

House File 797 - Introduced

HOUSE FILE 797
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 268)

A BILL FOR

1 An Act relating to benefits concerning members of the municipal
2 fire and police retirement system.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 411.1, subsection 14, Code 2021, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 14. "*Member in good standing*" means any member in service
5 who has not been terminated by the employing city of the
6 member pursuant to section 400.18 or 400.19. Termination
7 procedures initiated by the chief of police or chief of the
8 fire department pursuant to section 400.19 shall not become
9 final or adversely impact a member's status as a member in
10 good standing until all appeals provided by an applicable
11 collective bargaining agreement or by law have been exhausted.
12 Disciplinary action other than discharge shall not adversely
13 affect a member's status as a member in good standing.

14 Sec. 2. Section 411.1, Code 2021, is amended by adding the
15 following new subsection:

16 NEW SUBSECTION. 15A. "*Ordinary disability beneficiary*"
17 means a member retired on an ordinary disability retirement
18 benefit pursuant to section 411.6, subsection 3, for five years
19 or less.

20 Sec. 3. Section 411.6, subsection 5, paragraphs a and b,
21 Code 2021, are amended to read as follows:

22 a. Upon application to the system, of a member in good
23 standing, of an ordinary disability beneficiary, or of the
24 chief of the police or fire departments, respectively, any
25 member in good standing or ordinary disability beneficiary
26 who has become totally and permanently incapacitated for duty
27 as the natural and proximate result of an injury or disease
28 incurred in or aggravated by the actual performance of duty
29 ~~at some definite time and place~~ or arising out of and in the
30 course of the employment, or while acting pursuant to order,
31 outside of the city by which the member is regularly employed,
32 shall be retired by the system if the medical board certifies
33 that the member or ordinary disability beneficiary is mentally
34 or physically incapacitated for further performance of duty,
35 that the incapacity is likely to be permanent, and that the

1 member or ordinary disability beneficiary should be retired.
2 However, if a person's membership in the system first commenced
3 on or after July 1, 1992, the member or ordinary disability
4 beneficiary shall not be eligible for benefits with respect to
5 a disability which would not exist, but for a medical condition
6 that was known to exist on the date that membership commenced.
7 A medical condition shall be deemed to have been known to exist
8 on the date that membership commenced if the medical condition
9 is reflected in any record or document completed or obtained
10 in accordance with the system's medical protocols pursuant to
11 section 400.8, or in any other record or document obtained
12 pursuant to an application for disability benefits from the
13 system, if such record or document existed prior to the date
14 membership commenced. A member who is denied a benefit under
15 this subsection, by reason of a finding by the medical board
16 that the member is not mentally or physically incapacitated
17 for the further performance of duty, shall be entitled to
18 be restored to active service in the same position held
19 immediately prior to the application for disability benefits.

20 b. If a member in service or the chief of the police or
21 fire departments becomes incapacitated for duty as a natural
22 or proximate result of an injury or disease incurred in or
23 aggravated by the actual performance of duty ~~at some definite~~
24 ~~time or place~~ or arising out of or in the course of the
25 employment, or while acting, pursuant to order, outside the
26 city by which the member is regularly employed, the member,
27 upon being found to be temporarily incapacitated following a
28 medical examination as directed by the city, is entitled to
29 receive the member's full pay and allowances from the city's
30 general fund or trust and agency fund until reexamined as
31 directed by the city and found to be fully recovered or until
32 the city determines that the member is likely to be permanently
33 disabled. If the temporary incapacity of a member continues
34 more than sixty days, or if the city expects the incapacity
35 to continue more than sixty days, the city shall notify the

1 system of the temporary incapacity. Upon notification by a
2 city, the system may refer the matter to the medical board for
3 review and consultation with the member's treating physician
4 during the temporary incapacity. Except as provided by this
5 paragraph, the board of trustees of the statewide system has no
6 jurisdiction over these matters until the city determines that
7 the disability is likely to be permanent.

8 Sec. 4. Section 411.6, subsection 5, Code 2021, is amended
9 by adding the following new paragraph:

10 NEW PARAGRAPH. *Od.* Disease under this subsection shall
11 also mean any incapacitating mental disorder arising out of
12 and in the course of the employment, or while acting, pursuant
13 to order, outside the city by which the member is regularly
14 employed. A disease shall qualify as an incapacitating mental
15 disorder irrespective of the absence of similar effects on
16 other members.

17 Sec. 5. Section 411.6, subsection 6, Code 2021, is amended
18 by adding the following new paragraph:

19 NEW PARAGRAPH. *d.* (1) Upon a determination on or after
20 July 1, 2021, that an ordinary disability beneficiary is
21 entitled to a retirement for accidental disability, the
22 beneficiary shall receive an accidental disability retirement
23 allowance which shall consist of a pension in an amount that is
24 equal to the greater of sixty percent of the member's average
25 final compensation or the retirement allowance that the member
26 would receive under subsection 2 if the member had attained
27 fifty-five years of age, or an amount equal to the ordinary
28 disability retirement allowance previously received by the
29 beneficiary, whichever is greater.

30 (2) An accidental disability allowance under this paragraph
31 shall commence effective the first day of the first month
32 following the determination that the ordinary disability
33 beneficiary is entitled to a retirement for accidental
34 disability.

35 Sec. 6. Section 411.6, subsection 9, paragraph a,

1 subparagraph (1), Code 2021, is amended to read as follows:

2 (1) If, upon the receipt of evidence and proof from the
3 chief of the police or fire department that the death of a
4 member in service was the natural and proximate result of an
5 injury or disease incurred in or aggravated by the actual
6 performance of duty ~~at some definite time and place~~ or arising
7 out of and in the course of the employment, or while acting
8 pursuant to order, outside of the city by which the member is
9 regularly employed, the system decides that death was so caused
10 in the performance of duty, there shall be paid, in lieu of the
11 ordinary death benefit provided in [subsection 8](#), an accidental
12 death benefit as set forth in [this subsection](#).

13 Sec. 7. Section 411.6, subsection 16, Code 2021, is amended
14 by adding the following new paragraph:

15 NEW PARAGRAPH. *d.* A person otherwise eligible to receive an
16 ordinary or accidental disability retirement benefit under this
17 chapter shall not be eligible to receive such a benefit if the
18 person is subsequently terminated or removed by the employing
19 city of the person pursuant to section 400.18 or 400.19, or
20 other comparable process. Upon determination of ineligibility
21 pursuant to this paragraph, the person's entitlement to a
22 disability benefit under this chapter shall terminate and any
23 disability retirement allowance received by such a person must
24 be returned to the system together with interest earned on the
25 disability retirement allowance calculated at a rate determined
26 by the system. However, the determination of ineligibility
27 as provided under this paragraph may be waived for good cause
28 as determined by the board. The burden of establishing good
29 cause is on the person who received the disability retirement
30 allowance.

31 Sec. 8. Section 411.8, subsection 1, paragraph f,
32 subparagraph (8), Code 2021, is amended to read as follows:

33 (8) Beginning July 1, 1996, and each fiscal year thereafter,
34 an amount equal to the member's contribution rate times each
35 member's compensation shall be paid to the fund from the

1 earnable compensation of the member. For the purposes of this
 2 subparagraph, the member's contribution rate shall be nine
 3 and thirty-five hundredths percent ~~or, beginning July 1, 2009~~
 4 until June 30, 2009, nine and four-tenths percent until June
 5 30, 2021, and, beginning July 1, 2021, nine and fifty-five
 6 hundredths percent. However, the system shall increase the
 7 member's contribution rate as necessary to cover any increase
 8 in cost to the system resulting from statutory changes which
 9 are enacted by any session of the general assembly meeting
 10 after January 1, 1991, if the increase cannot be absorbed
 11 within the contribution rates otherwise established pursuant to
 12 this paragraph, but subject to a maximum employee contribution
 13 rate of eleven and three-tenths percent or, beginning July
 14 1, 2009, eleven and thirty-five hundredths percent. The
 15 contribution rate increases specified in 1994 Iowa Acts, ch.
 16 1183, pursuant to [this chapter](#) and [chapter 97A](#) shall be the
 17 only member contribution rate increases for these systems
 18 resulting from the statutory changes enacted in 1994 Iowa
 19 Acts, ch. 1183, and shall apply only to the fiscal periods
 20 specified in 1994 Iowa Acts, ch. 1183. After the employee
 21 contribution reaches eleven and three-tenths percent or eleven
 22 and thirty-five hundredths percent, as applicable, sixty
 23 percent of the additional cost of such statutory changes shall
 24 be paid by employers under paragraph "c" and forty percent
 25 of the additional cost shall be paid by employees under this
 26 paragraph.

27 Sec. 9. Section 411.15, Code 2021, is amended to read as
 28 follows:

29 **411.15 Hospitalization and medical attention.**

30 1. a. Cities shall provide hospital, nursing, and medical
 31 attention for the members of the police and fire departments
 32 of the cities, when injured while in the performance of their
 33 duties as members of such department, ~~and~~ or for injuries and
 34 diseases arising out of and in the course of the employment.

35 b. Cities shall continue to provide hospital, nursing, and

1 medical attention for injuries or diseases incurred while in
2 the performance of their duties or arising out of and in the
3 course of the employment for members or beneficiaries receiving
4 a retirement allowance under section 411.6, subsection 6.

5 2. a. Cities may fund the cost of the hospital, nursing,
6 and medical attention required by this section through the
7 purchase of insurance, by self-insuring the obligation, or
8 through payment of moneys into a local government risk pool
9 established for the purpose of covering the costs associated
10 with the requirements of this section. ~~However, the cost of~~
11 ~~the hospital, nursing, and medical attention required by this~~
12 ~~section shall not be funded through an employee-paid health~~
13 ~~insurance policy.~~

14 b. A member or beneficiary shall not be required to pay the
15 cost of the hospital, nursing, and medical attention required
16 by this section, including but not limited to any costs
17 or premiums associated with any insurance policy providing
18 coverage for the hospital, nursing, and medical attention.

19 c. The cost of the hospital, nursing, and medical attention
20 required by this section shall be paid from moneys held in a
21 trust and agency fund established pursuant to section 384.6,
22 or out of the appropriation for the department to which the
23 injured person belongs or belonged; provided that any amounts
24 received by the injured person from any other source for such
25 specific purposes, shall be deducted from the amount paid by
26 the city under the provisions of this section.

27 3. a. For purposes of this subsection, "date of the
28 occurrence of the injury or disease" means the date that the
29 member or beneficiary knew or should have known that the injury
30 or disease was work-related.

31 b. To be provided the cost of the hospital, nursing, and
32 medical attention required by this section, the city or the
33 city's representative shall have actual knowledge of the
34 occurrence of an injury or disease or be provided notice of the
35 occurrence of an injury or disease on behalf of a member or

1 beneficiary within ninety days from the date of the occurrence
2 of the injury or disease.

3 c. An action to require the city to provide the cost of
4 the hospital, nursing, and medical attention required by this
5 section shall not be maintained unless the action is commenced
6 before the later of any of the following:

7 (1) Two years from the date of the occurrence of the injury
8 or disease.

9 (2) Two years from the date the city denies a claim to
10 provide hospital, nursing, and medical attention required by
11 this section.

12 (3) Five years from the last date of employment of the
13 member if the action is related to costs associated with a
14 disease as specified in section 411.6, subsection 5.

15 EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill concerns benefits to members under the municipal
19 fire and police retirement system established under Code
20 chapter 411.

21 Code section 411.1, concerning definitions, is amended.
22 The bill defines an "ordinary disability beneficiary" as a
23 member retired on an ordinary disability retirement benefit
24 for five years or less. The bill also amends the definition
25 of "member in good standing" to mean any member in service who
26 has not been terminated by the employing city of the member.
27 The amended definition of "infectious disease" takes effect
28 upon enactment and applies retroactively to January 1, 2020,
29 for purposes of the provision of new Code section 411.15A as
30 provided in the bill.

31 Code section 411.6(5), concerning accidental disability
32 benefits, is amended to allow an ordinary disability
33 beneficiary to make application to the retirement system for an
34 accidental disability retirement benefit. The subsection is
35 further amended to provide that a person is entitled to pay and

1 allowances if determined to be temporarily incapacitated prior
2 to an accidental disability retirement determination and for
3 an accidental disability retirement if the person has become
4 totally and permanently incapacitated as a result of injury and
5 disease arising out of and in the course of the employment and
6 by the actual performance of duty without regard to whether
7 that actual performance of duty was at some definite time and
8 place. The subsection is also amended to provide that disease
9 for purposes of an accidental disability benefit also means any
10 incapacitating mental disorder arising out of and in the course
11 of the employment, or while acting, pursuant to order, outside
12 the city by which the member is regularly employed.

13 Code section 411.6(6), providing for a retirement allowance
14 upon retirement for accidental disability, is amended to
15 provide that an ordinary disability beneficiary who is
16 determined to be entitled to a retirement for accidental
17 disability shall receive a retirement allowance that shall
18 consist of the greater of an amount as determined for members
19 receiving an accidental disability retirement or an amount
20 equal to the disability retirement allowance previously
21 received by the beneficiary.

22 Code section 411.6(9), concerning accidental death benefits,
23 is amended to provide that an accidental death benefit shall
24 also be paid if the death was as a result of injury and disease
25 arising out of and in the course of the employment or by the
26 actual performance of duty without regard to whether that
27 actual performance of duty was at some definite time and place.

28 Code section 411.6(16), concerning ineligibility for
29 disability benefits, is amended to provide that a person
30 otherwise eligible to receive a disability retirement shall
31 not be eligible if the person is terminated or removed by the
32 employing city of the person pursuant to Code section 400.18
33 or 400.19, or other comparable process. The bill provides for
34 the repayment of benefits paid prior to the determination of
35 ineligibility.

1 Code section 411.8, concerning the method of financing
2 the retirement system, is amended by increasing the employee
3 contribution rate from 9.4 percent of pay to 9.55 percent of
4 pay beginning July 1, 2021.

5 Code section 411.15, concerning cities' requirement to
6 provide hospitalization and medical attention for injuries
7 or diseases while on duty, is amended to provide that such
8 attention shall also be provided for injuries arising out
9 of and in the course of employment. The Code section is
10 further amended to provide that cities shall continue to
11 provide hospitalization and medical attention for injuries or
12 diseases while on duty for members or beneficiaries receiving
13 any retirement allowance under Code section 411.6 and not
14 just an accidental disability retirement allowance under
15 Code section 411.6(6). The Code section is further amended
16 to provide that a member shall not be required to pay the
17 cost of hospital, nursing, and medical attention required,
18 including payment of any costs or premiums associated with any
19 insurance policy providing coverage. The bill further provides
20 that to be provided the cost of the hospital, nursing, and
21 medical attention, the city shall have actual knowledge of the
22 occurrence of an injury or disease or be provided notice of
23 the occurrence of an injury or disease on behalf of a member
24 or beneficiary within 90 days from the date of the occurrence
25 of the injury or disease. The bill provides that an action to
26 require the city to provide the cost of the medical attention
27 shall not be maintained unless the action is commenced before
28 the later of two years from the date of the occurrence of the
29 injury or disease; two years from the date the city denies a
30 claim to provide medical attention; or five years from the last
31 date of employment of the member if the action is related to
32 costs associated with a disease as specified in Code section
33 411.6(5).