

Sen & State Govt. 4/4/91 B. Ross 4/10/91

SENATE FILE 326

SENATE FILE 326
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO SSB 276)

Passed Senate, Date 4/3/91 (p.1021) Passed House, Date 4/15/91 (p.1021)
Vote: Ayes 47 Nays 1 Vote: Ayes 73 Nays 5
Approved April 24, 1991 (p.1461)

A BILL FOR

1 An Act exempting members, employees, and the secretary of the
2 board of trustees for the statewide fire and police retirement
3 system from certain liabilities, providing per diem
4 compensation for board members, appropriating funds to the
5 board, changing the date for completion of an actuarial study,
6 providing that certain cities that did not participate in a
7 chapter 411 retirement system as of May 3, 1990, are not
8 required to participate in the statewide system, and providing
9 retroactive applicability and effective date provisions.

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

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5F 326

1 Section 1. Section 411.7, Code 1991, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 5. Except as otherwise provided in
4 section 411.36, a member, employee, and the secretary of the
5 board of trustees shall not be personally liable for a loss to
6 the fire and police retirement fund, the loss shall be
7 assessed against the fire and police retirement fund, and
8 moneys are hereby appropriated from the fund in an amount
9 sufficient to cover the losses.

3296 10 Sec. 2. Section 411.36, Code 1991, is amended by adding
11 the following new subsections:

12 NEW SUBSECTION. 5. Members of the board shall be paid
13 their actual and necessary expenses incurred in the
14 performance of their duties and shall receive a per diem as
15 specified in section 7E.6 for each day of service. Per diem
16 and expenses shall be paid to voting members from the fire and
17 police retirement fund created in section 411.8. Per diem and
18 expenses of the legislative members shall be paid from the
19 funds appropriated under section 2.12. However, legislative
20 members shall not be paid pursuant to this section when the
21 general assembly is actually in session at the seat of
22 government.

23 NEW SUBSECTION. 6. A member, employee, and the secretary
24 of the board of trustees are not personally liable for claims
25 based upon an act or omission of the person performed in the
26 discharge of the person's duties, except for acts or omissions
27 which involve intentional misconduct, or for a transaction
28 from which the person derives an improper personal benefit,
29 even if the acts or omissions violate the standards
30 established in section 411.7, subsection 2.

3293 31 Sec. 3. Section 411.37, subsection 3, Code 1991, is
32 amended to read as follows:

33 3. For each of the fiscal year years beginning July 1,
34 1990, and July 1, 1991, ten percent of the amount appropriated
35 for distribution to cities as provided in section 411.20 shall

1 be made available to the board of trustees for the statewide
2 system to cover the administrative costs of the transition.
3 The amount distributed to each city shall be reduced
4 accordingly. The moneys remaining unencumbered or unexpended
5 at the end of the fiscal year beginning July 1, 1990, and the
6 moneys remaining unencumbered or unexpended on January 1,
7 1992, shall be credited to the cities in the same proportion
8 as the reduction.

9 Sec. 4. 1990 Iowa Acts, chapter 1240, section 85,
10 subsection 1, is amended to read as follows:

11 1. Effective January 1, 1992, a single statewide fire and
12 police retirement system is established to replace the
13 individual city fire retirement systems and police retirement
14 systems operating under this chapter prior to that date. Each
15 city fire and retirement system and police retirement system
16 operating under this chapter prior to ~~January-17-1992~~ May 3,
17 1990, shall participate in the statewide system.

18 Sec. 5. 1990 Iowa Acts, chapter 1240, section 89,
19 subsection 5, is amended to read as follows:

20 5. The initial board members are entitled to expenses
21 incurred in the performance of their duties during the
22 transition period, and commencing on the effective date of
23 this section a per diem as specified in section 7E.6 for each
24 day of service. Per diem and expenses shall be paid to voting
25 members from the funds provided in section 411.37, subsection
26 3. Per diem and expenses of the legislative members shall be
27 paid from the funds appropriated under section 2.12. However,
28 legislative members shall not be paid pursuant to this section
29 when the general assembly is actually in session at the seat
30 of government.

31 Sec. 6. 1990 Iowa Acts, chapter 1240, section 89, is
32 amended by adding the following new subsection:

33 NEW SUBSECTION. 7. A member, employee, and the secretary
34 of the board of trustees are not personally liable for claims
35 based upon an act or omission of the person performed in the

1 discharge of the person's duties, except for acts or omissions
2 which involve intentional misconduct, or for a transaction
3 from which the person derives an improper personal benefit.

4 Sec. 7. 1990 Iowa Acts, chapter 1240, section 91,
5 unnumbered paragraph 7, is amended to read as follows:

6 The study shall be completed and a report submitted to the
7 general assembly not later than December 1, ~~1990~~ 1991.

8 Sec. 8. 1. A city whose population was under eight
9 thousand prior to the results of the federal census conducted
10 in 1990 is not required to come under the statewide fire and
11 police retirement system established by 1990 Iowa Acts,
12 chapter 1240 upon attaining a population of eight thousand or
13 more.

14 2. A city which did not have a paid fire department on May
15 3, 1990, is not required to come under the statewide fire and
16 police retirement system established by 1990 Iowa Acts,
17 chapter 1240, upon establishing a paid fire department.

18 3. A city which did not have a paid police department on
19 May 3, 1990, is not required to come under the statewide fire
20 and police retirement system established by 1990 Iowa Acts,
21 chapter 1240, upon establishing a paid police department.

22 4. If a city's firefighters or police officers, or both,
23 are appointed under the civil service law of this state, but
24 the city was not operating a city fire or police retirement
25 system, or both, under this chapter on May 3, 1990, the city
26 is not required to come under the statewide fire and police
27 retirement system established by 1990 Iowa Acts, chapter 1240.

28 Sec. 9. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
29 PROVISIONS.

30 1. Sections 1 and 2 of this Act take effect on January 1,
31 1992.

32 2. Sections 3, 5, and 7 of this Act, being deemed of
33 immediate importance, take effect upon enactment, and section
34 7 of this Act applies retroactively to November 30, 1990.

35 3. Sections 4, 6, and 8 of this Act are retroactive to May

1 3, 1990, and are applicable on and after that date.

2 EXPLANATION

3 The bill provides that members, employees, and the
 4 secretary of the board of trustees for the statewide fire and
 5 police retirement system are not personally liable for a loss
 6 to the retirement fund, and that losses shall be assessed
 7 against and are appropriated from the retirement fund. The
 8 bill further provides that members of the permanent board
 9 shall receive per diem compensation from the fund, except that
 10 legislative members are paid from moneys appropriated under
 11 section 2.12. In addition, the bill exempts members,
 12 employees, and the secretary of the permanent board from
 13 liability for acts or omissions in discharging their duties,
 14 as long as those acts and duties do not involve intentional
 15 misconduct. These persons are exempt from liability even if
 16 they fail to follow the investment standards established in
 17 section 411.7. These provisions of the bill take effect
 18 January 1, 1992, the date the statewide system is to be
 19 established.

20 The bill also provides that the initial board of trustees
 21 may receive ten percent of the amount appropriated to cities
 22 in section 411.20 for the 1992 fiscal year, and that any
 23 moneys remaining unencumbered or unexpended on January 1,
 24 1992, shall be credited to the cities. The bill establishes
 25 that this provision is effective upon enactment. The bill
 26 further provides that the initial board members may receive
 27 per diem compensation from the ten percent allocations for
 28 fiscal years 1991 and 1992, but that legislative members shall
 29 receive per diem from funds appropriated under section 2.12.
 30 This provision is also effective upon enactment.

31 The bill also exempts the initial board members for
 32 liability for acts or omissions in the same manner as members
 33 of the permanent board, except that this provision applies
 34 retroactively to May 3, 1990.

35 This bill changes the date for completion of an actuarial

1 study with respect to the retirement systems for public safety
2 peace officers, police officers, and firefighters covered
3 under chapters 97A and 411. The bill changes the date for
4 completion of the study from December 1, 1990, to December 1,
5 1991. The provision applies retroactively to November 30,
6 1990, and becomes effective immediately upon enactment.

7 The bill also provides that certain cities that did not
8 have chapter 411 retirement systems as of May 3, 1990, are not
9 required to participate in the statewide system. The
10 legislation establishing the statewide system, 1990 Acts,
11 chapter 1240, contained a section codifying such language, but
12 not until January 1, 1992. The bill provides that these
13 cities are not required to participate, and provision is
14 retroactively applicable to May 3, 1990.

15 The bill may include a state mandate as defined in section
16 25B.3.

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SENATE FILE 326

S-3226

1 Amend Senate File 326 as follows:

2 1. Page 1, by inserting after line 30, the
3 following:

4 "Sec. ____ . Section 411.37, subsection 1, Code
5 1991, is amended to read as follows:

6 1. The board of trustees for the statewide system
7 is responsible for effecting the transition from the
8 city fire and police retirement systems to the
9 statewide fire and police retirement system. The
10 board shall adopt a transition plan and other
11 appropriate transition documents it deems necessary to
12 accomplish the transition in accordance with the
13 requirements of this chapter. The board shall make
14 recommendations concerning the allocation of payments,
15 transfers, and contributions by participating cities
16 under section 411.38, and shall include these
17 recommendations in a report to be submitted to the
18 general assembly by November 30, 1991. The
19 recommendations and report shall include actuarial and
20 board recommendations as required under section
21 411.38. The city fire and police retirement systems
22 shall comply with orders of the board issued pursuant
23 to the transition plan or other transition documents."

24 2. Page 2, line 6, by striking the word "January"
25 and inserting the following: "July".

26 3. Page 2, by inserting after line 8, the
27 following:

28 "Sec. ____ . Section 411.38, Code 1991, is amended
29 to read as follows:

30 411.38 OBLIGATIONS OF PARTICIPATING CITIES.

31 Upon the establishment of the statewide system,
32 each city participating in the statewide fire and
33 police retirement system shall do all of the
34 following:

35 1. Pay to the statewide system the normal
36 contribution rate provided pursuant to section 411.8.

37 2. Transfer from each terminated city fire or
38 police retirement system to the statewide system
39 amounts sufficient to cover the accrued liabilities of
40 that terminated system as determined recommended by
41 the actuary of the statewide system, and approved by
42 the general assembly.

43 3. Contribute additional amounts necessary to
44 ensure sufficient financial support for the statewide
45 fire and police retirement system, as determined
46 recommended by the board of trustees based on
47 information provided by the actuary of the statewide
48 system, and approved by the general assembly.

49 It is the intent of the general assembly that a
50 terminated city fire or police retirement system shall

S-3226

Page 2

A 1 not subsidize any portion of any other system's
 2 unfunded liabilities in connection with the transition
 3 to the statewide system. A participating city shall
 4 not be required to meet the obligations imposed by
 5 this section without express authorization by the
 6 seventy-fourth general assembly during its second
 7 regular session."

13 8 4. Page 2, line 10, by striking the word and
 9 figure "subsection 1,".

10 5. Page 2, line 11, by striking the word
 11 "January" and inserting the following: "January
 12 July".

13 6. Page 2, by inserting after line 17, the
 14 following:

15 "2. Effective January July 1, 1992, each city fire
 16 retirement system and police retirement system
 17 operating under this chapter prior to that date is
 18 terminated, and all membership, benefit rights, and
 19 financial obligations under the terminating systems
 20 shall be assumed by the statewide fire and police
 21 retirement system."

22 7. Page 3, by inserting after line 7, the
 23 following:

24 "Sec. 100. 1990 Iowa Acts, chapter 1240, section
 25 94, subsection 3, is amended to read as follows:

26 3. Sections 1, 48 through 53, 56, 57, 59, 60, 63, 64,
 27 68 through 72, 74, 76 through 82, and 90 of this Act
 28 take effect January July 1, 1992."

29 8. Page 3, line 35, by striking the word and
 30 figure "and 8" and inserting the following: "8, and
 31 100".

A 32 9. Title page, line 4, by inserting before the
 33 word "appropriating" the following: "requiring
 34 legislative approval before participating cities are
 35 obligated to transfer funds to the statewide system,".

B 36 10. Title page, line 5, by inserting after the
 37 word "board," the following: "delaying implementation
 38 of the statewide system,".

39 11. By renumbering and correcting internal
 40 references as necessary.

By MICHAEL E. GRONSTAL
 PATRICK DELUHERY

S-3226 FILED MARCH 28, 1991

A. w/o B. - *Law* 4/3/91 (p 1021)

SENATE FILE 326

S-3293

1 Amend Senate File 326 as follows:

2 1. Page 1, by inserting after line 30, the
3 following:

4 "NEW SUBSECTION. _____. The board of trustees is
5 subject to the authority of the auditor of state to
6 perform audits pursuant to chapter 11."

7 2. Page 2, by inserting after line 8, the
8 following:

9 "Sec. 100. Section 411.5, Code 1989, as amended by
10 1990 Iowa Acts, chapter 1240, section 52, is amended
11 by adding the following new subsection:

12 NEW SUBSECTION. 12. The board of trustees shall
13 submit the report required in subsection 6 annually to
14 the commissioner of insurance. The commissioner of
15 insurance shall review the adequacy of the
16 contributions of participating cities to the fire and
17 police retirement fund and shall notify the board of
18 trustees of the results of the review."

19 3. Page 2, line 32, by striking the word
20 "subsection" and inserting the following:
21 "subsections".

22 4. Page 3, by inserting after line 3, the
23 following:

24 "NEW SUBSECTION. 8. The initial board of trustees
25 is subject to the authority of the auditor of state to
26 perform audits pursuant to chapter 11."

27 5. Page 4, by inserting after line 1 the
8 following:

9 "Sec. _____. Section 100 of this Act takes effect on
30 the effective date of 1990 Iowa Acts, chapter 1240,
31 section 52."

32 6. Title page, line 3, by inserting after the
33 word "liabilities," the following: "requiring a
34 report by the board of trustees to the commissioner of
35 insurance,".

36 7. Title page, line 5, by inserting after the
37 word "board," the following: "clarifying the
38 authority of the auditor of state to examine the
39 transactions of the board of trustees,".

40 8. By renumbering and correcting internal
41 references as necessary.

By PAT DELUHERY

S-3293 FILED APRIL 3, 1991

LOST (p. 1021)

**SENATE FILE 326
FISCAL NOTE**

A fiscal note for Senate File 326 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 326 exempts members, employees, and the Secretary of the Board of Trustees for the Statewide Fire and Police Retirement System from liabilities for loss to the fund and for claims against the fund, except in cases of intentional misconduct.

The bill provides for payment of a per diem and expenses for Board members in performing their duties.

When the statewide system was established, the bill permitted 10% of the General Fund monies appropriated to the cities to be retained by the Board of Trustees during FY 1991 to pay for administrative costs. This bill extends this provision and allows the Board to retain 10% of the appropriation in FY 1992.

The bill specifies exemptions to the requirement that cities participate in the statewide retirement system.

Assumptions:

1. The 13 Board members will receive per diem payments of \$50.
2. There will be 3 meetings in FY 1991 and 14 meetings in FY 1992.
3. There will be no material change in the General Fund standing unlimited appropriation to the cities.

Fiscal Impact:

The per diem costs will be \$1,950 for FY 1991 and \$9,100 for FY 1992. No estimate of expenses is available.

In FY 1992, the Board will retain approximately \$330,000 for administrative costs which otherwise would have gone to the cities to pay part of their contributions.

Sources: Statewide Fire and Police Retirement System
Legislative Fiscal Bureau

(LSB 2243sv, MDF)

FILED MARCH 20, 1991

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 326

S-3296

1 Amend Senate File 326 as follows:

2 1. Page 1, by inserting after line 9, the
3 following:

4 "Sec. ____ . Section 411.36, subsections 1 and 2,
5 Code 1991, are amended to read as follows:

6 1. A board of trustees for the statewide fire and
7 police retirement system is created. The board shall
8 consist of ~~thirteen~~ fifteen members, including ~~nine~~
9 ~~eleven~~ voting members and four nonvoting members. The
10 governor shall appoint the voting members except those
11 members specified in paragraph "e" and "f", subject to
12 confirmation by the senate as provided in section
13 2.32. The voting members shall be appointed as
14 follows:

15 a. Two fire fighters from different participating
16 cities, one of whom is an active member of the
17 retirement system and one of whom is a retired member.
18 ~~The fire fighters shall be appointed, from a list of~~
19 at least two nominees provided by the governing body
20 of the Iowa association of professional fire fighters.

21 b. Two police officers from different
22 participating cities, one of whom is an active member
23 of the retirement system and one of whom is a retired
24 member. ~~--The police officers shall be appointed, from~~
25 a list of at least two nominees provided by the
26 governing body of the Iowa state police association.

27 c. The city treasurers of four participating
28 cities, one of whom is from a city having a population
29 of less than forty thousand, and three of whom are
30 from cities having a population of forty thousand or
31 more. ~~--The city treasurers shall be appointed from a~~
32 list of nominees provided by the governing body of the
33 league of Iowa municipalities.

34 d. One citizen who does not hold another public
35 office. ~~The citizen shall be appointed by the other~~
36 members of the board.

37 e. The treasurer of state or the treasurer's
38 designee. Notwithstanding any other provision of law
39 this member's term shall commence on the effective
40 date of the establishment of the statewide system, and
41 shall continue until a new treasurer takes office, at
42 which time the new treasurer or the treasurer's
43 designee shall serve on the board of trustees.

44 f. The administrator of the Iowa public employees'
45 retirement system division of the department of
46 personnel, or the administrator's designee.
47 Notwithstanding any other provision of law, this
48 member's term shall commence on the effective date of
49 the establishment of the statewide fire and police
50 retirement system, and shall continue until a new

1 administrator is appointed by the director of the
2 department of personnel, at which time the new
3 administrator or the administrator's designee shall
4 serve on the board of trustees.

5 The nonvoting members of the board shall be two
6 state representatives, one appointed by the speaker of
7 the house of representatives and one by the minority
8 leader of the house, and two state senators, one
9 appointed by the majority leader of the senate and one
10 by the minority leader of the senate.

11 2. Except as otherwise provided for the initial
12 appointments, the voting members shall be appointed
13 for four-year terms as provided in section 69.19, and
14 the nonvoting members shall be appointed for two-year
15 terms. Terms begin on May 1 in the year of
16 appointment and expire on April 30 in the year of
17 expiration. Appointments shall be subject to the
18 requirements of chapter 69, including, but not limited
19 to, the requirements of sections 69.16 and 69.16A."

20 2. Title page, line 3, by inserting after the
21 word "liabilities," the following: "changing
22 appointment provisions and adding members to the
23 board,".

24 3. By renumbering as necessary.

By PATRICK DELJHERY

Nystrom, Ch.
BUHR
KIBBIE

SSB 276
STATE GOVERNMENT

SENATE FILE 326
BY (PROPOSED COMMITTEE ON STATE
GOVERNMENT BILL BY
CHAIRPERSON KIBBIE)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act exempting members, employees, and the secretary of the
2 board of trustees for the statewide fire and police retirement
3 system from certain liabilities, providing per diem
4 compensation for board members, appropriating funds to the
5 board, changing the date for completion of an actuarial study,
6 providing that certain cities that did not participate in a
7 chapter 411 retirement system as of May 3, 1990, are not
8 required to participate in the statewide system, and providing
9 retroactive applicability and effective date provisions.

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

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1 Section 1. Section 411.7, Code 1991, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 5. Except as otherwise provided in
4 section 411.36, a member, employee, and the secretary of the
5 board of trustees shall not be personally liable for a loss to
6 the fire and police retirement fund, the loss shall be
7 assessed against the fire and police retirement fund, and
8 moneys are hereby appropriated from the fund in an amount
9 sufficient to cover the losses.

10 Sec. 2. Section 411.36, Code 1991, is amended by adding
11 the following new subsections:

12 NEW SUBSECTION. 5. Members of the board shall be paid
13 their actual and necessary expenses incurred in the
14 performance of their duties and shall receive a per diem as
15 specified in section 7E.6' for each day of service. Per diem
16 and expenses shall be paid to voting members from the fire and
17 police retirement fund created in section 411.8. Per diem and
18 expenses of the legislative members shall be paid from the
19 funds appropriated under section 2.12. However, legislative
20 members shall not be paid pursuant to this section when the
21 general assembly is actually in session at the seat of
22 government.

23 NEW SUBSECTION. 6. A member, employee, and the secretary
24 of the board of trustees are not personally liable for claims
25 based upon an act or omission of the person performed in the
26 discharge of the person's duties, except for acts or omissions
27 which involve intentional misconduct, or for a transaction
28 from which the person derives an improper personal benefit,
29 even if the acts or omissions violate the standards
30 established in section 411.7, subsection 2.

31 Sec. 3. Section 411.37, subsection 3, Code 1991, is
32 amended to read as follows:

33 3. For each of the fiscal year years beginning July 1,
34 1990, and July 1, 1991, ten percent of the amount appropriated
35 for distribution to cities as provided in section 411.20 shall

1 be made available to the board of trustees for the statewide
2 system to cover the administrative costs of the transition.
3 The amount distributed to each city shall be reduced
4 accordingly. The moneys remaining unencumbered or unexpended
5 at the end of the fiscal year beginning July 1, 1990, and the
6 moneys remaining unencumbered or unexpended on January 1,
7 1992, shall be credited to the cities in the same proportion
8 as the reduction.

9 Sec. 4. 1990 Iowa Acts, chapter 1240, section 85,
10 subsection 1, is amended to read as follows:

11 1. Effective January 1, 1992, a single statewide fire and
12 police retirement system is established to replace the
13 individual city fire retirement systems and police retirement
14 systems operating under this chapter prior to that date. Each
15 city fire and retirement system and police retirement system
16 operating under this chapter prior to ~~January 1, 1992~~ May 3,
17 1990, shall participate in the statewide system.

18 Sec. 5. 1990 Iowa Acts, chapter 1240, section 89,
19 subsection 5, is amended to read as follows:

20 5. The initial board members are entitled to expenses
21 incurred in the performance of their duties during the
22 transition period, and commencing on the effective date of
23 this section a per diem as specified in section 7E.6 for each
24 day of service. Per diem and expenses shall be paid to voting
25 members from the funds provided in section 411.37, subsection
26 3. Per diem and expenses of the legislative members shall be
27 paid from the funds appropriated under section 2.12. However,
28 legislative members shall not be paid pursuant to this section
29 when the general assembly is actually in session at the seat
30 of government.

31 Sec. 6. 1990 Iowa Acts, chapter 1240, section 89, is
32 amended by adding the following new subsection:

33 NEW SUBSECTION. 7. A member, employee, and the secretary
34 of the board of trustees are not personally liable for claims
35 based upon an act or omission of the person performed in the

1 discharge of the person's duties, except for acts or omissions
2 which involve intentional misconduct, or for a transaction
3 from which the person derives an improper personal benefit.

4 Sec. 7. 1990 Iowa Acts, chapter 1240, section 91,
5 unnumbered paragraph 7, is amended to read as follows:

6 The study shall be completed and a report submitted to the
7 general assembly not later than December 1, ~~1990~~ 1991.

8 Sec. 8. 1. A city whose population was under eight
9 thousand prior to the results of the federal census conducted
10 in 1990 is not required to come under the statewide fire and
11 police retirement system established by 1990 Iowa Acts,
12 chapter 1240 upon attaining a population of eight thousand or
13 more.

14 2. A city which did not have a paid fire department on May
15 3, 1990, is not required to come under the statewide fire and
16 police retirement system established by 1990 Iowa Acts,
17 chapter 1240, upon establishing a paid fire department.

18 3. A city which did not have a paid police department on
19 May 3, 1990, is not required to come under the statewide fire
20 and police retirement system established by 1990 Iowa Acts,
21 chapter 1240, upon establishing a paid police department.

22 4. If a city's firefighters or police officers, or both,
23 are appointed under the civil service law of this state, but
24 the city was not operating a city fire or police retirement
25 system, or both, under this chapter on May 3, 1990, the city
26 is not required to come under the statewide fire and police
27 retirement system established by 1990 Iowa Acts, chapter 1240.

28 Sec. 9. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY
29 PROVISIONS.

30 1. Sections 1 and 2 of this Act take effect on January 1,
31 1992.

32 2. Sections 3, 5, and 7 of this Act, being deemed of
33 immediate importance, take effect upon enactment, and section
34 7 of this Act applies retroactively to November 30, 1990.

35 3. Sections 4, 6, and 8 of this Act are retroactive to May

1 3, 1990, and are applicable on and after that date.

2

EXPLANATION

3 The bill provides that members, employees, and the
4 secretary of the board of trustees for the statewide fire and
5 police retirement system are not personally liable for a loss
6 to the retirement fund, and that losses shall be assessed
7 against and are appropriated from the retirement fund. The
8 bill further provides that members of the permanent board
9 shall receive per diem compensation from the fund, except that
10 legislative members are paid from moneys appropriated under
11 section 2.12. In addition, the bill exempts members,
12 employees, and the secretary of the permanent board from
13 liability for acts or omissions in discharging their duties,
14 as long as those acts and duties do not involve intentional
15 misconduct. These persons are exempt from liability even if
16 they fail to follow the investment standards established in
17 section 411.7. These provisions of the bill take effect
18 January 1, 1992, the date the statewide system is to be
19 established.

20 The bill also provides that the initial board of trustees
21 may receive ten percent of the amount appropriated to cities
22 in section 411.20 for the 1992 fiscal year, and that any
23 moneys remaining unencumbered or unexpended on January 1,
24 1992, shall be credited to the cities. The bill establishes
25 that this provision is effective upon enactment. The bill
26 further provides that the initial board members may receive
27 per diem compensation from the ten percent allocations for
28 fiscal years 1991 and 1992, but that legislative members shall
29 receive per diem from funds appropriated under section 2.12.
30 This provision is also effective upon enactment.

31 The bill also exempts the initial board members for
32 liability for acts or omissions in the same manner as members
33 of the permanent board, except that this provision applies
34 retroactively to May 3, 1990.

35 This bill changes the date for completion of an actuarial

1 study with respect to the retirement systems for public safety
2 peace officers, police officers, and firefighters covered
3 under chapters 97A and 411. The bill changes the date for
4 completion of the study from December 1, 1990, to December 1,
5 1991. The provision applies retroactively to November 30,
6 1990, and becomes effective immediately upon enactment.

7 The bill also provides that certain cities that did not
8 have chapter 411 retirement systems as of May 3, 1990, are not
9 required to participate in the statewide system. The
10 legislation establishing the statewide system, 1990 Acts,
11 chapter 1240, contained a section codifying such language, but
12 not until January 1, 1992. The bill provides that these
13 cities are not required to participate, and provision is
14 retroactively applicable to May 3, 1990.

15 The bill may include a state mandate as defined in section
16 25B.3.

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SENATE FILE 326

AN ACT

EXEMPTING MEMBERS, EMPLOYEES, AND THE SECRETARY OF THE BOARD OF TRUSTEES FOR THE STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM FROM CERTAIN LIABILITIES, PROVIDING PER DIEM COMPENSATION FOR BOARD MEMBERS, APPROPRIATING FUNDS TO THE BOARD, CHANGING THE DATE FOR COMPLETION OF AN ACTUARIAL STUDY, PROVIDING THAT CERTAIN CITIES THAT DID NOT PARTICIPATE IN A CHAPTER 411 RETIREMENT SYSTEM AS OF MAY 3, 1990, ARE NOT REQUIRED TO PARTICIPATE IN THE STATEWIDE SYSTEM, AND PROVIDING RETROACTIVE APPLICABILITY AND EFFECTIVE DATE PROVISIONS.

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

Section 1. Section 411.7, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Except as otherwise provided in section 411.36, a member, employee, and the secretary of the board of trustees shall not be personally liable for a loss to the fire and police retirement fund, the loss shall be assessed against the fire and police retirement fund, and moneys are hereby appropriated from the fund in an amount sufficient to cover the losses.

Sec. 2. Section 411.36, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 5. Members of the board shall be paid their actual and necessary expenses incurred in the performance of their duties and shall receive a per diem as specified in section 7E.6 for each day of service. Per diem and expenses shall be paid to voting members from the fire and police retirement fund created in section 411.8. Per diem and expenses of the legislative members shall be paid from the funds appropriated under section 2.12. However, legislative members shall not be paid pursuant to this section when the general assembly is actually in session at the seat of government.

NEW SUBSECTION. 6. A member, employee, and the secretary of the board of trustees are not personally liable for claims based upon an act or omission of the person performed in the discharge of the person's duties, except for acts or omissions which involve intentional misconduct, or for a transaction from which the person derives an improper personal benefit, even if the acts or omissions violate the standards established in section 411.7, subsection 2.

Sec. 3. Section 411.37, subsection 3, Code 1991, is amended to read as follows:

3. For each of the fiscal year years beginning July 1, 1990, and July 1, 1991, ten percent of the amount appropriated for distribution to cities as provided in section 411.20 shall be made available to the board of trustees for the statewide system to cover the administrative costs of the transition. The amount distributed to each city shall be reduced accordingly. The moneys remaining unencumbered or unexpended at the end of the fiscal year beginning July 1, 1990, and the moneys remaining unencumbered or unexpended on January 1, 1992, shall be credited to the cities in the same proportion as the reduction.

Sec. 4. 1990 Iowa Acts, chapter 1240, section 85, subsection 1, is amended to read as follows:

1. Effective January 1, 1992, a single statewide fire and police retirement system is established to replace the individual city fire retirement systems and police retirement systems operating under this chapter prior to that date. Each city fire and retirement system and police retirement system operating under this chapter prior to January-17-1992 May 3, 1990, shall participate in the statewide system.

Sec. 5. 1990 Iowa Acts, chapter 1240, section 89, subsection 5, is amended to read as follows:

5. The initial board members are entitled to expenses incurred in the performance of their duties during the transition period, and commencing on the effective date of this section a per diem as specified in section 7E.6 for each day of service. Per diem and expenses shall be paid to voting members from the funds provided in section 411.37, subsection

3. Per diem and expenses of the legislative members shall be paid from the funds appropriated under section 2.12. However, legislative members shall not be paid pursuant to this section when the general assembly is actually in session at the seat of government.

Sec. 6. 1990 Iowa Acts, chapter 1240, section 89, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A member, employee, and the secretary of the board of trustees are not personally liable for claims based upon an act or omission of the person performed in the discharge of the person's duties, except for acts or omissions which involve intentional misconduct, or for a transaction from which the person derives an improper personal benefit.

Sec. 7. 1990 Iowa Acts, chapter 1240, section 91, unnumbered paragraph 7, is amended to read as follows:

The study shall be completed and a report submitted to the general assembly not later than December 1, 1990 1991.

Sec. 8. 1. A city whose population was under eight thousand prior to the results of the federal census conducted in 1990 is not required to come under the statewide fire and police retirement system established by 1990 Iowa Acts, chapter 1240 upon attaining a population of eight thousand or more.

2. A city which did not have a paid fire department on May 3, 1990, is not required to come under the statewide fire and police retirement system established by 1990 Iowa Acts, chapter 1240, upon establishing a paid fire department.

3. A city which did not have a paid police department on May 3, 1990, is not required to come under the statewide fire and police retirement system established by 1990 Iowa Acts, chapter 1240, upon establishing a paid police department.

4. If a city's firefighters or police officers, or both, are appointed under the civil service law of this state, but the city was not operating a city fire or police retirement system, or both, under this chapter on May 3, 1990, the city is not required to come under the statewide fire and police retirement system established by 1990 Iowa Acts, chapter 1240.

Sec. 9. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISIONS.

1. Sections 1 and 2 of this Act take effect on January 1, 1992.
2. Sections 3, 5, and 7 of this Act, being deemed of immediate importance, take effect upon enactment, and section 7 of this Act applies retroactively to November 30, 1990.
3. Sections 4, 6, and 8 of this Act are retroactive to May 3, 1990, and are applicable on and after that date.

JOE J. WELSH
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 326, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 24, 1991

TERRY E. BRANSTAD
Governor