

REPRINTED

*Supplemental*

MAR 5 1986

HOUSE FILE 2403

Place On Calendar

BY COMMITTEE ON LOCAL GOVERNMENT

(Formerly House Study Bill 589)

Passed House, Date 3-12-86 (p. 696) Passed Senate, Date 4-4-86 (p. 1056)  
Vote: Ayes 93 Nays 0 Vote: Ayes 42 Nays 2  
Approved April 28, 1986 (p. 185)

A BILL FOR

- 1 An Act relating to the operation of city civil service
- 2 commissions.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 2403

H-5305

- 1 Amend House File 2403 as follows:
- 2 1. Page 2, line 2, by inserting after the word
- 3 "treasurer," the following: "city assessor,".
- 4 2. Page 2, by striking lines 7 through 10 and
- 5 inserting the following: "the head of each division.
- 6 This exclusion does not apply to assistant fire chiefs
- 7 and to assistant police chiefs in cities with police
- 8 departments of two hundred fifty or fewer".

H-5305 FILED MARCH 10, 1986 BY CONNORS of Polk  
*Adopted 3/12 (p. 696)*

HOUSE FILE 2403

H-5312

- 1 Amend House File 2403 as follows:
- 2 1. Page 3, by striking lines 30 through 32 and
- 3 inserting the following: "the position. If an
- 4 employee of the city does not pass one of two
- 5 successive promotional examinations and otherwise
- 6 qualify for a vacated position, or if an employee of
- 7 the city does not apply for a vacated position, an
- 8 entrance examination may be used to fill the vacancy."

*Adopted 3/12 (p. 696)*  
H-5312 FILED MARCH 11, 1986

BY CONNORS of Polk  
O'KANE of Woodbury  
RENKEN of Grundy

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1 Section 1. Section 400.2, unnumbered paragraph 1, Code  
2 1985, is amended to read as follows:

3 The commissioners must be citizens of Iowa, eligible  
4 electors as defined in chapter 39, and residents of the city  
5 ~~for more than five years next~~ preceding their appointment, and  
6 shall serve without compensation. ~~No~~ A person, while on said  
7 the commission, shall not hold or be a candidate for any  
8 office of public trust. ~~Provided, this section~~  
9 ~~notwithstanding~~ However, when a human rights commission has  
10 been established by any a city, the director thereof of the  
11 commission shall ex officio be a member, without vote, of the  
12 civil service commission.

13 Sec. 2. Section 400.4, unnumbered paragraph 1, Code 1985,  
14 is amended to read as follows:

15 ~~The chairperson of the~~ commission ~~for each biennial period~~  
16 ~~shall be the member whose term first expires~~ shall elect a  
17 chairperson from among its members. In cities having a  
18 population of more than seventy-five thousand the commission  
19 shall appoint an employee in the city clerk's office who is  
20 employed under the provisions of this chapter to be clerk of  
21 the commission and the duties as such clerk shall have  
22 precedence over any additional duties of the employee's  
23 regular employment. In all other cities the city clerk shall  
24 be clerk of the commission.

25 Sec. 3. Section 400.6, Code 1985, is amended by striking  
26 the section and inserting in lieu thereof the following:

27 400.6 APPLICABILITY -- EXCEPTIONS.

28 This chapter applies to permanent full-time police officers  
29 and fire fighters in cities having a population of more than  
30 eight thousand, and to all appointive permanent full-time em-  
31 ployees in cities having a population of more than fifteen  
32 thousand except:

33 1. Persons appointed to fill vacancies in elective offices  
34 and members of boards and commissions and the clerk to the  
35 civil service commission.

1        2. The city clerk, chief deputy city clerk, city attor-  
2 neys, city treasurer, city auditor, city engineer, and city  
3 health officer.

4        3. The city manager or city administrator and assistant  
5 city managers or assistant city administrators.

6        4. The head and principal assistant of each department and  
7 the head of each division, except as otherwise provided for,  
8 including police and fire chiefs and assistant police chiefs,  
9 except the police chief and assistant police chief in a city  
10 with a police department of at least two hundred fifty  
11 members. However, sections 400.13 and 400.14 apply to police  
12 and fire chiefs.

13       5. The principal secretary to the city manager or city  
14 administrator, the principal secretary to the mayor, and the  
15 principal secretary to each of the department heads.

16       6. Employees of boards of trustees or commissions es-  
17 tablished pursuant to state law or city ordinances.

18       7. Employees whose positions are funded by state or  
19 federal grants or other temporary revenues.

20       Sec. 4. Section 400.7, Code 1985, is amended by striking  
21 the section and inserting in lieu thereof the following:

22       400.7 PREFERENCE BY SERVICE.

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

28       1. The employee meets the minimum qualifications es-  
29 tablished for the position and has completed the required  
30 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 es-  
35 tablished for the position.

1 3. An employee who has not completed the required pro-  
2 bationary period but who otherwise meets the requirements of  
3 subsection 1 or 2 shall receive full civil service rights in  
4 the position upon the completion of the probationary period.

5 Appointments made after the time this chapter becomes ap-  
6 plicable in a city are subject to this chapter.

7 Sec. 5. Section 400.8, subsection 3, Code 1985, is amended  
8 to read as follows:

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

23 Sec. 6. Section 400.9, subsection 3, Code 1985, is amended  
24 by striking the subsection and inserting in lieu thereof the  
25 following:

26 3. Vacancies in civil service promotional grades shall be  
27 filled by promotion of employees of the city to the extent  
28 that the city employees qualify for the positions. When  
29 promoted, an employee shall hold full civil service rights in  
30 the position. If a city employee does not apply for a vacant  
31 position, an entrance examination may be held to fill the  
32 vacancy.

33 Sec. 7. Section 400.19, Code 1985, is amended by striking  
34 the section and inserting in lieu thereof the following:

35 400.19 REMOVAL OR DISCHARGE OF SUBORDINATES.

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

7 Sec. 8. Section 400.20, Code 1985, is amended by striking  
8 the section and inserting in lieu thereof the following:

9 400.20 APPEAL.

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

14 Sec. 9. Section 400.22, Code 1985, is amended to read as  
15 follows:

16 400.22 CHARGES.

17 Within five fourteen calendar days from the service of such  
18 the notice of appeal, the person or body making the ruling  
19 appealed from shall file with the body to which the appeal is  
20 taken a written specification of the charges and grounds upon  
21 which the ruling was based. If such the charges are not so  
22 filed, the person suspended or discharged may present the  
23 matter to the body to whom the appeal is to be taken by  
24 affidavit, setting forth the facts, and such the body to whom  
25 the appeal is to be taken shall forthwith immediately enter an  
26 order reinstating the person suspended or discharged for want  
27 of prosecution.

28 Sec. 10. Section 400.27, unnumbered paragraphs 1 and 2,  
29 Code 1985, is amended to read as follows:

30 The civil service commission ~~shall have~~ has jurisdiction to  
31 hear and determine ~~all~~ matters involving the rights of civil  
32 service employees under this chapter, and may affirm, modify,  
33 or reverse any case on its merits.

34 The city attorney or solicitor shall be the attorney for  
35 the commission or when requested by the commission shall

1 present any matters concerning civil service employees to the  
2 commission, except the commission ~~in-cities-of-over-one~~  
3 ~~hundred-thousand-population~~ may hire a counselor or an  
4 attorney on a per diem basis to represent ~~them-other-than-the~~  
5 ~~city-attorney-or-solicitor~~ it when in the opinion of the  
6 commission there is a conflict of interest between the  
7 commission and the city council. The counselor or attorney  
8 hired by the commission shall not be the city attorney or  
9 solicitor. The city shall pay the costs incurred by the  
10 commission in employing an attorney under this section.

11 Sec. 11. Section 400.28, unnumbered paragraph 1, Code  
12 1985, is amended to read as follows:

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

18 Sec. 12. Section 400.28, unnumbered paragraph 3, Code  
19 1985, is amended to read as follows:

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

32 EXPLANATION

33 This bill makes the following changes in the city civil  
34 service chapter:

35 1. Removes the requirement that members of city civil

1 service commissions must have been residents of the city for  
2 five years.

3 2. Provides that the civil service commission will elect  
4 its own chairperson.

5 3. Clarifies and expands the positions exempted from city  
6 civil service. Department heads, assistant department heads,  
7 division directors, and the principal secretaries of the  
8 mayor, city manager, or city administrator, and department  
9 heads are excluded, along with the city officers and certain  
10 employees.

11 4. Allows cities to grant civil service status to em-  
12 ployees occupying noncivil service positions if and when the  
13 positions become covered under civil service. It also allows  
14 current employees to retain their jobs when their position is  
15 reclassified by the city.

16 5. Increases the probationary period from a maximum of six  
17 to a maximum of 12 months for general employees to match the  
18 12-month probationary period for police patrol officers and  
19 fire fighters.

20 6. Removes the requirement that cities must offer a promo-  
21 tional examination twice for a vacancy in civil service  
22 promotional grades before offering it as an entrance examina-  
23 tion.

24 7. Deletes the section on removal or discharge of sub-  
25 ordinates and provides that the person having the appointing  
26 power, or chief of police or chief of the fire department, may  
27 suspend, demote, or discharge a subordinate.

28 8. Reduces from 20 calendar days to 14 calendar days the  
29 time in which an employee may appeal disciplinary action and  
30 strikes a provision that if a suspension, demotion, or  
31 discharge is not affirmed by the city manager or mayor within  
32 five days, the person who suspended, demoted, or discharged  
33 the employee may appeal.

34 9. Increases from five calendar days to 14 calendar days  
35 the period of time a city has to respond to an appeal by an

1 employee.

2 10. Allows cities of any size, not just those of over  
3 100,000 population, to hire outside legal council. It also  
4 provides that the city will pay the costs incurred by the  
5 commission in hiring the outside legal counsel.

6 11. Eliminates the requirement that city councils notify  
7 their commissions when civil service positions are eliminated.  
8 It also clarifies current language to allow an employee only  
9 one certificate of preference.

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HOUSE FILE 2403

BY COMMITTEE ON LOCAL GOVERNMENT

(As Amended and Passed by the House March 12, 1986)

Passed House, Date 4-10-86 (p. 1391) Passed Senate, Date 4-4-86 (p. 1056)  
Vote: Ayes 95 Nays 0 Vote: Ayes 42 Nays 0  
Approved April 28, 1986 (p. 1855)

A BILL FOR

- 1 An Act relating to the operation of city civil service
- 2 commissions.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 2403

S-5517

- 1 Amend House File 2403, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 3, by striking lines 6 through 21.
- 4 2. By renumbering as necessary.

S-5517 Filed April 1, 1986

BY A. MILLER

*o/o 4/4 (p. 1056)*

HOUSE FILE 2403

S-5548

- 1 Amend House File 2403 as amended, passed, and
- 2 reprinted by the House as follows:
- 3 1. Page 3, by striking lines 6 through 21.
- 4 2. Page 5, line 22, by striking the word "a" and
- 5 inserting the following: "a one".
- 6 3. Page 5, by striking line 24 and inserting the
- 7 following: "length of service in each classification
- 8 or-grade of the classifications or grades from".
- 9 4. Page 5, line 26, by striking the words "and", and
- 10 the" and inserting the following: "7-and-the. The
- 11 certificate shall also list each classification or
- 12 grade in which the person was previously employed.
- 13 The".

S-5548 Filed April 2, 1986

BY A. MILLER, WELLS, LIND

*Adopted 4/4 (p. 1056)*

1 Section 1. Section 400.2, unnumbered paragraph 1, Code  
2 1985, is amended to read as follows:

3 The commissioners must be citizens of Iowa, eligible  
4 electors as defined in chapter 39, and residents of the city  
5 ~~for more than five years next~~ preceding their appointment, and  
6 shall serve without compensation. ~~No~~ A person, while on ~~said~~  
7 the commission, shall not hold or be a candidate for any  
8 office of public trust. ~~Provided, this section~~  
9 ~~notwithstanding~~ However, when a human rights commission has  
10 been established by any a city, the director thereof of the  
11 commission shall ex officio be a member, without vote, of the  
12 civil service commission.

13 Sec. 2. Section 400.4, unnumbered paragraph 1, Code 1985,  
14 is amended to read as follows:

15 ~~The chairperson of the~~ commission ~~for each biennial period~~  
16 ~~shall be the member whose term first expires~~ shall elect a  
17 chairperson from among its members. In cities having a  
18 population of more than seventy-five thousand the commission  
19 shall appoint an employee in the city clerk's office who is  
20 employed under the provisions of this chapter to be clerk of  
21 the commission and the duties as such clerk shall have  
22 precedence over any additional duties of the employee's  
23 regular employment. In all other cities the city clerk shall  
24 be clerk of the commission.

25 Sec. 3. Section 400.6, Code 1985, is amended by striking  
26 the section and inserting in lieu thereof the following:

27 400.6 APPLICABILITY -- EXCEPTIONS.

28 This chapter applies to permanent full-time police officers  
29 and fire fighters in cities having a population of more than  
30 eight thousand, and to all appointive permanent full-time em-  
31 ployees in cities having a population of more than fifteen  
32 thousand except:

33 1. Persons appointed to fill vacancies in elective offices  
34 and members of boards and commissions and the clerk to the  
35 civil service commission.

1        2. The city clerk, chief deputy city clerk, city attor-  
2 neys, city treasurer, city assessor, city auditor, city  
3 engineer, and city health officer.

4        3. The city manager or city administrator and assistant  
5 city managers or assistant city administrators.

6        4. The head and principal assistant of each department and  
7 the head of each division. This exclusion does not apply to  
8 assistant fire chiefs and to assistant police chiefs in cities  
9 with police departments of two hundred fifty or fewer members.  
10 However, sections 400.13 and 400.14 apply to police and fire  
11 chiefs.

12       5. The principal secretary to the city manager or city  
13 administrator, the principal secretary to the mayor, and the  
14 principal secretary to each of the department heads.

15       6. Employees of boards of trustees or commissions es-  
16 tablished pursuant to state law or city ordinances.

17       7. Employees whose positions are funded by state or  
18 federal grants or other temporary revenues.

19       Sec. 4. Section 400.7, Code 1985, is amended by striking  
20 the section and inserting in lieu thereof the following:

21       400.7 PREFERENCE BY SERVICE.

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

27       1. The employee meets the minimum qualifications es-  
28 tablished for the position and has completed the required  
29 probationary period for the position.

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

35       3. An employee who has not completed the required pro-

1 bationary period but who otherwise meets the requirements of  
2 subsection 1 or 2 shall receive full civil service rights in  
3 the position upon the completion of the probationary period.

4 Appointments made after the time this chapter becomes ap-  
5 plicable in a city are subject to this chapter.

6 Sec. 5. Section 400.8, subsection 3, Code 1985, is amended  
7 to read as follows:

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

22 Sec. 6. Section 400.9, subsection 3, Code 1985, is amended  
23 by striking the subsection and inserting in lieu thereof the  
24 following:

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

34 Sec. 7. Section 400.19, Code 1985, is amended by striking  
35 the section and inserting in lieu thereof the following:

## 1 400.19 REMOVAL OR DISCHARGE OF SUBORDINATES.

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

8 Sec. 8. Section 400.20, Code 1985, is amended by striking  
9 the section and inserting in lieu thereof the following:

## 10 400.20 APPEAL.

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

15 Sec. 9. Section 400.22, Code 1985, is amended to read as  
16 follows:

## 17 400.22 CHARGES.

18 Within ~~five~~ fourteen calendar days from the service of ~~such~~  
19 the notice of appeal, the person or body making the ruling  
20 appealed from shall file with the body to which the appeal is  
21 taken a written specification of the charges and grounds upon  
22 which the ruling was based. If ~~such~~ the charges are not so  
23 filed, the person suspended or discharged may present the  
24 matter to the body to whom the appeal is to be taken by  
25 affidavit, setting forth the facts, and ~~such~~ the body to whom  
26 the appeal is to be taken shall forthwith immediately enter an  
27 order reinstating the person suspended or discharged for want  
28 of prosecution.

29 Sec. 10. Section 400.27, unnumbered paragraphs 1 and 2,  
30 Code 1985, is amended to read as follows:

31 The civil service commission ~~shall have~~ has jurisdiction to  
32 hear and determine ~~all~~ matters involving the rights of civil  
33 service employees under this chapter, and may affirm, modify,  
34 or reverse any case on its merits.

35 The city attorney or solicitor shall be the attorney for

1 the commission or when requested by the commission shall  
2 present any matters concerning civil service employees to the  
3 commission, except the commission ~~in-cities-of-over-one~~  
4 ~~hundred-thousand-population~~ may hire a counselor or an  
5 attorney on a per diem basis to represent ~~them-other-than-the~~  
6 ~~city-attorney-or-solicitor~~ it when in the opinion of the  
7 commission there is a conflict of interest between the  
8 commission and the city council. The counselor or attorney  
9 hired by the commission shall not be the city attorney or  
10 solicitor. The city shall pay the costs incurred by the  
11 commission in employing an attorney under this section.

12 Sec. 11. Section 400.28, unnumbered paragraph 1, Code  
13 1985, is amended to read as follows:

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

19 Sec. 12. Section 400.28, unnumbered paragraph 3, Code  
20 1985, is amended to read as follows:

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

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SENATE AMENDMENT TO HOUSE FILE 2403

H-5740

- 1 Amend House File 2403 as amended, passed, and
- 2 reprinted by the House as follows:
- 3 1. Page 3, by striking lines 6 through 21.
- 4 2. Page 5, line 22, by striking the word "a" and
- 5 inserting the following: "a one".
- 6 3. Page 5, by striking line 24 and inserting the
- 7 following: "length of service in each classification
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- 9 4. Page 5, line 26, by striking the words ", and
- 10 the" and inserting the following: "7-and-the. The
- 11 certificate shall also list each classification or
- 12 grade in which the person was previously employed.
- 13 The".

H-5740 FILED APRIL 8, 1986

RECEIVED FROM THE SENATE

*House concurred 4/10 (p. 1391)*

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Connors  
Diemer  
Groninga

*Handwritten*  
HF 2403

HSB 589

LOCAL GOVERNMENT

Study Bill 589

Local Government: Connors, Chair; Diemer and Groninga.

HOUSE FILE 2403

BY (PROPOSED COMMITTEE ON  
LOCAL GOVERNMENT BILL)

Passed House, Date \_\_\_\_\_

Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to the operation of city civil service  
2 commissions.

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

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5 ~~for-more-than-five-years-next~~ preceding their appointment, and  
6 shall serve without compensation. No A person, while on said  
7 the commission, shall not hold or be a candidate for any  
8 office of public trust. ~~Provided, this section~~  
9 notwithstanding However, when a human rights commission has  
10 been established by any a city, the director thereof of the  
11 commission shall ex officio be a member, without vote, of the  
12 civil service commission.

13 Sec. 2. Section 400.4, unnumbered paragraph 1, Code 1985,  
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15 in lieu thereof the following:

16 The commission shall elect a chairperson from among its  
17 members. In all cities, the city manager or chief adminis-  
18 trator shall designate an employee to serve as clerk of the  
19 commission.

20 Sec. 3. Section 400.6, Code 1985, is amended by striking  
21 the section and inserting in lieu thereof the following:

22 400.6 APPLICABILITY -- EXCEPTIONS.

23 This chapter applies to permanent full-time police officers  
24 and fire fighters in cities having a population of more than  
25 eight thousand, and to all appointive permanent full-time em-  
26 ployees in cities having a population of more than fifteen  
27 thousand except:

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31 2. The city clerk, chief deputy city clerk, city attor-  
32 neys, city treasurer, city auditor, city engineer, and city  
33 health officer.

34 3. The city manager or city administrator and assistant  
35 city managers or assistant city administrators.

1 4. The head and principal assistant of each department and  
2 the head of each division, except as otherwise provided for,  
3 including police and fire chiefs and assistant police and fire  
4 chiefs, except the police chief and assistant police chief in  
5 a city with a police department of at least two hundred fifty  
6 members. However, sections 400.13 and 400.14 apply to police  
7 and fire chiefs.

8 5. The principal secretary to the city manager or city  
9 administrator, the principal secretary to the mayor, and the  
10 principal secretary to each of the department heads.

11 6. Employees of boards of trustees or commissions es-  
12 tablished pursuant to state law or city ordinances.

13 7. Employees whose positions are funded by state or  
14 federal grants or other temporary revenues.

15 Sec. 4. Section 400.7, Code 1985, is amended by striking  
16 the section and inserting in lieu thereof the following:

17 400.7 PREFERENCE BY SERVICE.

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

23 1. The employee meets the minimum qualifications es-  
24 tablished for the position and has completed the required  
25 probationary period for the position.

26 2. The employee has served satisfactorily in the position  
27 for a period equal to the probationary period of the position,  
28 and passes a qualifying noncompetitive examination for the  
29 position but does not meet the minimum qualifications es-  
30 tablished for the position.

31 3. An employee who has not completed the required pro-  
32 bationary period but who otherwise meets the requirements of  
33 subsection 1 or 2 shall receive full civil service rights in  
34 the position upon the completion of the probationary period.

35 Appointments made after the time this chapter becomes ap-

1 plicable in a city are subject to this chapter.

2 Sec. 5. Section 400.8, subsection 3, Code 1985, is amended  
3 to read as follows:

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

18 Sec. 6. Section 400.9, subsection 3, Code 1985, is amended  
19 by striking the subsection and inserting in lieu thereof the  
20 following:

21 3. Vacancies in civil service promotional grades shall be  
22 filled by promotion of employees of the city to the extent  
23 that the city employees qualify for the positions. When  
24 promoted, an employee shall hold full civil service rights in  
25 the position. If a city employee does not apply or qualify  
26 for a vacant position, an entrance examination may be held to  
27 fill the vacancy.

28 Sec. 7. Section 400.11, unnumbered paragraphs 1 and 2,  
29 Code 1985, are amended to read as follows:

30 The commission shall, ~~within-ninety-days~~ after the  
31 beginning of each competitive examination for original  
32 appointment or for promotion, certify to the city council a  
33 list of the names of the ten persons who qualify with the  
34 highest standing as a result of each examination for the  
35 position they seek to fill, or ~~such~~ the number ~~as-may-have~~

1 that qualified if less than ten, in the order of their  
2 standing, and all newly created offices or other vacancies in  
3 positions under civil service which shall occur before the  
4 beginning of the next examination for such the positions shall  
5 be filled from said the lists, or from the preferred list  
6 existing as provided for in case of diminution of employees,  
7 within-thirty-days. If a tie occurs in the examination scores  
8 which would qualify persons for the tenth position on the  
9 list, the list of the names of the persons who qualify with  
10 the highest standing as a result of each examination shall  
11 include all persons who qualify for the tenth position.  
12 Preference for temporary service in civil service positions  
13 shall be given those on such the lists.

14 In cities of fifty thousand or more population, the  
15 commission shall hold in reserve a second list of the ten  
16 persons next highest in standing, in order of their grade, or  
17 such the number as-may that qualify and, thereafter, if the  
18 list of ten persons provided in the first paragraph hereof be  
19 is exhausted within-one-year, may certify such a second list  
20 of persons to the council as eligible for appointment to fill  
21 such vacancies as-may that exist.

22 Sec. 8. Section 400.19, Code 1985, is amended by striking  
23 the section and inserting in lieu thereof the following:

24 400.19 REMOVAL OR DISCHARGE OF SUBORDINATES.

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

31 Sec. 9. Section 400.20, Code 1985, is amended by striking  
32 the section and inserting in lieu thereof the following:

33 400.20 APPEAL.

34 The suspension, demotion, or discharge of a person holding  
35 civil service rights may be appealed to the civil service

1 commission within fourteen calendar days after the suspension,  
2 demotion, or discharge.

3 Sec. 10. Section 400.22, Code 1985, is amended to read as  
4 follows:

5 400.22 CHARGES.

6 Within ~~five~~ fourteen days from the service of such the  
7 notice of appeal, the person or body making the ruling  
8 appealed from shall file with the body to which the appeal is  
9 taken a written specification of the charges and grounds upon  
10 which the ruling was based. If such the charges are not so  
11 filed, the person suspended or discharged may present the  
12 matter to the body to whom the appeal is to be taken by  
13 affidavit, setting forth the facts, and such the body to whom  
14 the appeal is to be taken shall forthwith immediately enter an  
15 order reinstating the person suspended or discharged for want  
16 of prosecution.

17 Sec. 11. Section 400.27, unnumbered paragraphs 1 and 2,  
18 Code 1985, is amended to read as follows:

19 The civil service commission ~~shall have~~ has jurisdiction to  
20 hear and determine ~~all~~ matters involving the rights of civil  
21 service employees under this chapter, and may affirm, modify,  
22 or reverse any case on its merits.

23 The city attorney or solicitor shall be the attorney for  
24 the commission or when requested by the commission shall  
25 present any matters concerning civil service employees to the  
26 commission, except the commission ~~in cities of over one~~  
27 ~~hundred-thousand-population~~ may hire a counselor or an  
28 attorney on a per diem basis to represent ~~them other than the~~  
29 ~~city attorney or solicitor~~ it when in the opinion of the  
30 commission there is a conflict of interest between the  
31 commission and the city council. The counselor or attorney  
32 hired by the commission shall not be the city attorney or  
33 solicitor. The city shall pay the costs incurred by the  
34 commission in employing an attorney under this section.

35 Sec. 12. Section 400.28, unnumbered paragraph 1, Code

1 1985, is amended to read as follows:

2 ~~Whenever~~ When the public interests ~~may require~~ interest  
3 requires a diminution of employees in any a classification or  
4 grade under civil service, the city council, ~~by resolution and~~  
5 acting in good faith, ~~and after notifying the commission of~~  
6 ~~such action~~, may either:

7 Sec. 13. Section 400.28, unnumbered paragraph 3, Code  
8 1985, is amended to read as follows:

9 In case of ~~such~~ removal or suspension, the civil service  
10 commission shall issue to each person ~~so~~ affected a  
11 certificate showing the person's comparative seniority or  
12 length of service in ~~each~~ the classification or grade from  
13 which the person is ~~so~~ removed and the fact that the person  
14 has been honorably ~~so~~ removed, and the person's name shall be  
15 carried for a period of not less than three years after such  
16 the suspension or removal, on a preferred list and ~~all~~  
17 appointments or promotions made during ~~said~~ that period to the  
18 person's former duties in ~~such~~ the classification or grade  
19 shall be made in the order of greater seniority from ~~such~~ the  
20 preferred lists.

21 EXPLANATION

22 This bill makes the following changes in the city civil  
23 service chapter:

24 1. Removes the requirement that members of city civil  
25 service commissions must have been residents of the city for  
26 five years.

27 2. Provides that the civil service commission will elect  
28 its own chairperson and the city manager or chief adminis-  
29 trator of the city will designate an employee to serve as the  
30 clerk of the commission.

31 3. Clarifies and expands the positions exempted from city  
32 civil service. Department heads, assistant department heads,  
33 division directors, and the principal secretaries of the  
34 mayor, city manager, or city administrator, and department  
35 heads are excluded, along with the city officers and certain

1 employees.

2 4. Allows cities to grant civil service status to em-  
3 ployees occupying noncivil service positions if and when the  
4 positions become covered under civil service. It also allows  
5 current employees to retain their jobs when their position is  
6 reclassified by the city.

7 5. Increases the probationary period from six to 12 months  
8 for general employees to match the 12-month probationary  
9 period for police patrol officers and fire fighters.

10 6. Removes the requirement that cities must offer a promo-  
11 tional examination twice for a vacancy in civil service  
12 promotional grades before offering it as an entrance examina-  
13 tion.

14 7. Removes the requirement that a civil service commission  
15 certify a list within 90 days of the commencement of a testing  
16 process and that cities must make an appointment to fill  
17 vacancies from the list within 30 days. It also removes a  
18 one-year limitation on access to the use of a second list.

19 8. Deletes the section on removal or discharge of sub-  
20 ordinates and provides that the person having the appointing  
21 power, or chief of police or chief of the fire department, may  
22 suspend, demote, or discharge a subordinate.

23 9. Reduces from 20 calendar days to 14 calendar days the  
24 time in which an employee may appeal disciplinary action and  
25 strikes a provision that if a suspension, demotion, or  
26 discharge is not affirmed by the city manager or mayor within  
27 five days, the person who suspended, demoted, or discharged  
28 the employee may appeal.

29 10. Increases from five days to 14 days the period of time  
30 a city has to respond to an appeal by an employee.

31 11. Allows cities of any size, not just those of over  
32 100,000 population, to hire outside legal council. It also  
33 provides that the city will pay the costs incurred by the  
34 commission in hiring the outside legal counsel.

35 12. Eliminates the requirement that city councils notify

1 their commissions when civil service positions are eliminated.  
2 It also clarifies current language to allow an employee only  
3 one certificate of preference.

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HOUSE FILE 2403

AN ACT

RELATING TO THE OPERATION OF CITY CIVIL SERVICE COMMISSIONS.

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

Section 1. Section 400.2, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The commissioners must be citizens of Iowa, eligible electors as defined in chapter 39, and residents of the city for more than five years next preceding their appointment, and shall serve without compensation. No A person, while on said the commission, shall not hold or be a candidate for any office of public trust. ~~Provided, this section notwithstanding~~ However, when a human rights commission has been established by any a city, the director thereof of the commission shall ex officio be a member, without vote, of the civil service commission.

Sec. 2. Section 400.4, unnumbered paragraph 1, Code 1985, is amended to read as follows:

~~The chairperson of the commission for each biennial period shall be the member whose term first expires shall elect a chairperson from among its members.~~ In cities having a population of more than seventy-five thousand the commission shall appoint an employee in the city clerk's office who is employed under the provisions of this chapter to be clerk of the commission and the duties as such clerk shall have precedence over any additional duties of the employee's regular employment. In all other cities the city clerk shall be clerk of the commission.

Sec. 3. Section 400.6, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

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, city engineer, 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.

Sec. 4. Section 400.7, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

400.7 PREFERENCE BY SERVICE.

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:

1. The employee meets the minimum qualifications established for the position and has completed the required probationary period for the position.

2. 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.

3. An employee who has not completed the required probationary period but who otherwise meets the requirements of subsection 1 or 2 shall receive full civil service rights in the position upon the completion of the probationary period.

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

Sec. 5. Section 400.9, subsection 3, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

3. Vacancies in civil service promotional grades shall be filled by promotion of employees of the city to the extent that the city employees qualify for the positions. When promoted, an employee shall hold full civil service rights in the position. If an employee of the city does not pass one of two successive promotional examinations 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.

Sec. 6. Section 400.19, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

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.

Sec. 7. Section 400.20, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

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.

Sec. 8. Section 400.22, Code 1985, is amended to read as follows:

400.22 CHARGES.

Within five fourteen calendar days from the service of such 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 such the charges are not so 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 such the body to whom the appeal is to be taken shall forthwith immediately enter an order reinstating the person suspended or discharged for want of prosecution.

Sec. 9. Section 400.27, unnumbered paragraphs 1 and 2, Code 1985, are amended to read as follows:

The civil service commission ~~shall have~~ has jurisdiction to hear and determine ~~all~~ 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 ~~any~~ matters concerning civil service employees to the commission, except the commission ~~in cities of over one hundred thousand population~~ may hire a counselor or an attorney on a per diem basis to represent ~~them other than the city attorney or solicitor~~ 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.

Sec. 10. Section 400.28, unnumbered paragraph 1, Code 1985, is amended to read as follows:

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

Sec. 11. Section 400.28, unnumbered paragraph 3, Code 1985, is amended to read as follows:

In case of ~~such~~ removal or suspension, the civil service commission shall issue to each person so affected a one certificate showing the person's comparative seniority or length of service in each ~~classification or grade of the~~ classifications or grades from which the person is so removed and the fact that the person has been honorably so removed, ~~and the~~. 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 ~~such~~ the suspension or removal, on a

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

\_\_\_\_\_  
DONALD D. AVENSON  
Speaker of the House

\_\_\_\_\_  
ROBERT T. ANDERSON  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2403, Seventy-first General Assembly.

\_\_\_\_\_  
JOSEPH O'HERN  
Chief Clerk of the House

Approved April 28, 1986

\_\_\_\_\_  
TERRY E. BRANSTAD  
Governor