

CHAPTER 400

CIVIL SERVICE

400.1	Appointment of commission.	400.14	Civil service status of chiefs.
400.2	Qualifications — prohibited contracts.	400.15	Appointing powers.
400.3	Optional appointment of commission — abolishing commission.	400.16	Qualifications.
400.4	Chairperson — clerk — records.	400.17	Employees under civil service — qualifications.
400.5	Rooms and supplies.	400.18	Removal, demotion, or suspension.
400.6	Applicability — exceptions.	400.19	Removal or discharge of subordinates.
400.7	Preference by service.	400.20	Appeal.
400.8	Original entrance examination — appointments.	400.21	Notice of appeal.
400.8A	Guidelines for ongoing fitness for police officers and fire fighters.	400.22	Charges.
400.9	Promotional examinations and procedures.	400.23	Time and place of hearing.
400.10	Preferences.	400.24	Oaths — books and papers.
400.11	Names certified — temporary appointment.	400.25	Contempt.
400.12	Seniority.	400.26	Public trial.
400.13	Chief of police and chief of fire department.	400.27	Jurisdiction — attorney — appeal.
		400.28	Employees — number diminished.
		400.29	Political activity limited.
		400.30	Penalty.
		400.31	Waterworks employees.

400.1 Appointment of commission.

1. In cities having a population of eight thousand or over and having a paid fire department or a paid police department, the mayor, one year after a regular city election, with the approval of the council, shall appoint three civil service commissioners. The mayor shall publish notice of the names of persons selected for appointment no less than thirty days prior to a vote by the city council. Commissioners shall hold office, one until the first Monday in April of the second year, one until the first Monday in April of the third year, and one until the first Monday in April of the fourth year after such appointment, whose successors shall be appointed for a term of four years. In cities having a population of more than seventy thousand, the city council may establish, by ordinance, the number of civil service commissioners at not less than three.

2. For the purpose of determining the population of a city under this chapter, the federal census conducted in 1980 shall be used.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5689; C46, 50, 54, 58, 62, 66, 71, 73, §365.1; C75, 77, 79, 81, §400.1]

92 Acts, ch 1118, §1; 95 Acts, ch 114, §3; 97 Acts, ch 162, § 1, 9; 98 Acts, ch 1100, §55; 2002 Acts, ch 1134, §108, 115; 2007 Acts, ch 127, §1; 2009 Acts, ch 111, §1

400.2 Qualifications — prohibited contracts.

1. The commissioners must be citizens of Iowa, eligible electors as defined in chapter 39, and residents of the city preceding their appointment, and shall serve without compensation. A person, while on the commission, shall not hold or be a candidate for any office of public trust. However, when a human rights commission has been established by a city, the director of the commission shall ex officio be a member, without vote, of the civil service commission.

2. Civil service commissioners, with respect to the city in which they are commissioners, shall not do any of the following:

a. Sell to, or in any manner become parties, directly or indirectly, to any contract to furnish supplies, material, or labor to the city unless the sale is made or the contract is awarded by competitive bid in writing, publicly invited and opened.

b. Have an interest, direct or indirect, in any contract or job of work or material or the profits thereof or services to be furnished or performed for the city unless the contract or job is awarded by competitive bid in writing, publicly invited and opened.

3. A contract entered into in violation of subsection 2 is void.

4. A violation of the provisions contained in subsection 2 is a simple misdemeanor.
 [SS15, §1056-a32; C24, 27, 31, 35, 39, §5690; C46, 50, 54, 58, 62, 66, 71, 73, §365.2; C75, 77, 79, 81, §400.2]
 86 Acts, ch 1138, §1; 89 Acts, ch 21, §1; 2009 Acts, ch 111, §2; 2010 Acts, ch 1019, §1
 [T] Subsection 2, paragraphs a and b amended

400.3 Optional appointment of commission — abolishing commission.

In cities having a population of less than eight thousand, the city council may, by ordinance, adopt the provisions of this chapter in which case it shall either appoint such commission or provide, by ordinance, for the exercise of the powers and performance of the duties of the commission by the council. Where the city council exercises the powers of the commission the term “*commission*” as used in this chapter shall mean the city council.

If the city council appoints a commission, the city council may, by ordinance, abolish the commission, and the commission shall stand abolished sixty days from the date of the ordinance and the powers and duties of the commission shall revert to the city council except whenever a city having a population of less than eight thousand provides for the appointment of a civil service commission, the city council may by ordinance abolish such office, but the ordinance shall not take effect until the ordinance has been submitted to the voters at a regular city election and approved by a majority of the voters at such election. The ordinance shall be published once each week for two consecutive weeks preceding the date of the election in a newspaper published in and having a general circulation in the city. If a newspaper is not published in such city, publication may be made in any newspaper having general circulation in the county.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5691; C46, 50, 54, 58, 62, 66, 71, 73, §365.3; C75, 77, 79, 81, §400.3]
 2002 Acts, ch 1134, §109, 115

400.4 Chairperson — clerk — records.

The commission shall elect a chairperson from among its members. In cities having a population of more than seventy-five thousand, the commission shall appoint a clerk of the commission. In all other cities the city clerk or a designee of the city clerk shall be clerk of the commission. If an employee is appointed clerk of the commission who is employed in a civil service status at the time of appointment as clerk of the commission, the appointee shall retain the civil service rights held before the appointment. However, this section does not grant civil service status or rights to the employee in the capacity of clerk of the commission nor extend any civil service right upon which the appointee may retain the position of clerk of the commission.

The civil service commission shall keep a record of all its meetings and also a complete individual service record of each civil service employee which record shall be permanent and kept up-to-date.

When duly certified by the clerk of the commission copies of all records and entries or papers pertaining to said record shall be admissible in evidence with the same force and effect as the originals.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5692; C46, 50, 54, 58, 62, 66, 71, 73, §365.4; C75, 77, 79, 81, §400.4]
 86 Acts, ch 1138, §2; 91 Acts, ch 55, §1; 97 Acts, ch 162, §2

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 perform its duties.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5693; C46, 50, 54, 58, 62, 66, 71, 73, §365.5; C75, 77, 79, 81, §400.5]
 93 Acts, ch 147, §1

400.6 Applicability — exceptions.

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

1. Persons appointed to fill vacancies in elective offices and members of boards and commissions and the clerk to the civil service commission.
2. The city clerk, chief deputy city clerk, city attorneys, city treasurer, city assessor, city auditor, professional city engineers licensed in this state, and city health officer.
3. The city manager or city administrator and assistant city managers or assistant city administrators.
4. The head and principal assistant of each department and the head of each division. This exclusion does not apply to assistant fire chiefs and to assistant police chiefs in cities with police departments of two hundred fifty or fewer members. However, sections 400.13 and 400.14 apply to police and fire chiefs.
5. The principal secretary to the city manager or city administrator, the principal secretary to the mayor, and the principal secretary to each of the department heads.
6. Employees of boards of trustees or commissions established pursuant to state law or city ordinances.
7. Employees whose positions are funded by state or federal grants or other temporary revenues. However, a city may use state or federal grants or other temporary revenue to fund a position under civil service if the position is a permanent position which will be maintained for at least one year after expiration of the grants or temporary revenues.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5694; C46, 50, 54, 58, 62, 66, 71, 73, §365.6; C75, 77, 79, 81, §400.6]

83 Acts, ch 186, §10103, 10201; 86 Acts, ch 1138, §3; 88 Acts, ch 1058, §1; 97 Acts, ch 162, §3

400.7 Preference by service.

1. An employee regularly serving in or holding a position when the position becomes subject to this chapter or when the position is reclassified by the city shall retain the position and have full civil service rights in the position under any of the following conditions:

- a. The employee meets the minimum qualifications established for the position and has completed the required probationary period for the position.
- b. The employee has served satisfactorily in the position for a period equal to the probationary period of the position, and passes a qualifying noncompetitive examination for the position but does not meet the minimum qualifications established for the position.

2. An employee who has not completed the required probationary period but who otherwise meets the minimum qualifications established for the position or who passes a qualifying noncompetitive examination for the position shall receive full civil service rights in the position upon the completion of the probationary period.

3. Appointments made after the time this chapter becomes applicable in a city are subject to this chapter.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5695; C46, 50, 54, 58, 62, 66, 71, 73, §365.7; C75, 77, 79, 81, §400.7]

86 Acts, ch 1138, §4; 97 Acts, ch 162, §4; 2010 Acts, ch 1061, §180

[T] Section renumbered pursuant to Code editor directive

400.8 Original entrance examination — appointments.

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. The physical examination of applicants for appointment to the positions of police officer, police matron, or fire fighter shall be held in accordance with medical

protocols established by the board of trustees of the fire and police retirement system established by section 411.5 and shall be conducted in accordance with the directives of the board of trustees. However, the prohibitions of section 216.6, subsection 1, paragraph “d”, regarding tests for the presence of the antibody to the human immunodeficiency virus shall not apply to such examinations. The board of trustees may change the medical protocols at any time the board so determines. The physical examination of an applicant for the position of police officer, police matron, or fire fighter shall be conducted 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.

2. The commission shall establish the guidelines for conducting the examinations under subsection 1 of this section. It may prepare and administer the examinations or may hire persons with expertise to do so if the commission approves the examinations. It may also hire persons with expertise to consult in the preparation of such examinations if the persons so hired are employed to aid personnel of the commission in assuring that a fair examination is conducted. A fair examination shall explore the competence of the applicant in the particular field of examination.

3. All appointments to such positions shall be conditional upon a probation period of not to exceed six months, and in the case of police dispatchers and fire fighters a probation period not to exceed twelve months. In the case of police patrol officers, if the employee has successfully completed training at the Iowa law enforcement academy or another training facility certified by the director of the Iowa law enforcement academy before the initial appointment as a police patrol officer, the probationary period shall be for a period of up to nine months and shall commence with the date of initial appointment as a police patrol officer. If the employee has not successfully completed training at the Iowa law enforcement academy or another training facility certified by the director of the law enforcement academy before initial appointment as a police patrol officer, the probationary period shall commence with the date of initial employment as a police patrol officer and shall continue for a period of up to nine months following the date of successful completion of training at the Iowa law enforcement academy or another training facility certified by the director of the Iowa law enforcement academy. A police patrol officer transferring employment from one jurisdiction to another shall be employed subject to a probationary period of up to nine months. However, in cities with a population over one hundred seventy-five thousand, appointments to the position of fire fighter shall be conditional upon a probation period of not to exceed twenty-four months. During the probation period, the appointee may be removed or discharged from such position by the appointing person or body without the right of appeal to the commission. A person removed or discharged during a probationary period shall, at the time of discharge, be given a notice in writing stating the reason or reasons for the dismissal. A copy of such notice shall be promptly filed with the commission. Continuance in the position after the expiration of such probationary period shall constitute a permanent appointment.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5696; C46, 50, 54, 58, 62, 66, 71, 73, §365.8; C75, 77, 79, 81, §400.8]

89 Acts, ch 187, §2; 93 Acts, ch 147, §2; 94 Acts, ch 1071, §1; 96 Acts, ch 1187, §99; 98 Acts, ch 1124, §3; 2000 Acts, ch 1077, §84; 2001 Acts, ch 176, §16; 2004 Acts, ch 1103, §63

400.8A Guidelines for ongoing fitness for police officers and fire fighters.

The board of trustees of the fire and police retirement system established by section 411.5, in consultation with the medical board established in section 411.5, shall establish and maintain protocols and guidelines for ongoing wellness and fitness for police officers and fire fighters while in service. The board of trustees may change the protocols and guidelines at any time the board so determines. The protocols and guidelines shall be established by the board of trustees for the consideration of cities covered by this chapter and may be applied by a city for the purpose of determining continued wellness and fitness for members of the

city's police and fire departments. However, the protocols and guidelines shall not be applied to members of a police or fire department of a city who are covered by chapter 20 except through the collective bargaining process as provided under chapter 20. The medical board established in section 411.5 shall provide to cities and fire and police departments assistance regarding the possible implementation and operation of the protocols and guidelines for ongoing wellness and fitness provided by this section. For purposes of this section, "*wellness and fitness*" means the process by which police officers and fire fighters maintain fitness for duty.

2000 Acts, ch 1077, §85

400.9 Promotional examinations and procedures.

1. The commission shall, at such times as shall be found necessary, under such rules as shall be prescribed and published in advance by the commission, and posted in the city hall, hold competitive promotional examinations for the purpose of determining the qualifications of applicants for promotion to a higher grade under civil service, which examinations shall be practical in character, and shall relate to such matters as will fairly test the ability of the applicant to discharge the duties of the position to which the applicant seeks promotion.

2. The commission shall establish guidelines for conducting the examinations under subsection 1. It may prepare and administer the examinations or may hire persons with expertise to do so if the commission approves the examinations and if the examinations apply to the position in the city for which the applicant is taking the examination. It may also hire persons with expertise to consult in the preparation of such examinations if the persons so hired are employed to aid personnel of the commission in assuring that a fair examination is conducted. A fair examination shall explore the competence of the applicant in the particular field of examination. The names of persons approved to administer any examination under this section shall be posted in the city hall at least twenty-four hours prior to the examination.

3. Vacancies in civil service promotional grades shall be filled by lateral transfer, voluntary demotion, or promotion of employees of the city to the extent that the city employees qualify for the positions. When laterally transferred, voluntarily demoted, or promoted, an employee shall hold full civil service rights in the position. If an employee of the city does not pass the promotional examination and otherwise qualify for a vacated position, or if an employee of the city does not apply for a vacated position, an entrance examination may be used to fill the vacancy.

4. If there is a certified list of qualified candidates for a promotional appointment, the following procedures shall be followed:

a. A publication stating that interviews are being scheduled to make a new certified list to fill a vacancy in a civil service promotional grade classification shall be posted for at least five working days before the closing date for the interviews in the same locations where examination notices are posted.

b. An employee who wishes to voluntarily demote or to laterally transfer into a vacancy and has previously been or is currently in the classification where the vacancy exists, shall notify the civil service commission of the employee's interest in the vacant position. The employee shall be added to the list of candidates to be interviewed and considered for the vacancy.

5. If there is no certified list of qualified candidates for a promotional appointment, the following procedures shall be followed:

a. When an examination announcement is posted to make a certified list of qualified candidates, the announcement shall also state that an employee who has been or is currently employed in the classification where the vacancy exists, may notify the civil service commission of the employee's interest in the vacant position. Upon notification, the employee shall be added to the list of candidates for an interview and consideration for the vacant position.

b. All civil service employees of a city who meet the minimum qualifications for a

classification, shall have the right to compete in the civil service examination process to establish a certified list of qualified candidates.

[C31, 35, §5696-d1; C39, §5696.1; C46, 50, 54, 58, 62, 66, 71, 73, §365.9; C75, 77, 79, 81, §400.9]

86 Acts, ch 1138, §5; 88 Acts, ch 1085, §1, 2; 97 Acts, ch 162, §5; 2009 Acts, ch 111, §3

400.10 Preferences.

In all examinations and appointments under this chapter, other than promotions and appointments of chief of the police department and chief of the fire department, veterans who are citizens and residents of the United States, shall have five percentage points added to the veteran's grade or score attained in qualifying examinations for appointment to positions and five additional percentage points added to the grade or score if the veteran has a service-connected disability or is receiving compensation, disability benefits, or pension under laws administered by the United States department of veterans affairs. An honorably discharged veteran who has been awarded the Purple Heart incurred in action shall be considered to have a service-connected disability. However, the percentage points shall be given only upon passing the exam and shall not be the determining factor in passing. Veteran's preference percentage points shall be applied once to the final scores used to rank applicants for selection for an interview. For purposes of this section, "veteran" means as defined in section 35.1 except that the requirement that the person be a resident of this state shall not apply.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5697; C46, 50, 54, 58, 62, 66, 71, 73, §365.10; C75, 77, 79, 81, §400.10]

85 Acts, ch 50, §2; 92 Acts, ch 1238, §36; 99 Acts, ch 180, §17; 2009 Acts, ch 26, §15; 2009 Acts, ch 150, §2; 2009 Acts, ch 179, §128

[P] Veterans preference law, chapter 35C

400.11 Names certified — temporary appointment.

1. *a.* The commission, within one hundred eighty days after the beginning of each competitive examination for original appointment, shall certify to the city council a list of the names of forty persons, or a lesser number as determined by the commission, who qualify with the highest standing as a result of each examination for the position they seek to fill, or the number which have qualified if less than forty, in the order of their standing, and all newly created offices or other vacancies in positions under civil service which occur before the beginning of the next examination for the positions shall be filled from the lists, or from the preferred list existing as provided for in case of diminution of employees, within thirty days. If a tie occurs in the examination scores which would qualify persons for the last position on the list, the list of the names of the persons who qualify with the highest standing as a result of each examination shall include all persons who qualify for the last position. Preference for temporary service in civil service positions shall be given those on the lists. However, the commission may certify a list of names eligible for appointment subject to successfully completing a medical examination. The medical examination shall be provided pursuant to commission rules adopted under section 400.8.

b. The commission may hold in reserve, for original appointments, additional lists of forty persons, each next highest in standing, in order of their grade, or such number as may qualify if less than forty. If the list of up to forty persons provided in the first paragraph is exhausted within one year, the commission may certify such additional lists of up to forty persons each, in order of their standing, to the council as eligible for appointment to fill such vacancies as may exist.

2. *a.* The commission, within ninety days after the beginning of each competitive examination for promotion, shall certify to the city council a list of names of the ten persons who qualify with the highest standing as a result of each examination for the position the persons seek to fill, or the number which have qualified if less than ten, in the order of their standing and all newly created offices or other vacancies in positions under civil service which occur before the beginning of the next examination for the positions shall be filled from the lists, or from the preferred list existing as provided for in the case of diminution of

employees, within thirty days. If a tie occurs in the examination scores which would qualify persons for the tenth position on the list, the list of names of the persons who qualify with the highest standing as a result of each examination shall include all persons who qualify for the tenth position.

b. Except where the preferred list exists, persons on the certified eligible list for promotion shall hold preference for promotion for two years following the date of certification, except for certified eligible lists of fire fighters as defined in section 411.1, subsection 10, which lists shall hold preference for three years upon approval of the commission, after which the lists shall be canceled and promotion to the grade shall not be made until a new list has been certified eligible for promotion.

3. When there is no such preferred list or certified eligible list, or when the eligible list shall be exhausted, the person or body having the appointing power may temporarily fill a newly created office or other vacancy only until an examination can be held and the names of qualified persons be certified by the commission, and such temporary appointments are hereby limited to ninety days for any one person in the same vacancy, but such limitation shall not apply to persons temporarily acting in positions regularly held by another. A temporary appointment to a position regularly held by another shall, whenever possible, be made according to the certified eligible list. Any person temporarily filling a vacancy in a position of higher grade for twenty days or more, shall receive the salary paid in such higher grade.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5698; C46, 50, 54, 58, 62, 66, 71, 73, §365.11; C75, 77, 79, 81, §400.11]

83 Acts, ch 62, §1; 89 Acts, ch 187, §3; 93 Acts, ch 147, §3; 94 Acts, ch 1071, §2; 97 Acts, ch 162, §6, 7; 2009 Acts, ch 111, §4

400.12 Seniority.

For the purpose of determining the seniority rights of civil service employees, seniority shall be computed, beginning with the date of appointment to or employment in any positions for which they were certified or otherwise qualified and established as provided in this chapter, but shall not include any period of time exceeding sixty days in any one year during which they were absent from the service except for disability.

In the event that a civil service employee has more than one classification or grade, the length of the employee's seniority rights shall date in the respective classifications or grades from and after the time the employee was appointed to or began employment in each classification or grade. In the event that an employee has been promoted from one classification or grade to another, the employee's civil service seniority rights shall be continuous in any department grade or classification that the employee formerly held.

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

[C39, §5698.1; C46, 50, 54, 58, 62, 66, 71, 73, §365.12; C75, 77, 79, 81, §400.12]

400.13 Chief of police and chief of fire department.

The chief of the fire department and the chief of the police department shall be appointed from the chiefs' civil service eligible lists. Such lists shall be determined by original examination open to all persons applying, whether or not members of the employing city. The chief of a fire department shall have had a minimum of five years' experience in a fire department, or three years experience in a fire department and two years of comparable experience or educational training. The chief of a police department shall have had a minimum of five years experience in a public law enforcement agency, or three years experience in a public law enforcement agency and two years of comparable experience or educational training. A chief of a police department or fire department shall maintain civil service rights as determined by section 400.12.

Any person who becomes chief of police or chief of the fire department shall be allowed to transfer all rights the person may have acquired under chapter 410 or 411, including employer contributions during the person's years of service in a city, employee contributions,

and interest, to the retirement system of the city that hires the person as chief. Such person shall also transfer the number of years served as seniority toward other benefits provided by the city which hires the person. If a chief of a police or fire department is relieved of that position, the person shall be entitled to remain in the department for which the person was chief at a position commensurate with the person's civil service status, even if this means that the city must create a position for the person to fill until a regular position becomes vacant.

In cities under the commission plan of government the superintendent of public safety, with the approval of the city council, shall appoint the chief of the fire department and the chief of the police department. In cities under a council-manager form of government the city manager shall make the appointments with the approval of the city council, and in all other cities the appointments shall be made as provided by city ordinance or city charter.

[C24, 27, 31, 35, 39, §5699; C46, 50, 54, 58, 62, 66, 71, 73, §365.13; C75, 77, 79, 81, §400.13] 86 Acts, ch 1171, §1

400.14 Civil service status of chiefs.

A police officer under civil service may be appointed chief of police and a fire fighter under civil service may be appointed chief of the fire department without losing civil service status, and shall retain, while holding the office of chief, the same civil service rights that the officer or fire fighter may have had immediately previous to appointment as chief, but nothing herein shall be deemed to extend to such individual any civil service right upon which the individual may retain the position of chief.

[C27, 31, 35, §5699-a1; C39, §5699.1; C46, 50, 54, 58, 62, 66, 71, 73, §365.14; C75, 77, 79, 81, §400.14]

400.15 Appointing powers.

All appointments or promotions to positions within the scope of this chapter other than those of chief of police and chief of fire department shall be made:

In cities under the commission form of government, by the superintendents of the respective departments, with the approval of the city council; in cities under the city manager plan, by the city manager; in all other cities with the approval of the city council, and in the police and fire departments by the chiefs of the respective departments.

All such appointments or promotions shall promptly be reported to the clerk of the commission by the appointing officer. An appointing authority may transfer an employee, other than police officers and fire fighters, from one department to the same civil service classification in another department, and such employee shall retain the same civil service status.

[SS15, §1056-a32; C24, 27, 31, 35, §5698; C39, §5699.2; C46, 50, 54, 58, 62, 66, 71, 73, §365.15; C75, 77, 79, 81, §400.15]

97 Acts, ch 162, §8

400.16 Qualifications.

All appointive officers and employees of cities shall be selected with reference to their qualifications and fitness and for the good of the public service, and without reference to their political faith or party allegiance.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5700; C46, 50, 54, 58, 62, 66, 71, 73, §365.16; C75, 77, 79, 81, §400.16]

400.17 Employees under civil service — qualifications.

1. 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 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.

2. 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.

3. Employees shall not be required to be a resident of the city in which they are employed, but they shall become a resident of the state within two years of such appointment or the date employment begins and shall remain a resident of the state during the remainder of employment. However, cities may set a reasonable maximum distance outside of the corporate limits of the city, or a reasonable maximum travel time, that police officers, fire fighters, and other critical municipal employees may live from their place of employment. Each employee residing outside the state on the date of appointment or on the date employment begins shall take reasonable steps to become a resident of the state as soon as practicable following appointment or beginning of employment.

4. A person shall not be appointed, denied appointment, promoted, discharged, or demoted to or from a civil service position or in any other way favored or discriminated against in that position because of political or religious opinions or affiliations, race, national origin, sex, or age, or in retaliation for the exercise of any right enumerated in this chapter. However, the maximum age for a police officer or fire fighter covered by this chapter and employed for police duty or the duty of fighting fires is sixty-five years of age.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5701; C46, 50, 54, 58, 62, 66, 71, 73, §365.17; C75, 77, 79, 81, §400.17]

89 Acts, ch 187, §4; 93 Acts, ch 147, §4, 5; 2009 Acts, ch 111, §5

400.18 Removal, demotion, or suspension.

1. A person holding civil service rights as provided in this chapter shall not be removed, demoted, or suspended arbitrarily, except as otherwise provided in this chapter, but may be removed, demoted, or suspended after a hearing by a majority vote of the civil service commission, for neglect of duty, disobedience, misconduct, or failure to properly perform the person's duties.

2. The party alleging neglect of duty, disobedience, misconduct, or failure to properly perform a duty shall have the burden of proof.

3. A person subject to a hearing has the right to be represented by counsel at the person's expense or by the person's authorized collective bargaining representative.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5702; C46, 50, 54, 58, 62, 66, 71, 73, §365.18; C75, 77, 79, 81, §400.18]

2009 Acts, ch 111, §6

400.19 Removal or discharge of subordinates.

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

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5703; C46, 50, 54, 58, 62, 66, 71, 73, §365.19; C75, 77, 79, 81, §400.19]

86 Acts, ch 1138, §6

400.20 Appeal.

The suspension, demotion, or discharge of a person holding civil service rights may be appealed to the civil service commission within fourteen calendar days after the suspension, demotion, or discharge.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5704; C46, 50, 54, 58, 62, 66, 71, 73, §365.20; C75, 77, 79, 81, §400.20]

86 Acts, ch 1138, §7

[P] Internal investigations and rights of peace officers and public safety and emergency personnel, see §80F.1

400.21 Notice of appeal.

If the appeal be taken by the person suspended, demoted, or discharged, notice thereof, signed by the appellant and specifying the ruling appealed from, shall be filed with the clerk of commission; if by the person making such suspension, demotion, or discharge, such notice shall also be served upon the person suspended, demoted, or discharged.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5705; C46, 50, 54, 58, 62, 66, 71, 73, §365.21; C75, 77, 79, 81, §400.21]

400.22 Charges.

Within fourteen calendar days from the service of the notice of appeal, the person or body making the ruling appealed from shall file with the body to which the appeal is taken a written specification of the charges and grounds upon which the ruling was based. If the charges are not filed, the person suspended or discharged may present the matter to the body to whom the appeal is to be taken by affidavit, setting forth the facts, and the body to whom the appeal is to be taken shall immediately enter an order reinstating the person suspended or discharged for want of prosecution.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5706; C46, 50, 54, 58, 62, 66, 71, 73, §365.22; C75, 77, 79, 81, §400.22]

86 Acts, ch 1138, §8

400.23 Time and place of hearing.

Within ten days after such specifications are filed, the commission shall fix the time, which shall be not less than five nor more than twenty days thereafter, and place for hearing the appeal and shall notify the parties in writing of the time and place so fixed, and the notice shall contain a copy of the specifications so filed.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5707; C46, 50, 54, 58, 62, 66, 71, 73, §365.23; C75, 77, 79, 81, §400.23]

400.24 Oaths — books and papers.

The presiding officer of the commission or the council, as the case may be, shall have power to administer oaths in the same manner and with like effect and under the same penalties as in the case of magistrates exercising criminal or civil jurisdiction. The council or commission shall cause subpoenas to be issued for such witnesses and the production of such books and papers as either party may designate. The subpoenas shall be signed by the chairperson of the commission or mayor, as the case may be.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5708; C46, 50, 54, 58, 62, 66, 71, 73, §365.24; C75, 77, 79, 81, §400.24]

400.25 Contempt.

In case a witness is duly subpoenaed and refuses to attend, or in case a witness appears and refuses to testify or to produce required books or papers, the official body hearing the appeal shall, in writing, report such refusal to the district court of the county, and said court shall proceed with said person or witness as though said refusal had occurred in a proceeding legally pending before said court.

[C24, 27, 31, 35, 39, §5709; C46, 50, 54, 58, 62, 66, 71, 73, §365.25; C75, 77, 79, 81, §400.25]

[P] Contempts, chapter 665

400.26 Public trial.

The trial of all appeals shall be public, and the parties may be represented by counsel or by the parties' authorized collective bargaining representative.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5710; C46, 50, 54, 58, 62, 66, 71, 73, §365.26; C75, 77, 79, 81, §400.26]

2009 Acts, ch 111, §7

400.27 Jurisdiction — attorney — appeal.

The civil service commission has jurisdiction to hear and determine matters involving the rights of civil service employees under this chapter, and may affirm, modify, or reverse any case on its merits.

The city attorney or solicitor shall be the attorney for the commission or when requested by the commission shall present matters concerning civil service employees to the commission, except the commission may hire a counselor or an attorney on a per diem basis to represent it when in the opinion of the commission there is a conflict of interest between the commission and the city council. The counselor or attorney hired by the commission shall not be the city attorney or solicitor. The city shall pay the costs incurred by the commission in employing an attorney under this section.

The city or any civil service employee shall have a right to appeal to the district court from the final ruling or decision of the civil service commission. The appeal shall be taken within thirty days from the filing of the formal decision of the commission. The district court of the county in which the city is located shall have full jurisdiction of the appeal and the said appeal shall be a trial de novo as an equitable action in the district court.

The appeal to the district court shall be perfected by filing a notice of appeal with the clerk of the district court within the time prescribed in this section by serving notice of appeal on the clerk of the civil service commission, from whose ruling or decision the appeal is taken.

In the event the ruling or decision appealed from is reversed by the district court, the appellant, if it be an employee, shall then be reinstated as of the date of the said suspension, demotion, or discharge and shall be entitled to compensation from the date of such suspension, demotion, or discharge.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5711; C46, 50, 54, 58, 62, 66, 71, 73, §365.27; C75, 77, 79, 81, §400.27]

86 Acts, ch 1138, §9; 91 Acts, ch 55, §2

400.28 Employees — number diminished.

1. When the public interest requires a diminution of employees in a classification or grade under civil service, the city council, acting in good faith, may do either of the following:

a. Abolish the office and remove the employee from the employee's classification or grade thereunder.

b. Reduce the number of employees in any classification or grade by suspending the necessary number.

2. In case it thus becomes necessary to so remove or suspend any such employees, the persons so removed or suspended shall be those having seniority of the shortest duration in the classifications or grades affected, and such seniority shall be computed as provided in section 400.12 for all persons holding seniority in the classification or grade affected, regardless of their seniority in any other classification or grade, but any such employee so removed from any classification or grade shall revert to the employee's seniority in the next lower grade or classification; if such seniority is equal, then the one less efficient and competent as determined by the person or body having the appointing power shall be the one affected.

3. In case of removal or suspension, the civil service commission shall issue to each person affected one certificate showing the person's comparative seniority or length of service in each of the classifications or grades from which the person is so removed and the fact that the person has been honorably removed. The certificate shall also list each classification or grade in which the person was previously employed. The person's name shall be carried for a period of not less than three years after the suspension or removal on a preferred list and

appointments or promotions made during that period to the person's former duties in the classification or grade shall be made in the order of greater seniority from the preferred lists.

[S13, §679-h; C24, 27, 31, 35, 39, §5712; C46, 50, 54, 58, 62, 66, 71, 73, §365.28; C75, 77, 79, 81, §400.28]

86 Acts, ch 1138, §10, 11; 2010 Acts, ch 1069, §131

[T] Section amended

400.29 Political activity limited.

1. A person holding a civil service position shall not, while performing official duties or while using city equipment at the person's disposal by reason of the position, solicit in any manner contribution for any political party or candidate or engage in any political activity during working hours that impairs the efficiency of the position or presence during the working hours. A person shall not seek or attempt to use any political endorsement in connection with any appointment to a civil service position.

2. A person holding a civil service position shall not, by the authority of the position, secure or attempt to secure in any manner for any other person an appointment or advantage in appointment to a civil service position or an increase in pay or other advantage of employment in any such position for the purpose of influencing the vote or political action of that person or for any other consideration.

3. A person who in any manner supervises a person holding a civil service position shall not directly or indirectly solicit the person supervised to contribute money, anything of value, or service to a candidate seeking election, or a political party or candidate's political committee.

4. This section shall not be construed to prohibit any employee or group of employees, individually or collectively, from expressing honest opinions and convictions, or making statements and comments concerning their wages or other conditions of their employment.

[SS15, §1056-a32; C24, 27, 31, 35, 39, §5713; C46, 50, 54, 58, 62, 66, 71, 73, §365.29; C75, 77, 79, 81, §400.29]

86 Acts, ch 1021, §3

[P] Leave of absence for candidacy and public service; see chapter 55

400.30 Penalty.

The provisions of this chapter shall be strictly carried out by each person or body having powers or duties thereunder, and any act or failure to act tending to avoid or defeat the purposes of such provisions is hereby prohibited and shall be a simple misdemeanor.

[C39, §5713.1; C46, 50, 54, 58, 62, 66, 71, 73, §365.30; C75, 77, 79, 81, §400.30]

400.31 Waterworks employees.

In cities where the board of waterworks trustees has adopted a resolution placing its employees under this chapter as to civil service, the civil service commission acting under this chapter has charge of the civil service procedure as to those employees and this chapter applies.

[C50, 54, 58, 62, 66, 71, 73, §365.31; C75, 77, 79, 81, §400.31]

83 Acts, ch 101, §83