

# House Study Bill 514

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
STATE GOVERNMENT BILL  
BY CHAIRPERSON ELGIN)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the statewide fire and police retirement  
2 system.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 5864HC 81  
5 ec/gg/14

PAG LIN

1 1 Section 1. Section 411.1, subsection 12, Code 2005, is  
1 2 amended to read as follows:  
1 3 12. "Member in good standing" means a member in service  
1 4 who is not subject to removal by the employing city of the  
1 5 member pursuant to section 400.18 or 400.19, or other  
1 6 comparable process, and who is not the subject of an  
1 7 investigation that could lead to such removal. A person who  
1 8 is restored to active service for purposes of applying for a  
1 9 pension under this chapter is not a member in good standing.

1 10 Sec. 2. Section 411.5, subsection 6, Code 2005, is amended  
1 11 by adding the following new paragraph:

1 12 NEW PARAGRAPH. d. Records containing financial or  
1 13 commercial information that relates to the investment of  
1 14 retirement system funds if the disclosure of such information  
1 15 could result in a loss to the retirement system or to the  
1 16 provider of the information are not public records for the  
1 17 purposes of chapter 22.

1 18 Sec. 3. Section 411.5, Code 2005, is amended by adding the  
1 19 following new subsection:

1 20 NEW SUBSECTION. 15. CLOSED SESSIONS. In addition to the  
1 21 reasons provided in section 21.5, subsection 1, the board may  
1 22 hold a closed session pursuant to the requirements of section  
1 23 21.5 of that portion of a board meeting in which financial or  
1 24 commercial information is provided to or discussed by the  
1 25 board if the board determines that disclosure of such  
1 26 information could result in a loss to the retirement system or  
1 27 to the provider of the information.

1 28 Sec. 4. Section 411.6, subsection 5, paragraph a, Code  
1 29 2005, is amended to read as follows:

1 30 a. Upon application to the system, of a member in good  
1 31 standing or of the chief of the police or fire departments,  
1 32 respectively, any member in good standing who has become  
1 33 totally and permanently incapacitated for duty as the natural  
1 34 and proximate result of an injury or disease incurred in or  
1 35 aggravated by the actual performance of duty at some definite  
2 1 time and place, or while acting pursuant to order, outside of  
2 2 the city by which the member is regularly employed, shall be  
2 3 retired by the system if the medical board certifies that the  
2 4 member is mentally or physically incapacitated for further  
2 5 performance of duty, that the incapacity is likely to be  
2 6 permanent, and that the member should be retired. However, if  
2 7 a person's membership in the system first commenced on or  
2 8 after July 1, 1992, the member shall not be eligible for  
2 9 benefits with respect to a disability which would not exist,  
2 10 but for a medical condition that was known to exist on the  
2 11 date that membership commenced. A medical condition shall be  
2 12 deemed to have been known to exist on the date that membership  
2 13 commenced if the medical condition is reflected in any record  
2 14 or document completed or obtained in accordance with the  
2 15 system's medical protocols pursuant to section 400.8, or in  
2 16 any other record or document obtained pursuant to an  
2 17 application for disability benefits from the system, if such  
2 18 record or document existed prior to the date membership

2 19 commenced. A member who is denied a benefit under this  
2 20 subsection, by reason of a finding by the medical board that  
2 21 the member is not mentally or physically incapacitated for the  
2 22 further performance of duty, shall be entitled to be restored  
2 23 to active service in the same position held immediately prior  
2 24 to the application for disability benefits.

2 25 Sec. 5. Section 411.6, subsection 5, paragraph b, Code  
2 26 2005, is amended to read as follows:

2 27 b. If a member in service or the chief of the police or  
2 28 fire departments becomes incapacitated for duty as a natural  
2 29 or proximate result of an injury or disease incurred in or  
2 30 aggravated by the actual performance of duty at some definite  
2 31 time or place or while acting, pursuant to order, outside the  
2 32 city by which the member is regularly employed, the member,  
2 33 upon being found to be temporarily incapacitated following a  
2 34 medical examination as directed by the city, is entitled to  
2 35 receive the member's full pay and allowances from the city's  
3 1 general fund or trust and agency fund until re-examined as  
3 2 directed by the city and found to be fully recovered or until  
3 3 the city determines that the member is likely to be  
3 4 permanently disabled. If the temporary incapacity of a member  
3 5 continues more than sixty days, or if the city expects the  
3 6 incapacity to continue more than sixty days, the city shall  
3 7 notify the system of the temporary incapacity. Upon  
3 8 notification by a city, the system may refer the matter to the  
3 9 medical board for review and consultation with the member's  
3 10 treating physician during the temporary incapacity. Except as  
3 11 provided by this paragraph, the board of trustees of the  
3 12 statewide system has no jurisdiction over these matters until  
3 13 the city determines that the disability is likely to be  
3 14 permanent.

3 15 Sec. 6. Section 411.6, subsection 8, paragraph c,  
3 16 subparagraph (3), Code 2005, is amended to read as follows:

3 17 (3) If there is no surviving spouse or child, then the  
3 18 member's dependent father or mother, or both, as the system  
3 19 determines, to continue until ~~remarriage or~~ death.

3 20 Sec. 7. Section 411.6, subsection 9, paragraph b,  
3 21 subparagraph (1), subparagraph subdivision (c), Code 2005, is  
3 22 amended to read as follows:

3 23 (c) If the member's designated beneficiary is the member's  
3 24 dependent father or mother, or both, then to the father or  
3 25 mother, or both, in equal shares, to continue until ~~remarriage~~  
3 26 ~~or~~ death.

3 27 Sec. 8. Section 411.6, subsection 9, paragraph b,  
3 28 subparagraph (2), subparagraph subdivision (c), Code 2005, is  
3 29 amended to read as follows:

3 30 (c) If there is no surviving spouse or child, then to the  
3 31 member's dependent father or mother, or both, in equal shares,  
3 32 to continue until ~~remarriage or~~ death.

3 33 Sec. 9. Section 411.23, Code 2005, is amended by adding  
3 34 the following new subsection:

3 35 NEW SUBSECTION. 3. a. Commencing July 1, 2006, a  
4 1 member's contributions shall be refunded to the member by the  
4 2 system if the following conditions are met:

4 3 (1) The member was a member of the system for less than  
4 4 four years.

4 5 (2) The member terminated service four or more years prior  
4 6 to the date of the refund.

4 7 (3) The amount to be refunded does not exceed five  
4 8 thousand dollars, or such other amount as may be established  
4 9 under section 401(a) of the Internal Revenue Code.

4 10 b. In the event a refund is made in accordance with this  
4 11 subsection without the member's consent, the system shall pay  
4 12 the distribution in a direct rollover to an individual  
4 13 retirement plan designated by the system unless the member  
4 14 elects to have such distribution paid directly to an eligible  
4 15 retirement plan specified by the member in a direct rollover  
4 16 in accordance with section 411.6B or elects to receive the  
4 17 distribution directly. The system may, by rule, implement a  
4 18 de minimus exception to the automatic rollover provision of  
4 19 this subsection, subject to the limitations of the Internal  
4 20 Revenue Code and any applicable internal revenue service  
4 21 regulations.

#### 4 22 EXPLANATION

4 23 This bill makes changes to the statewide fire and police  
4 24 retirement system created in Iowa Code chapter 411.

4 25 The definition of "member in good standing" in Code section  
4 26 411.1 is amended to provide that a person who is restored to  
4 27 active service for purposes of applying for a pension is not a  
4 28 member in good standing.

4 29 Code section 411.5, governing the administration of the

4 30 system, is amended to provide that investment-related records  
4 31 of the system are not to be considered public records subject  
4 32 to disclosure under Code chapter 22 if the disclosure could  
4 33 result in a loss to the system or the provider of the  
4 34 information. In addition, the section is amended to permit  
4 35 the board governing the system to go into closed session to  
5 1 discuss financial or commercial information if the disclosure  
5 2 of such information may result in a loss to the system or to  
5 3 the provider of the information.

5 4 Code section 411.6, subsection 5, concerning the  
5 5 determination of an accidental disability retirement is  
5 6 amended. Current law precludes the member from receiving  
5 7 disability benefits for a condition known to exist prior to  
5 8 the member's entrance to the system. The bill provides that  
5 9 the existence of a medical condition can be established if it  
5 10 is reflected in any document obtained through the system's  
5 11 medical protocol or through the disability application process  
5 12 and in existence prior to the date membership commenced.

5 13 Code section 411.6, subsection 5, is further amended to  
5 14 allow cities to pay a member who is temporarily disabled due  
5 15 to a work injury or illness the worker's full pay and  
5 16 allowances from the city's trust and agency funds or the  
5 17 city's general fund. Current law only allows this payment  
5 18 from the city's general fund.

5 19 Code section 411.6 is further amended concerning the  
5 20 eligibility of a dependent parent of a deceased member to  
5 21 receive death benefits. Under current law, the surviving  
5 22 dependent mother or father of a deceased member can continue  
5 23 to receive a death benefit, if otherwise eligible, until the  
5 24 dependent mother or father dies or remarries. The bill  
5 25 eliminates the provision terminating the death benefit if the  
5 26 dependent mother or father remarries.

5 27 Code section 411.23 is amended to authorize the system to  
5 28 automatically disburse a refund of contributions for certain  
5 29 members who have left service under the system. The bill  
5 30 provides for this automatic disbursement if the contribution  
5 31 amount to be refunded is less than \$5,000 or the amount the  
5 32 internal revenue service allows and the recipient is a  
5 33 terminated, nonvested member of the system who has been absent  
5 34 from active membership for four years or more. The bill  
5 35 provides that the refunded amount will be distributed to an  
6 1 individual retirement plan designated by the system unless the  
6 2 member elects to receive the distribution directly or as a  
6 3 rollover to an eligible retirement plan.

6 4 LSB 5864HC 81

6 5 ec:rj/gg/14