

House Study Bill 237 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON KAUFMANN)

(COMPANION TO SF 505 BY
COMMITTEE ON STATE GOVERNMENT)

A BILL FOR

1 An Act relating to police officers and fire fighters concerning
2 civil service entrance evaluations and benefits for members
3 of the municipal fire and police retirement system.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 400.8, subsection 1, Code 2023, is
2 amended to read as follows:

3 1. The commission, when necessary under the rules,
4 including minimum and maximum age limits, which shall be
5 prescribed and published in advance by the commission and
6 posted in the city hall, shall hold examinations for the
7 purpose of determining the qualifications of applicants
8 for positions under civil service, other than promotions,
9 which examinations shall be practical in character and shall
10 relate to matters which will fairly test the mental and
11 physical ability of the applicant to discharge the duties of
12 the position to which the applicant seeks appointment. The
13 physical examination and mental health evaluation of applicants
14 for appointment to the positions of police officer, ~~police~~
15 ~~matron~~, or fire fighter shall be held in accordance with
16 medical protocols established by the board of trustees of the
17 fire and police retirement system established by [section 411.5](#)
18 and shall be conducted in accordance with the directives of
19 the board of trustees. However, the prohibitions of section
20 216.6, subsection 1, paragraph "d", regarding tests for the
21 presence of the antibody to the human immunodeficiency virus
22 shall not apply to such examinations. The board of trustees
23 may change the medical protocols at any time the board so
24 determines. In the event of a conflict between the medical
25 protocols established under [this section](#) and the minimum
26 entrance requirements of the Iowa law enforcement academy under
27 section 80B.11, the medical protocols established under this
28 section shall control. The physical examination and mental
29 health evaluation of an applicant for the position of police
30 officer, ~~police matron~~, or fire fighter shall be conducted
31 after a conditional offer of employment has been made to the
32 applicant. An applicant shall not be discriminated against
33 on the basis of height, weight, sex, or race in determining
34 physical or mental ability of the applicant. Reasonable rules
35 relating to strength, agility, and general health of applicants

1 shall be prescribed. The costs of the physical examination and
2 the mental health evaluation required under this subsection
3 shall be paid from the trust and agency fund of the city.

4 Sec. 2. Section 411.1, subsection 14, Code 2023, is amended
5 by striking the subsection and inserting in lieu thereof the
6 following:

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

17 Sec. 3. Section 411.1, Code 2023, is amended by adding the
18 following new subsection:

19 NEW SUBSECTION. 15A. "*Ordinary disability beneficiary*"
20 means a member retired on an ordinary disability retirement
21 benefit pursuant to section 411.6, subsection 3, for three
22 years or less.

23 Sec. 4. Section 411.6, subsection 5, paragraphs a and b,
24 Code 2023, are amended to read as follows:

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

1 for an ordinary disability converted to a retirement for an
2 accidental disability, if the medical board certifies that
3 the member or ordinary disability beneficiary is mentally or
4 physically incapacitated for further performance of duty,
5 that the incapacity is likely to be permanent, and that the
6 member should be retired or should have a retirement for an
7 ordinary disability converted to a retirement for an accidental
8 disability. A mental injury based on a manifest happening of
9 a sudden traumatic nature from an unexpected cause or unusual
10 strain may be established irrespective of similar effects
11 on other members. However, if a person's membership in the
12 system first commenced on or after July 1, 1992, the member
13 or ordinary disability beneficiary shall not be eligible for
14 benefits with respect to a disability which would not exist,
15 but for a medical condition that was known to exist on the
16 date that membership commenced. A medical condition shall be
17 deemed to have been known to exist on the date that membership
18 commenced if the medical condition is reflected in any record
19 or document completed or obtained in accordance with the
20 system's medical protocols pursuant to [section 400.8](#), or in any
21 other record or document obtained pursuant to an application
22 for disability benefits from the system, if such record or
23 document existed prior to the date membership commenced. A
24 member who is denied a benefit under [this subsection](#), by
25 reason of a finding by the medical board that the member is
26 not mentally or physically incapacitated for the further
27 performance of duty, shall be entitled to be restored to active
28 service in the same position held immediately prior to the
29 application for disability benefits.

30 *b.* If a member in service or the chief of the police or
31 fire departments becomes incapacitated for duty as a natural
32 or proximate result of an injury or disease incurred in or
33 aggravated by the actual performance of duty ~~at some definite~~
34 ~~time or place~~ or arising out of or in the course of the
35 employment, or while acting, pursuant to order, outside the

1 city by which the member is regularly employed, the member,
2 upon being found to be temporarily incapacitated following a
3 medical examination as directed by the city, is entitled to
4 receive the member's full pay and allowances from the city's
5 general fund or trust and agency fund until reexamined as
6 directed by the city and found to be fully recovered or until
7 the city determines that the member is likely to be permanently
8 disabled. If the temporary incapacity of a member continues
9 more than sixty days, or if the city expects the incapacity
10 to continue more than sixty days, the city shall notify the
11 system of the temporary incapacity. Upon notification by a
12 city, the system may refer the matter to the medical board for
13 review and consultation with the member's treating physician
14 during the temporary incapacity. Except as provided by this
15 paragraph, the board of trustees of the statewide system has no
16 jurisdiction over these matters until the city determines that
17 the disability is likely to be permanent.

18 Sec. 5. Section 411.6, subsection 5, paragraph d, Code 2023,
19 is amended by striking the paragraph.

20 Sec. 6. Section 411.6, subsection 6, Code 2023, is amended
21 by adding the following new paragraph:

22 NEW PARAGRAPH. *d.* (1) Upon a determination on or after
23 July 1, 2023, that an ordinary disability beneficiary is
24 entitled to a retirement for accidental disability, the
25 beneficiary shall receive an accidental disability retirement
26 allowance which shall consist of a pension in an amount that is
27 equal to the greater of sixty percent of the member's average
28 final compensation or the retirement allowance that the member
29 would receive under subsection 2 if the member had attained
30 fifty-five years of age, or an amount equal to the ordinary
31 disability retirement allowance previously received by the
32 beneficiary, whichever is greater.

33 (2) An accidental disability allowance under this paragraph
34 shall commence effective the first day of the first month
35 following the determination that the ordinary disability

1 beneficiary is entitled to a retirement for accidental
2 disability.

3 Sec. 7. Section 411.6, subsection 9, paragraph a,
4 subparagraph (1), Code 2023, is amended to read as follows:

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

16 Sec. 8. Section 411.6, subsection 16, Code 2023, is amended
17 by adding the following new paragraph:

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

33 Sec. 9. Section 411.8, subsection 1, paragraph f,
34 subparagraph (8), Code 2023, is amended to read as follows:

35 (8) Beginning July 1, 1996, and each fiscal year thereafter,

1 an amount equal to the member's contribution rate times each
2 member's compensation shall be paid to the fund from the
3 earnable compensation of the member. For the purposes of this
4 subparagraph, the member's contribution rate shall be nine and
5 thirty-five hundredths percent ~~or, beginning July 1, until June~~
6 30, 2009, nine and four-tenths percent until June 30, 2023,
7 and, beginning July 1, 2023, nine and fifty-five hundredths
8 percent. However, the system shall increase the member's
9 contribution rate as necessary to cover any increase in cost
10 to the system resulting from statutory changes which are
11 enacted by any session of the general assembly meeting after
12 January 1, 1991, if the increase cannot be absorbed within
13 the contribution rates otherwise established pursuant to this
14 paragraph, but subject to a maximum employee contribution rate
15 of eleven and three-tenths percent or, beginning July 1, 2009,
16 eleven and thirty-five hundredths percent. The contribution
17 rate increases specified in 1994 Iowa Acts, ch. 1183, pursuant
18 to [this chapter](#) and [chapter 97A](#) shall be the only member
19 contribution rate increases for these systems resulting from
20 the statutory changes enacted in 1994 Iowa Acts, ch. 1183, and
21 shall apply only to the fiscal periods specified in 1994 Iowa
22 Acts, ch. 1183. After the employee contribution reaches eleven
23 and three-tenths percent or eleven and thirty-five hundredths
24 percent, as applicable, sixty percent of the additional cost
25 of such statutory changes shall be paid by employers under
26 paragraph "c" and forty percent of the additional cost shall be
27 paid by employees under this paragraph.

28 Sec. 10. Section 411.15, Code 2023, is amended to read as
29 follows:

30 **411.15 Hospitalization and medical attention.**

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

1 b. Cities shall continue to provide hospital, nursing, and
2 medical attention for injuries or diseases incurred while in
3 the performance of their duties or arising out of and in the
4 course of the employment for members or beneficiaries receiving
5 a retirement allowance under section 411.6, ~~subsection 6.~~

6 c. Disease under this subsection shall mean heart disease
7 or any disease of the lungs or respiratory tract and shall be
8 presumed to have been contracted while on active duty as a
9 result of strain or the inhalation of noxious fumes, poison, or
10 gases. Disease under this subsection shall also mean cancer
11 or infectious disease, both as defined in section 411.1, and
12 shall be presumed to have been contracted while on active duty
13 as a result of that duty.

14 2. a. Cities may fund the cost of the hospital, nursing,
15 and medical attention required by this section through the
16 purchase of insurance, by self-insuring the obligation, or
17 through payment of moneys into a local government risk pool
18 established for the purpose of covering the costs associated
19 with the requirements of this section. However, the cost of
20 the hospital, nursing, and medical attention required by this
21 section shall not be funded through an employee-paid health
22 insurance policy.

23 b. A member or beneficiary shall not be required to pay the
24 cost of the hospital, nursing, and medical attention required
25 by this section, including but not limited to any costs
26 or premiums associated with any insurance policy providing
27 coverage for the hospital, nursing, and medical attention.

28 c. The cost of the hospital, nursing, and medical attention
29 required by this section shall be paid from moneys held in a
30 trust and agency fund established pursuant to section 384.6,
31 or out of the appropriation for the department to which the
32 injured person belongs or belonged; provided that any amounts
33 received by the injured person from any other source for such
34 specific purposes, shall be deducted from the amount paid by
35 the city under the provisions of this section.

1 under civil service for police officers and fire fighters, is
2 amended to require a mental health evaluation as part of the
3 examination.

4 Code section 411.1, concerning definitions, is amended. The
5 bill defines an "ordinary disability beneficiary" as a member
6 retired on an ordinary disability retirement benefit for three
7 years or less. The bill also amends the definition of "member
8 in good standing" to mean any member in service who has not
9 been terminated by the employing city of the member.

10 Code section 411.6(5), concerning accidental disability
11 benefits, is amended to strike the requirement that a member be
12 a member in good standing to apply for accidental disability
13 benefits and allow an ordinary disability beneficiary to
14 make application to the retirement system for an accidental
15 disability retirement benefit. The subsection is further
16 amended to provide that a person is entitled to an accidental
17 disability retirement if the person has become totally and
18 permanently incapacitated as a result of injury and disease
19 arising out of and in the course of the employment and by the
20 actual performance of duty without regard to whether that
21 actual performance of duty was at some definite time and place.
22 The subsection is also amended to provide that a mental injury
23 based on a manifest happening of a sudden traumatic nature
24 from an unexpected cause or unusual strain may be established
25 irrespective of similar effects on other members.

26 Code section 411.6(6), providing for a retirement allowance
27 upon retirement for accidental disability, is amended to
28 provide that an ordinary disability beneficiary who is
29 determined to be entitled to a retirement for accidental
30 disability on or after July 1, 2023, shall receive a retirement
31 allowance that shall consist of the greater of an amount as
32 determined for members receiving an accidental disability
33 retirement or an amount equal to the disability retirement
34 allowance previously received by the beneficiary.

35 Code section 411.6(9), concerning accidental death benefits,

1 is amended to provide that an accidental death benefit shall
2 also be paid if the death was as a result of injury and disease
3 arising out of and in the course of the employment or by the
4 actual performance of duty.

5 Code section 411.6(16), concerning ineligibility for
6 disability benefits, is amended to provide that a person
7 otherwise eligible to receive a disability retirement shall
8 not be eligible if the person is determined to be ineligible
9 pursuant to Code section 400.18 or 400.19, or other comparable
10 process. The bill provides for the repayment of benefits paid
11 prior to the determination of ineligibility.

12 Code section 411.8, concerning the method of financing
13 the retirement system, is amended by increasing the employee
14 contribution rate from 9.4 percent of pay to 9.55 percent of
15 pay beginning July 1, 2023.

16 Code section 411.15, concerning cities' requirement to
17 provide hospitalization and medical attention for injuries
18 or diseases while on duty, is amended to provide that such
19 attention shall also be provided for injuries arising out
20 of and in the course of employment. The Code section is
21 further amended to provide that cities shall continue to
22 provide hospitalization and medical attention for injuries or
23 diseases while on duty for members or beneficiaries receiving
24 any retirement allowance under Code section 411.6 and not
25 just an accidental disability retirement allowance under
26 Code section 411.6(6). The Code section also provides that
27 disease for purposes of providing medical attention under
28 this Code section shall mean heart disease, any disease of
29 the lungs or respiratory tract, and cancer or infectious
30 disease, all of which shall be presumed to have been contracted
31 while on active duty. The Code section is further amended
32 to provide that a member shall not be required to pay the
33 cost of hospital, nursing, and medical attention required,
34 including payment of any costs or premiums associated with any
35 insurance policy providing coverage. The bill further provides

1 that to be provided the cost of the hospital, nursing, and
2 medical attention, the city shall have actual knowledge of the
3 occurrence of an injury or disease or be provided notice of
4 the occurrence of an injury or disease on behalf of a member
5 or beneficiary within 90 days from the date of the occurrence
6 of the injury or disease. The bill provides that an action to
7 require the city to provide the cost of the medical attention
8 shall not be maintained unless the action is commenced before
9 the later of two years from the date of the occurrence of the
10 injury or disease or two years from the date the city denies
11 a claim to provide medical attention. However, if the action
12 is related to costs associated with a disease as specified in
13 Code section 411.6(5), the bill provides that the cost of the
14 medical attention shall not be maintained unless the action is
15 commenced within three years from the last date of employment
16 of the member.