# Senate File 459 - Introduced

SENATE FILE 459
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SF 297)

# A BILL FOR

- 1 An Act concerning employment of and merit system protection
- 2 for administrative law judges, workers' compensation
- 3 commissioners, and the administrator of the administrative
- 4 hearings division of the department of inspections and
- 5 appeals.
- 6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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- 1 Section 1. Section 8A.412, subsection 11, Code 2015, is
- 2 amended to read as follows:
- 3 ll. Professional employees under the supervision of the
- 4 attorney general, the state public defender, the secretary
- 5 of state, the auditor of state, the treasurer of state, and
- 6 the public employment relations board. However, employees of
- 7 the consumer advocate division of the department of justice,
- 8 other than the consumer advocate, and administrative law judges
- 9 appointed or employed by the public employment relations board,
- 10 are subject to the merit system.
- 11 Sec. 2. Section 8A.415, subsection 1, paragraph b, Code
- 12 2015, is amended to read as follows:
- 13 b. If not satisfied, the employee may, within thirty
- 14 calendar days following the director's response, file an
- 15 appeal with the public employment relations board. The
- 16 hearing shall be conducted in accordance with the rules of the
- 17 public employment relations board and the Iowa administrative
- 18 procedure Act, chapter 17A. Decisions rendered shall be
- 19 based upon a standard of substantial compliance with this
- 20 subchapter and the rules of the department. Decisions by the
- 21 public employment relations board constitute final agency
- 22 action. However, if the employee is an administrative law
- 23 judge appointed or employed by the public employment relations
- 24 board, the employee shall not file an appeal with the public
- 25 employment relations board and the response of the director
- 26 shall constitute final agency action.
- 27 Sec. 3. Section 8A.415, subsection 2, paragraph b, Code
- 28 2015, is amended to read as follows:
- 29 b. If not satisfied, the employee may, within thirty
- 30 calendar days following the director's response, file an appeal
- 31 with the public employment relations board. The employee has
- 32 the right to a hearing closed to the public, unless a public
- 33 hearing is requested by the employee. The hearing shall
- 34 otherwise be conducted in accordance with the rules of the
- 35 public employment relations board and the Iowa administrative

- 1 procedure Act, chapter 17A. If the public employment relations
- 2 board finds that the action taken by the appointing authority
- 3 was for political, religious, racial, national origin, sex,
- 4 age, or other reasons not constituting just cause, the employee
- 5 may be reinstated without loss of pay or benefits for the
- 6 elapsed period, or the public employment relations board
- 7 may provide other appropriate remedies. Decisions by the
- 8 public employment relations board constitute final agency
- 9 action. However, if the employee is an administrative law
- 10 judge appointed or employed by the public employment relations
- 11 board, the employee shall not file an appeal with the public
- 12 employment relations board and the response of the director
- 13 shall constitute final agency action.
- 14 Sec. 4. Section 10A.801, subsection 3, paragraph a, Code
- 15 2015, is amended to read as follows:
- 16 a. The department shall employ a sufficient number of
- 17 administrative law judges to conduct proceedings for which
- 18 agencies are required, by section 17A.11 or any other provision
- 19 of law, to use an administrative law judge employed by the
- 20 division. An administrative law judge employed by the division
- 21 shall not perform duties inconsistent with the judge's duties
- 22 and responsibilities as an administrative law judge and shall
- 23 be located in an office that is separated from the offices of
- 24 the agencies for which that person acts as a presiding officer.
- 25 Administrative The administrator and all administrative law
- 26 judges shall be covered by the merit system provisions of
- 27 chapter 8A, subchapter IV.
- Sec. 5. Section 86.2, subsection 1, paragraphs a and b, Code
- 29 2015, are amended to read as follows:
- 30 a. Chief deputy workers' compensation commissioners for
- 31 whose acts the commissioner is responsible, who are exempt from
- 32 who shall be appointed and serve pursuant to the merit system
- 33 provisions of chapter 8A, subchapter IV, and who shall serve at
- 34 the pleasure of the commissioner unless the commissioners are
- 35 otherwise covered by a collective bargaining agreement.

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- 1 b. Deputy workers' compensation commissioners for whose
- 2 acts the commissioner is responsible and who shall serve at the
- 3 pleasure of the commissioner be appointed and serve pursuant
- 4 to the merit system provisions of chapter 8A, subchapter IV,
- 5 unless the commissioners are otherwise covered by a collective
- 6 bargaining agreement.
- 7 Sec. 6. Section 96.6, subsection 3, paragraph b, Code 2015,
- 8 is amended to read as follows:
- 9 b. Appeals from the initial determination shall be heard
- 10 by an administrative law judge employed by the department who
- 11 shall be covered by the merit system provisions of chapter
- 12 8A, subchapter IV, unless the administrative law judge is
- 13 otherwise covered by a collective bargaining agreement. An
- 14 administrative law judge's decision may be appealed by any
- 15 party to the employment appeal board created in section
- 16 10A.601. The decision of the appeal board is final agency
- 17 action and an appeal of the decision shall be made directly to
- 18 the district court.
- 19 EXPLANATION
- The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.
- 22 This bill concerns administrative law judges, workers'
- 23 compensation commissioners, and the administrative hearings
- 24 division of the department of inspections and appeals.
- 25 Code section 8A.412 is amended to provide that
- 26 administrative law judges appointed or employed by the public
- 27 employment relations board are subject to the merit system
- 28 provision of Code chapter 8A.
- 29 Code section 8A.415 is amended to provide that if an employee
- 30 subject to the merit system is an administrative law judge
- 31 appointed or employed by the public employment relations board,
- 32 a response by the director of the department of administrative
- 33 services concerning a grievance or discipline involving the
- 34 employee is considered final agency action and the employee
- 35 shall not appeal that response to the public employment

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- 1 relations board.
- 2 Code section 10A.801 is amended to provide that the
- 3 administrator of the administrative hearings division of the
- 4 department of inspections and appeals is covered by the merit
- 5 system as provided in Code chapter 8A.
- 6 Code section 86.2 is amended to provide that chief deputy
- 7 workers' compensation commissioners and deputy workers'
- 8 compensation commissioners shall be appointed and serve
- 9 pursuant to the merit system provision of Code chapter 8A
- 10 unless the commissioners are otherwise covered by a collective
- 11 bargaining agreement. Current law provides that chief deputy
- 12 commissioners are exempt from the merit system and that all
- 13 chief deputy and deputy commissioners serve at the pleasure of
- 14 the workers' compensation commissioner.
- Code section 96.6 is amended to provide that an
- 16 administrative law judge employed by the department of
- 17 workforce development for unemployment compensation cases shall
- 18 be covered by the merit system provisions of Code chapter
- 19 8A unless the judge is otherwise covered by a collective
- 20 bargaining agreement.