, 1964, and ending on the  
 3 ~~date the armed forces of the United States are directed by~~  
 4 ~~formal order of the government of the United States to cease~~  
 5 ~~hostilities~~ May 7, 1975, both dates inclusive, and who are  
 6 citizens and residents of this state, shall be given the  
 7 ~~preference, if otherwise qualified~~ have five points added  
 8 to the grade or score attained on the examination. Honorably  
 9 discharged veterans who have a service connected disability  
 10 or are receiving compensation, disability, or pension benefits  
 11 under laws administered by the veterans administration or  
 12 who were awarded the purple heart for disabilities incurred  
 13 in action shall have ten points added to the grade or score  
 14 attained on the examination.

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

18 Sec. 19. Section 400.12, unnumbered paragraph 3, Code  
 19 1981, is amended to read as follows:

20 A list of all civil service employees shall be prepared  
 21 and posted in the city hall ~~by the civil service commission~~  
 22 on or before July 1 of each year, indicating the civil service  
 23 standing of each employee as to his seniority.

24 Sec. 20. Section 400.24, Code 1981, is amended to read  
 25 as follows:

26 400.24 OATHS--BOOKS AND PAPERS. The presiding officer  
 27 of the commission ~~or the council, as the case may be, shall~~  
 28 ~~have power to~~ may administer oaths in the same manner and  
 29 with like effect and under the same penalties as in the case  
 30 of magistrates exercising criminal or civil jurisdiction.  
 31 The ~~council or~~ presiding officer of the commission shall cause  
 32 subpoenas to be issued for such witnesses and the production  
 33 of such books and papers as either party may designate. The  
 34 subpoenas shall be signed by the ~~chairman~~ presiding officer  
 35 of the commission ~~or mayor, as the case may be.~~

1     Sec. 21. Section 400.25, Code 1981, is amended to read  
2 as follows:

3     400.25 CONTEMPT. In case a witness is duly subpoenaed  
4 and refuses to attend, or in case a witness appears and refuses  
5 to testify or to produce required books or papers, the ~~official~~  
6 ~~body-hearing-the-appeal~~ commission shall, in writing, report  
7 ~~such~~ the refusal to the district court of the county, and  
8 ~~said~~ the court shall proceed with ~~said~~ the person or witness  
9 as though ~~said~~ the refusal had occurred in a proceeding legally  
10 pending before ~~said~~ the court.

11     Sec. 22. Section 400.28, unnumbered paragraph 1, Code  
12 1981, is amended to read as follows:

13     Whenever the public interests ~~may~~ require a diminution  
14 of employees in any classification or grade under civil  
15 service, the city council, ~~by resolution and acting in good~~  
16 ~~faith, and after notifying the commission of such action,~~  
17 may either:

18     Sec. 23. Section 400.28, subsection 2, unnumbered paragraph  
19 3, Code 1981, is amended to read as follows:

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

32     Sec. 24. Sections 400.1, 400.2, 400.3, 400.4, 400.5,  
33 400.6, 400.7, 400.8, 400.9, 400.11, 400.15, 400.16, 400.17,  
34 400.18, 400.19, 400.20, 400.21, 400.22, 400.26, 400.27, and  
35 400.31, Code 1981, are repealed.

