

CHAPTER 410

FIRE FIGHTERS AND POLICE OFFICERS — RETIREMENT AND DISABILITY

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410.1 Pension funds.

Any city having an organized fire department may, and all cities having an organized police department or a paid fire department shall, levy annually on taxable property a tax not to exceed three and three-eighths cents per thousand dollars of assessed value for each such department, for the purpose of creating fire fighters' and police officers' pension funds.

Provided that cities having a population of more than six thousand five hundred may annually levy on taxable property a tax of not more than thirteen and one-half cents per thousand dollars of assessed value for each such department for such purpose. Provided, further, that cities, in which a police or fire retirement system based upon actuarial tables shall be established by law, shall levy for the police or fire pension funds a tax sufficient in amount to meet all necessary obligations and expenditures; and said obligations and expenditures shall be direct liabilities of said cities.

Whenever there is a sufficient balance in both of said funds to meet any proper or legitimate charges that may be made against the same, such city shall not be required to levy a tax for this purpose.

All moneys derived from each tax so levied, and all moneys received as membership fees and dues, and all moneys received from grants, donations, and devises for the benefit of each fund shall constitute separate funds, to be known and designated as a police officers' pension fund and a fire fighters' pension fund.

The provisions of this chapter shall not apply to police officers and fire fighters who entered employment after March 2, 1934, except that any police officer or fire fighter who had been making payments of membership fees and assessments as provided in section 410.5 prior to July 1, 1971, shall on July 1, 1973, be fully restored and entitled to all pension rights and benefits, vested or not vested, under this chapter if the city has not returned to such police officer or fire fighter the membership fees and assessments paid by the police officer or fire fighter prior to July 1, 1971, and if such police officer or fire fighter pays to the city within six months after July 1, 1973, the amount of the fees and assessments that the police officer or fire fighter would have paid to the police officers' or fire fighters' pension fund from July 1, 1971, to July 1, 1973, if Acts of the 1971 Session, Sixty-fourth General Assembly, ch. 108, had not been adopted. If the membership fees and assessments paid by such police officer or fire fighter prior to July 1, 1971, have been returned to the police officer or fire fighter, all pension rights and benefits, vested or not vested, under this chapter shall be fully restored to the police officer or fire fighter on July 1, 1973, if, within six months after July 1, 1973, such police officer or fire fighter repays the fees and assessments so returned and pays the amount of the fees and assessments to the city that the police officer or fire fighter would have paid to the appropriate pension fund from July 1, 1971, to July 1, 1973, if Acts of the Sixty-fourth General Assembly, 1971 Session, ch. 108 had not been adopted.

[S13, §932-a,j; C24, 27, 31, 35, 39, §6310; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.1]

410.2 Boards of trustees — officers.

The chief officer of each department, with the city treasurer and the city solicitor or attorney of such cities, shall be ex officio members of and shall constitute separate boards of trustees for the management of each fund. The chief officer of the department shall be president and the city treasurer, treasurer of such boards, and the faithful performance of the duties of the treasurer shall be secured by an official bond as city treasurer. Such trustees shall not receive any compensation for their services as members of said boards. Provided, however, that in any city where contributory fire or police retirement systems or both systems based upon actuarial tables shall be established by this Act* for the benefit of police officers or fire fighters or both appointed to the force after the establishment of same, the board of trustees of each such system, respectively, shall also constitute the board of trustees for the management of each fund under this section as a separate and distinct fund in itself.

[S13, §932-a,-b,-j,-k; C24, 27, 31, 35, 39, §6311; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.2]

[P] *See 34 Acts, 1st Ex, ch 75, effective date March 2, 1934

410.3 Investment of surplus.

The boards shall have power to invest any surplus left in such funds, respectively, at the end of the fiscal year, but no part of the funds realized from any tax levy shall be used for any purpose other than the payment of pensions. Investments shall be in interest-bearing bonds, notes, certificates, or other evidences of indebtedness which are obligations of or guaranteed by the United States, or in interest-bearing bonds of the state of Iowa, of any county, township, or municipal corporation of the state of Iowa. All such securities shall be deposited with the treasurer of the boards of trustees for safekeeping.

[S13, §932-1; SS15, §932-c; C24, 27, 31, 35, 39, §6312; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.3]

410.4 Gifts, devises, or bequests.

Each board may take by gift, grant, devise, or bequest, any money or property, real or personal, or other thing of value for the benefit of said funds. All rewards in moneys, fees, gifts, or emoluments of every kind or nature that may be paid or given to any police or fire department or to any member thereof, except when allowed to be retained or given to endow a medal or other permanent or competitive reward on account of extraordinary services rendered by said departments or any member thereof, and all fines and penalties imposed upon members, shall be paid into the said pension fund and become a part thereof.

[S13, §932-d,-m; C24, 27, 31, 35, 39, §6313; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.4]

410.5 Membership fee — assessments.

Every member of said departments shall be required to pay to the treasurer of said funds a membership fee to be fixed by the board of trustees, not exceeding five dollars, and shall also be assessed and required to pay annually an amount equal to one percent per annum upon the amount of the annual salary paid to the member, which assessment shall be deducted and retained in equal monthly installments out of such salary.

[S13, §932-d,-m; C24, 27, 31, 35, 39, §6314; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.5]

410.6 Who entitled to pension — conditions.

1. Any member of said departments who shall have served twenty-two years or more in such department, and shall have reached the age of fifty years; or who shall while a member of such department become mentally or physically permanently disabled from discharging the member's duties, shall be entitled to be retired, and upon retirement shall be paid out of the pension fund of such department a monthly pension equal to one-half the amount of salary received by the member monthly at the date the member actually retires from said department. If any member shall have served twenty-two years in said department, but shall

not have reached the age of fifty years, the member shall be entitled to retirement, but no pension shall be paid while the member lives until the member reaches the age of fifty years.

2. Upon the adoption of any increase in pension benefits effective subsequent to the date of a member's retirement, the amount payable to each member as regular pension shall be increased by an amount equal to sixty percent of any increase in the pension benefits for the rank at which the member retired.

3. Pensions payable under this chapter shall be adjusted as follows:

a. On each July 1 and January 1, the monthly pension authorized in this chapter payable to each retired member and to each beneficiary, except children, of a deceased member shall be recomputed. The applicable formulas authorized in this chapter which were used to compute the retired member's or beneficiary's pension at the time of retirement or death shall be used in the recomputation except the earnable compensation payable on each July 1 or January 1 to an active member having the same or equivalent rank or position as was held by such retired or deceased member at the time of retirement or death, shall be used in lieu of the final compensation which the retired or deceased member was receiving at the time of retirement or death. At no time shall the monthly pension or payment to the beneficiary be less than the amount which was paid at the time of such member's retirement or death.

b. All monthly pensions adjusted as provided in this section shall be payable beginning on July 1 or January 1 of the year which the adjustment is made and shall continue in effect until the next adjustment at which time the monthly pension shall again be recomputed and all monthly pensions adjusted in accordance with the computations.

c. The adjustment of pensions required by this section shall recognize the retired or deceased member's position on the salary scale within the member's rank at the time of retirement or death. In the event that the rank or position held by the retired or deceased member at the time of retirement or death is subsequently abolished, adjustments in the pensions of the member or of the member's spouse or children shall be computed by the board of trustees as though such rank or position had not been abolished and salary increases had been granted to such rank or position on the same basis as that granted to other ranks and positions in the department.

4. At no time shall the monthly pension or payment to the member be less than one hundred fifty dollars.

[S13, §932-e,-n; C24, 27, 31, 35, 39, §6315; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.6]

86 Acts, ch 1243, §26; 90 Acts, ch 1240, §47; 2010 Acts, ch 1069, §135

410.7 Soldiers and sailors.

Any member of the fire or police department, who resigned or obtained leave of absence therefrom to serve in the United States air force or air force reserve, army, navy or marine reserve, or marine corps, of the United States, or as a member of the United States army and navy reserve, the Spanish-American War, in the World War 1917-1918, or in World War II from December 7, 1941, to December 31, 1946, both dates inclusive, or in the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, or in the Vietnam Conflict at any time between August 5, 1964, and ending on the date the armed forces of the United States are directed by formal order of the government of the United States to cease hostilities, both dates inclusive, and has returned with an honorable discharge from such service, to the fire or police department, shall have the period of such service included as part of the member's period of service in the department.

[C27, 31, 35, §6315-b1; C39, §6315.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.7]

410.8 Disability — how contracted.

No member who has not served five years or more in said department shall be entitled to be retired and paid a pension under the provisions of this chapter, unless such disability was contracted while engaged in the performance of the member's duties, or by reason of following such occupation. The question of disability shall be determined by the trustees upon the concurring report of at least two out of three physicians designated by the board of trustees to make a complete physical examination of the member. After any member shall

become entitled to be retired, such right shall not be lost or forfeited by discharge or for any other reason except conviction for felony.

[S13, §932-e,-n; C24, 27, 31, 35, 39, §6316; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.8]

410.9 Retired members assigned for light duty.

The chief of the police department and the chief of the fire department of such city may assign any member of such departments, respectively, retired by reason of mental or physical disability under the provisions of this chapter, to the performance of light duties in such department.

[S13, §932-e,-n; C24, 27, 31, 35, 39, §6317; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.9]

410.10 Pensions — surviving spouse — children — dependents.

1. Upon the death of any acting or retired member of such departments, leaving a spouse or minor children, or dependent father or mother surviving, there shall be paid out of said fund as follows:

a. To the surviving spouse, a sum equal to one-half of the deceased member's total adjusted pension as provided for in section 410.6, but in no event less than seventy-five dollars per month.

b. If there be no surviving spouse, or upon the death of such spouse, then to the dependent father and mother, if both survive, or to either dependent parent, if one survives, thirty dollars per month.

c. To the guardian of each surviving child under eighteen years of age, twenty dollars per month.

2. Effective July 1, 1991, the remarriage of a surviving spouse does not make the spouse ineligible to receive benefits under this section, and for a surviving spouse who remarried prior to July 1, 1991, the remarriage does not make the spouse ineligible to receive benefits under this section.

3. However, the benefits provided by this section are subject to the following definitions:

a. "Child" and "children" mean only the surviving issue of a deceased active or retired member, or the child or children legally adopted by a deceased member prior to the member's retirement from active service.

b. "Spouse" means a surviving spouse of a marriage contracted prior to retirement of a deceased member from active service, or of a marriage of a retired member contracted prior to March 2, 1934.

c. "Surviving spouse" includes a former spouse only if the division of assets in the dissolution of marriage decree pursuant to section 598.17 grants the former spouse rights of a spouse under this chapter. If there is no surviving spouse of a marriage contracted prior to retirement of a deceased member, or of a marriage of a retired member contracted prior to March 2, 1934, "surviving spouse" includes a surviving spouse of a marriage of two years or more duration contracted subsequent to retirement of the member.

4. This section and its provisions shall be interpreted for all purposes as including all surviving spouses.

[S13, §932-e,-n; C24, 27, 31, 35, 39, §6318; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.10; 82 Acts, ch 1142, §1 – 3]

91 Acts, ch 41, §2; 2010 Acts, ch 1069, §136

410.11 Exemption.

All pensions paid under the provisions of this chapter shall be exempt from liability for debts of the person to or on account of whom the same is paid, and shall not be subject to seizure upon execution or other process.

[S13, §932-e,-n; C24, 27, 31, 35, 39, §6319; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.11]

410.12 Volunteer or call fire fighters.

The provisions of this chapter shall apply to volunteer or call members of a paid fire department, but the amount of pension to be paid to such members shall be determined by the board of trustees.

[S13, §932-e; C24, 27, 31, 35, 39, §6320; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.12]

410.13 Reexamination of retired members.

The board of trustees of each department shall have power, at any time, to cause any member of such department retired by reason of physical or mental disability to be brought before it and again examined by three competent physicians appointed by the board of trustees to discover whether such disability yet continues and can be improved and whether such retired member should be continued on the pension roll, and shall have power to examine witnesses for the same purpose. The question of continued disability or ability to perform regular or light duty in the police or fire department shall be determined by the concurring report of at least two of the three examining physicians. Such member shall be entitled to reasonable notice that such examination will be made, and to be present at the time of the taking of any testimony, shall have the right to examine the witnesses brought before the board and to introduce evidence in the member's own behalf. All witnesses shall be examined under oath, which may be administered by any member of such board.

[S13, §932-g,-p; C24, 27, 31, 35, 39, §6321; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.13]

410.14 Decision of board.

The decision of the board upon such matters shall be final and conclusive, in the absence of fraud, and no appeal shall be allowed therefrom. The member with a disability shall remain upon the pension roll unless and until reinstated in the department by reason of such examination.

[S13, §932-g,-p; C24, 27, 31, 35, 39, §6322; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.14]

96 Acts, ch 1129, §89

410.15 Guarantee of pension benefits.

Each city, in which contributory fire or police retirement systems based upon actuarial tables, shall be established by this Act* for the benefit of fire fighters or police officers appointed to either force after the establishment of the same, is hereby bound and obligated to carry out, and authorized to enter into a written agreement evidencing the same, with each person, on retired or active service, who has heretofore contributed, or, at the time of the taking effect of this Act, is contributing to the pension system now in effect in said city, in consideration of past and future payments to the pension fund of the system to which the police officer or fire fighter is, or has been contributing, the present and prospective benefits provided by the pension system to which the police officer or fire fighter is or has been contributing, guaranteeing that the present rate of payment by such person to said pension fund shall not be increased, also guaranteeing that the present and prospective rights and benefits provided for by said systems shall not be abridged nor lessened, and guaranteeing to all such persons so contributing all of the rights and benefits present and prospective provided in such pension system. The obligation of each such city for said rights and benefits shall be a direct charge on said city.

[S13, §932-h,-q; C24, 27, 31, 35, 39, §6323; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.15]

[P] *See 34 Acts, 1st Ex, ch 75, effective date March 2, 1934

410.16 Moneys drawn — how paid — report.

All pensions paid and all moneys drawn from the pension fund under the provisions of this chapter shall be upon warrants signed by the appropriate board of trustees, which warrants shall designate the name of the person and the purpose for which payment is made. The

treasurer's annual report shall show the receipts and expenditures of each fund for the preceding fiscal year, the money on hand, and how invested.

[S13, §932-i,-r; C24, 27, 31, 35, 39, §6324; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.16]

410.17 City marshal.

Service by any member of the police department as city marshal shall not deprive the member of any rights under this chapter. In any matter in which said city marshal shall be individually interested and which requires the action of the board of trustees of the police officers' pension fund, the city marshal shall not act as a member of said board, but the mayor of the city shall act with the other two trustees of the board with respect thereto. Upon the termination of the term as city marshal, the member shall regain the rank held in the police department at the time of the member's appointment as city marshal.

[C24, 27, 31, 35, 39, §6325; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.17]

410.18 Hospital expense.

Cities shall provide hospital, nursing, and medical attention for the members of the police and fire departments of the cities, when injured while in the performance of their duties as members of such department, and shall continue to provide hospital, nursing, and medical attention for injuries or diseases incurred while in the performance of their duties for members being paid a pension by the city under section 410.8, and the cost of such hospital, nursing, and medical attention shall be paid out of the appropriation for the department to which the injured person belongs or belonged; provided that any amounts received by the injured person under the workers' compensation law of the state, or from any other source for such specific purposes, shall be deducted from the amount paid by the city under the provisions of this section.

[C24, 27, 31, 35, 39, §6326; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.18]

[A portion of this section was inadvertently omitted in the 1993 Code]

HOURS OF SERVICE

410.19 Hours on duty limited.

Fire fighters employed in the fire department of cities of ten thousand population or more, or under civil service, shall not be required to remain on duty for periods of time which will aggregate in each month more than an average of fifty-six hours per week and no single period of time, or shift, shall exceed twenty-four hours in length, provided that in cases of serious emergencies such fire fighters may be required to remain on duty until such emergency has passed, when so ordered by the chief of the department or person acting in the chief's place. Fire fighters called back to duty under this provision shall be duly compensated in accordance with their regular hourly wage.

[C27, 31, 35, §6326-a1; C39, §6326.01; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.19]

[P] See also §411.16

410.20 Exceptions.

The provisions of section 410.19 shall not apply to the chief, or other persons when in command of the fire department, nor to fire fighters who are employed subject to call only.

[C27, 31, 35, §6326-a2; C39, §6326.02; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §410.20]